

## CHAPTER 151: SIGNS

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### ' 151.01 PURPOSE.

This chapter is established to protect and promote the health, safety, general welfare and other within the city through the establishment of comprehensive and impartial series of standards, regulations and procedures governing the type, numbers, size, structure, location, height, lighting, erection, use and/or display of devices, signs or symbols serving as a visual communication media to persons situated within or upon or adjacent to public rights-of-way or properties. The provisions of this chapter are intended to encourage opportunity for effective, orderly communications by reducing confusion and hazards resulting from unnecessary and/or indiscriminate use of communication devices.

(Ord. 595, passed 7-17-1995)

## ' 151.02 DEFINITIONS.

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

***ALTERATION.*** Any major ***ALTERATION*** to a sign, but shall not include routine maintenance, painting or change of copy of an existing sign.

***ANIMATED SIGNS.*** A sign depicting action or motion, flashing or color changes.

***ARCHITECTURAL PROJECTIONS.*** Any projection which is not intended for occupancy and which extends beyond the face of an exterior wall of a building but shall not include the sign.

***AREA IDENTIFICATION SIGN.*** A free standing sign which identifies a residential subdivision, a multiple residential complex, a shopping center, an industrial area, an office complex or any combination.

***AWNING.*** A temporary hood cover which projects from the wall of a building and of a type which can be retracted, folded or collapsed against the face of the supporting building.



**BANNERS.** A sign advertising products or services being offered to the public or directing one=s attention to goods and services composed of lightweight material either enclosed or noted enclosed in a rigid frame and mounted to be moved by atmospheric conditions.

**BILLBOARDS.** A billboard, poster panel, painted bulletin board or other communications device which is used to advertise products, goods and/or other services which are not exclusively related to the premise on which the sign is located. **BILLBOARDS** include off-premise signs.

**BUILDING FACADE.** The portion of exterior elevation extending from grade to top of the parapet wall eaves and entire width of building elevation.

**BUSINESS.** An establishment, occupation, employment or enterprise wherein merchandise is manufactured, exhibited or sold, or which occupies time, attention, labor and materials or where series are offered for compensation.

**BUSINESS FRONTAGE.** The property line at the front of a building in which the business is located or the location of the main public entrance of the building.

**BUSINESS SIGNS.** 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 profession or is used in the identification or promotion of any principal commodity or service, including entertainment, offered or sold upon the premise where such a sign is located.

**CAMPAIGN SIGN.** A temporary sign promoting the candidacy of a person running for a governmental election.

**CANOPY SIGN.** Any message or identification which is affixed to a projection or extension of a building or structure, erected in such manner as to provide a shelter or cover over the approach of any entrance of a store, building or place of assembly.

**CONSTRUCTION SIGN.** A sign placed at a construction site identifying the project or the name of the architect, engineer, contractors, financier or other involved parties.

**DIRECTIONAL SIGNS.** A sign erected on a premise or private property which bears the address and/or name of business institution, church or other use of an activity plus directional arrows or information on location.

**ESTABLISHMENT.** Any of the following definitions should apply:

- (1) A distinct business entity situated in a single building;
- (2) A distinct business entity located in a structure attached to other similar structures by common wall and ceiling or floors or attached by means of an enclosed arcade; or
- (3) A distinct business entity contained within a single structure and not separated by walls or other physical barriers, but made distinct due to its existence as a single leased space and operation by separate entrepreneurs or by its singularity of purpose.



**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.

**FREE-STANDING SIGN.** Any stationary or portable, self-supported sign not affixed to any other structure. A sign supported by one or more columns, uprights or braces in or upon the ground, not attached to or forming part of a building.

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

**ILLUMINATED SIGN.** Any sign which is lighted by an artificial light source either directed upon it or illuminated from an interior source.

**INFORMATION SIGN.** Any sign giving information to employees, visitors or delivery vehicles but not containing any advertising or identification.

**INSTITUTIONAL SIGN.** A sign or bulletin board which identifies the name or other characteristics of a public or private institution on a site where the sign is located.

**MARQUEE.** See *CANOPY SIGN*.

**MOTION SIGN.** Any sign which revolves, rotates, has any moving parts or gives illusion of motion.

**NAMEPLATE.** A sign indicating the name and address of a building or the name of an occupant thereof and a practice of a permitted occupation therein.

**NONCONFORMING SIGNS.** Any advertising structure or sign which was lawfully erected and maintained and which fails to conform to all the applicable regulations and restrictions of this chapter.

**ON-PREMISE SIGN.** A sign which carries only advertisements strictly incidental to a lawful use of the premise on which it is located, including signs or sign devices indicating the business transacted, services rendered, goods sold or produced on the premise, name of the business, and name of the person, firm or corporation occupying the premise.

**OFF-PREMISE SIGN.** A sign, including the supporting sign structure which directs the attention of the general public to a business, service or activity not usually conducted or a product not usually offered or sold upon the premise where such a sign is located.

**PARAPET.** A low wall which is located on a roof of a building.

**POLITICAL SIGNS.** Any temporary sign which displays the name and/or picture of an individual seeking election or appointment to a public office or pertaining to a forthcoming public election referendum or pertaining to or advocating political views or policies.

**PORTABLE SIGNS.** A sign other than a wall sign which is affixed to the building and which extends perpendicularly from the building wall.

**PROJECTING SIGNS.** A sign other than a wall sign which is affixed to the building and which extends perpendicularly from the building wall.

**PYLON SIGN.** A sign with no visible secondary supports.

**REAL ESTATE SIGN.** A business sign located upon a property advertising that particular property for sale or for rent or for lease.

**ROOF LINE.** The uppermost line of a roof of a building or in the case of extended facade, the uppermost height of the facade.

**ROOF SIGN.** Any sign which is erected, constructed or attached wholly or in part upon or over the roof of a building.

**ROTATING SIGN.** A sign which revolves or rotates on its axes by mechanical means.

**SIGN.** Any structure, device, advertising, advertising device or visual representation intended to advertise, identify or communicate information to attract attention of the public for any purpose including but not limited to symbols, letters, figures, illustrations, or forms painted or otherwise affixed to a building or structure, any beacon or search light intended to attract the attention of the public, and any structure or device designed to border, illuminate, animate or project a visual representation, provided however, that this definition shall not be held to include official notices issued by any court or public office or officer in the performance of a public duty, and traffic control signs as defined in the Motor Vehicle Act.

**SIGN AREA.** That area within the marginal line of the surface which bears the advertisement or in the case of messages figures or symbols attached directly to the part of the building, that area which is included in the smallest rectangular or geometric figure which can be made to circumscribe the message, figure or symbol displayed thereon.

**SIGN HEIGHT.** The vertical distance measured from the grade to the top of a sign.

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

**STREET FRONTAGE.** The distance by which a lot line of a one lot adjoins a public street, from one lot line intersecting the street to the furthest distance lot line intersecting the same street. An interior lot has one **STREET FRONTAGE** and a corner lot has two frontages.

**TEMPORARY SIGN.** Any sign which is erected or displayed for a specific period of time.

**WALL SIGN.** A sign which is affixed to the exterior wall of a building and which is parallel to the building wall. A **WALL SIGN** does not project more than 12 inches from the surface to which it is attached nor does it extend beyond the top of the parapet wall.

**WINDOW SIGN.** A sign affixed to or inside of a window in view of the general public. This does not include merchandise on display.  
(Ord. 595, passed 7-17-1995)

### ' 151.03 PERMITTED NONLICENSED SIGNS.

The following signs are allowed without a permit, but shall comply with all other applicable provisions of this subdivision.

(A) *Construction signs.* One sign per construction project not exceeding 32 square feet of sign area in residential districts or 64 square feet in



commercial or industrial districts, which may be erected no more than five days prior to the beginning of construction for which a valid permit has been issued, shall be confined to the site of construction, and shall be removed five days after completion of construction and prior to occupancy.

(B) *Directional or instructional signs.* Signs not exceeding four square feet in area, which provide direction, instruction or identify public facilities, and are located entirely on the property to which they pertain and do not in any way advertise a business.

(C) *Flags.* The flags, emblems or insignia of any national or political subdivision.

(D) *Governmental signs.* Signs for control of traffic and other regulatory purposes, street signs, signs of public service companies indicating danger, and aids to service or safety which are erected by or on the order of a public officer in the performance of this public duty.

(E) *Holiday decorations.* Signs of decorative nature, incidental to and customarily and commonly associated with any national, local or religious holiday; provided that the signs shall be displayed for a period of not more than 60 days in any one year.

(F) *House numbers and name plates.* House numbers and name plates not exceeding two square feet in area for each residential building.

(G) *Interior signs.* Signs located within the interior of any building or stadium, or within an enclosed lobby or court of any building, and signs for and located within the inner or outer lobby, court or entrance of any theater, that are not visible from the

public right-of-way. Provided, however, that the signs shall be subject to the structural, electrical or material specifications set out in this code.

(H) *Memorial signs.* Signs or tablets reflecting the names of buildings and date of erection when cut into any masonry surface or inlaid so as to be noncombustible materials.

(I) *Notice bulletin boards.* Notice bulletin boards for medical, public, charitable or religious institutions where the same are located on the premise of the institution.

(J) *No trespassing or no dumping signs.* No trespassing or no dumping signs not exceeding one and 12 square feet in area per sign and not exceeding four in number per lot, except that special permission may be obtained from the Zoning Administrator for additional signs under proven special circumstances.

(K) *Occupant signs.* One sign for each dwelling unit not to exceed two square feet in area indicating the name of the occupant, location or identification of a home professional office.

(L) *Plaques.* Plaques or nameplate signs not more than 22 square feet in area which are fastened directly to the building.

(M) *Political and campaign signs.*

(1) All non-commercial signs of any size may be posted from August 1 in a state general election year until ten days following the state general election.

(2) No political sign shall be located within or over the public right-of-way.

(N) *Portable signs.* Portable signs located in business or industrial districts may not exceed 12 square feet in area provided the signs are limited to two signs per lot or business or four signs for corner properties, are not located in public right-of-way, do not contain any flashing, blinking, moving, rotating or exterior lights, and in the opinion of Zoning Administrator do not constitute traffic hazard.

(O) *On-premise directional signs.* On-premise directional signs shall not be larger than ten square feet and shall conform to the setback provisions of the specific zoning district.

(P) *Public notices.* Official notices posted by public officers or employees in the performance of their duties.

(Q) *Public signs.* Signs required or specifically authorized for a public purpose by any law, statute or ordinance, which may be of any type, number, area, height above grade, location, illumination or animation, required by law, statute or ordinance under which the signs are erected.

(R) *Real estate signs.* Real estate signs on any lot or parcel, provided the sign must be located entirely within the property to which the sign applies, is not directly illuminated, and is removed within seven days after the sale, rental or lease has been accomplished.

(S) *Permanent window signs.*

(1) Except in residential zones, for each ground floor occupancy of a building not more than two permanent signs may be painted on or otherwise displayed from the inside surface of any window, showcase or other similar facility.

(2) The signs shall be in addition to those signs permitted under the other provisions of this chapter.

(T) *Copy change.* The changing of copy on an existing sign does not require a permit, when the original owner, tenant or operator continues in business at the original location where the sign is located.

(U) *Symbols or insignia.* Religious symbols, commemorative plaques of recognized historical agencies, or identification emblems of religious orders or historical agencies, provided that no symbol, plaque or identification emblem shall exceed four square feet in area, all of which symbols, plaques and identification emblems shall be placed flat against a building.

(V) *Temporary signs.* Temporary signs not exceeding four square feet in area pertaining to drives or events if civic, philanthropic, educational or religious organizations, provided that the signs are posted only during the drives or not more than 30 days before the event and are removed not more than 15 days after an event.

(W) *Warning signs.* Signs warning the public of the existence of danger, containing no advertising material, which shall be removed upon termination of danger.

(Ord. 595, passed 7-17-1995)

#### ' 151.04 PROHIBITED SIGNS.

The following signs are specifically prohibited by this chapter:

(A) Signs which purport to be or resemble an official traffic control device, sign, signal, railroad sign or signal; or which hides from view or interferes in any material degree with the effectiveness of any traffic control device, sign, signal, railroad sign or signal, or the sign area of which obstructs or interferes with the driver=s view of approaching, merging or intersecting traffic for a distance not to exceed 500 feet;

(B) Signs which prominently display the word Astop@ or Adanger@;

(C) Signs which contain statements, words or pictures of an obscene, indecent or immoral character, or as would offend public morals or decency;

(D) Signs on any right-of-way of the interstate system of highways, except as otherwise provided by law or allowed by the Minnesota Department of Transportation;

(E) Signs on private land without the consent of the owner thereof;

(F) Signs on trees, shrubs or which are painted or drawn upon rocks or natural features, or on public utility poles;

(G) Signs which have distracting flashing or moving lights so designed or lighted as to be a traffic hazard;

(H) Signs to which access can be obtained only from an interstate main traveled way but excluding frontage roads adjacent thereto;

(I) Signs which are structurally unsafe, in disrepair or are abandoned;

(J) Off-premise signs in or within 500 feet of national, state or local parks, historical sites and public picnic or rest areas or within 100 feet of a church or school;

(K) Signs, or any advertising devices, which provide the advertisement of products, services or direct people to a business which are attached to or located on any motorized vehicle or trailer on a public right-of-way, public property or on private property. This section shall not, however, prohibit in any form vehicular signs which are attached to or affixed on a motor vehicle;

(L) Signs which display any moving parts, are illuminated with any flashing or intermittent light, or are animated, unless the displays shall be shielded to prevent any light to be directed at oncoming traffic in such brilliance as to impair the vision of any driver. Provided further that no device shall be illuminated in a manner as to interfere with or obscure any official traffic signs or signal. This chapter, however, does not include time, temperature or other similar informational signs;

(M) Any sign which contains or consists of banners, pennants, ribbons, streamers, string of lights, spinners or similar devices; and

(N) Street banners which are thrust over public property unless the banners are for civic purposes and approved by the city.

(Ord. 595, passed 7-17-1995) Penalty, see ' 10.99

#### ' 151.05 TRAFFIC HAZARDS.

No sign permitted by this chapter shall, by reason of its location, color or intensity, create a hazard to

the safe, efficient movement of vehicular or pedestrian traffic. No private sign shall contain words which might be construed as traffic controls, such as Astop,@ Acaution,@ Awarning,@ and the like, unless the sign is intended to direct traffic on the premise.  
(Ord. 595, passed 7-17-1995) Penalty, see ' 10.99

#### ' 151.06 MAINTENANCE REQUIREMENTS.

All signs and sign structures shall be properly maintained and shall be kept in a safe orderly condition. In addition, all parts and supports shall be properly painted. Any sign or sign structure which is rotted or unsafe, deteriorated, defaced or otherwise altered, shall be repainted, repaired or replaced by the licensee, owner or agent of the owner of the property from which the sign stands.  
(Ord. 595, passed 7-17-1995) Penalty, see ' 10.99

#### ' 151.07 LOCATION AND HEIGHT REQUIREMENTS.

(A) No sign, other than public or governmental signs, shall be erected or temporarily placed within any street rights-of-way. No sign or sign structure shall be erected or maintained so as to prevent fire ingress or egress from any door, window or fire escape. No sign or sign structure shall be attached to a standpipe, street light or fire escape. No sign shall obstruct traffic flow or sight views nor constitute a traffic hazard.

(B) No sign shall exceed 36 feet in height.  
(Ord. 595, passed 7-17-1995) Penalty, see ' 10.99

#### ' 151.08 PROJECTING SIGNS.

A projecting sign shall be at least seven feet above the sidewalk and three feet away from the curbline.  
(Ord. 595, passed 7-17-1995)

#### ' 151.09 TEMPORARY SIGNS.

Business portable signs over 12 square feet, but not exceeding 32 square feet, are allowed on a temporary basis provided:

(A) A sign permit is issued for the sign;

(B) The sign is not located in the public right-of-way;

(C) The sign does not obstruct sight views or constitute a traffic hazard;

(D) The sign may be illuminated but shall not contain any flashing, blinking, moving, rotating or exterior lights; and

(E) Only one temporary portable sign shall be allowed per lot of record or business.  
(Ord. 595, passed 7-17-1995) Penalty, see ' 10.99

#### ' 151.10 BILLBOARDS AND BANNERS.

(A) The construction of a billboard shall comply with the following requirements.

(1) *Location.* All billboards may be erected or maintained only in the B-1 and M-2 zoning districts.

(2) *Spacing.*

(a) Signs shall not be erected or maintained in a manner or place as to obscure or otherwise physically interfere with an official device or a railroad safety device or sign, or obstruct or physically interfere with the driver=s view of approaching, merging or intersecting traffic for a distance of 500 feet.

(b) No billboard shall be erected closer to any other sign on the same side of the same highway facing traffic preceding in the same direction than 300 feet on a primary highway in a zoned commercial or industrial area provided however, that this provision shall not prevent the erection of a double-faced, back-to-back or V-type advertising devices with a maximum of two signs per facing.

(3) *Size.* No billboard shall exceed 14 feet by 48 feet in size.

(4) *Height.* No billboard shall exceed 36 feet in maximum height.

(B) Temporary banners may be used without a permit for grand openings and special events limited to once a year not to exceed ten calendar days. Permanent banners are allowed as signs in accordance with the sign area requirements of ' 151.11.  
(Ord. 595, passed 7-17-1995) Penalty, see ' 10.99

**' 151.11 PERMITTED LICENSED SIGNS.**

The following are permitted signs which require a sign permit in accordance with the following zoning districts:

(A) Within the A-O, R-1, R-2 and R-3 districts, permitted signs are those allowed under ' 151.03 and any business sign not exceeding four square feet in size; and

(B) Within the B-1, B-2 and B-3 districts, signs are subjected to the following size and type regulations:

(1) All signs permitted under ' 151.03;

(2) Three types of on-premise business signs are allowed: wall signs, pylon signs and projecting signs. The total sign area for all signs shall not exceed 20% of the gross silhouette area of the front of the business portion of the principal building. Where the principal building is on a corner lot or has double frontage, the sign area is limited to 20% of the building silhouette area visible from the public street. The maximum allowable sign area is 300 square feet for wall signs, 150 square feet for combination wall and pylon signs and 100 square feet for only pylon or projecting signs. The maximum number of pylon signs is limited to one pylon sign per business property. For purposes of determining the gross areas of the silhouette of the principal building, the silhouette shall be defined as that area within an outlined drawing of the principal building as viewed from the lot line or from the exposed related public street(s); and

(3) In cases where the building area has a sign area exceeding the maximum allowable sign area allowed under this section, a larger sign area is allowed, but not to exceed 10% of the exposed and visible building silhouette area.

(Ord. 595, passed 7-17-1995)

' **151.12 ADMINISTRATION; REVIEW.**

(A) (1) In instances where an applicant requests a sign in excess of the sign area or sign number requirements of this chapter, the Planning Commission may recommend to the City Council the appropriate requirements and the approval of the sign. In its deliberations, the Planning Commission shall consider:

(a) The location, size and design of the proposed sign(s);

(b) The character of the surrounding area;

(c) The consistency of the proposed sign(s) in comparison to existing signs located in the surrounding area;

(d) The appropriateness of the proposed sign(s) in light of the anticipated use of the property; or

(e) The granting of a waiver which will not be detrimental to the public welfare nor create an adverse effect upon the surrounding property.

(2) The decision of the City Council shall be final.

(B) (1) *Permits.* A sign permit shall be required for all billboards, permitted licensed signs and any sign application to the Planning Commission, existing signs excluded.

(2) *Fees.* The fee for an application to the Planning Commission and all sign permits shall be established by the City Council.

(3) *Enforcement.* The Zoning Administrator is empowered to enforce the provisions of this chapter as necessary to carry out the purpose of this chapter. The Administrator shall cause to be removed any sign that endangers the public safety such as an abandoned, dangerous or electrically or structurally defective sign or a sign for which no permit has been issued or a sign which obstructs or interferes with the public right-of-way. A notice of violation shall be mailed to the sign holder citing the violation. If the violation is not corrected within ten days, the city shall have the authority to remove the sign.

(Ord. 595, passed 7-17-1995) Penalty, see ' 10.99

Section

**CHAPTER 152: SHORELAND MANAGEMENT**

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***Administration and Enforcement***

- 152.115 Enforcement
- 152.116 Permits; applications and fees
- 152.117 Certificate of zoning compliance
- 152.118 Amendments
- 152.119 Conditional uses
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- 152.121 Violations
- 152.122 Notifications

***Cross-reference:***

*Flood Hazard Prevention, see Chapter 153*

*Mining, see ' 150.048*

*Public Works, see Title V*

*Zoning, see Chapter 150*

***GENERAL PROVISIONS*****' 152.001 STATUTORY AUTHORIZATION.**

This chapter is adopted pursuant to the authorization and policies contained in M.S. Chapter 103.F, and Minnesota zoning enabling legislation in M.S. Chapter 394, as they may be amended from time to time.

(Ord. 552, passed 3-15-1993)

**' 152.002 POLICY.**

(A) The uncontrolled use of shorelands of the city affects the public health, safety and general welfare, not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public

health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shoreland of public waters, and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the city.

(B) It is the policy of the city to gain voluntary compliance with appropriate regulations via providing information and technical assistance to the public. Enforcement will be as stated, only when other means for compliance have failed.

(Ord. 552, passed 3-15-1993)

**' 152.003 TITLE.**

This chapter shall be known and cited as the ACity of Ortonville Shoreland Management Chapter.@ When referred to herein, it shall be known as Athis chapter.@ (Ord. 552, passed 3-15-1993)

**' 152.004 JURISDICTION.**

(A) Jurisdiction of this chapter shall apply to all areas of shoreland as defined in ' 152.008, inside the incorporated limits of the city. The city may from time to time enter into a joint powers agreement or joint zoning board as permitted by statute, or relinquish its zoning jurisdiction, but only to the extent as permitted by state law, as ultimately determined



pursuant to the provisions and action taken by the Planning Commission and the City Council.

(B) The provisions of this chapter shall apply to the shorelands of the public water bodies as classified in " 152.020 through 152.023. Pursuant to Minn. Rules parts 6120.2500 through 6120.3900 as they may be amended from time to time, no lake, pond or flowage less than ten acres in size in municipalities need be regulated in a local government=s shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this chapter.

(Ord. 552, passed 3-15-1993)

**' 152.005 COMPLIANCE.**

The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems; the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this chapter and other applicable regulations.

(Ord. 552, passed 3-15-1993)

**' 152.006 INTERPRETATION.**

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(Ord. 552, passed 3-15-1993)

**' 152.007 ABROGATION AND GREATER RESTRICTIONS.**

It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

(Ord. 552, passed 3-15-1993)

**' 152.008 DEFINITIONS.**

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

(B) For the purpose of this chapter, the words Amust@ and Ashall@ are mandatory and not permissive.

(C) All distances, unless otherwise specified, shall be measured horizontally.

***ACCESSORY STRUCTURE OR FACILITY.***

Any building or improvement subordinate to a principal use, which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

***BLUFF.*** A topographic feature such as a hill, cliff or embankment having the following characteristics; an area with an average slope of less than 18% over a distance for 50 feet or more shall not be considered part of the ***BLUFF***:

(1) Part or all of the feature is located in a shoreland area;

(2) The slope rises at least 25 feet above the ordinary high water level of the waterbody;

(3) 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

(4) The slope must drain toward the waterbody.

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

**BOARD OF ADJUSTMENT.** The established Board of Adjustment appointed by the City Council.

**BOATHOUSE.** A structure used solely for the storage of boats or boating equipment.

**BUILDING LINE.** This word is defined in code ' 150.002.

**CITY.** A political subdivision of the state whose address is: 315 Madison Avenue, Ortonville, Minnesota 56278.

**CITY COUNCIL.** The governing body of the city.

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

**COMMERCIAL USES.** This word is defined in ' 150.002.

**COMMISSIONER.** The Commissioner of the Department of Natural Resources.

**CONDITIONAL USE.** This word is defined in ' 150.002.

**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.

**DUPLEX, TRIPLEX and QUAD.** A dwelling structure on a single lot, having two, three and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living and sanitation facilities.

**DWELLING SITE.** A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

**DWELLING UNIT.** This word is defined in ' 150.002.

**EXTRACTIVE USE.** The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals and peat not regulated under M.S. " 93.44 to 93.51, as it may be amended from time to time.

**FLOWAGE.** A waterbody which is in the act of flowing or overflowing.

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

**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.

**HARDSHIP.** This term shall be as defined by M.S. ' 462.357, subd. 6(1), as it may be amended from time to time.

**HEIGHT OF BUILDING.** The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest gable of a pitched or hipped roof.

**INDUSTRIAL USE.** This word is defined in ' 150.002.

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

**LOT.** This word is defined in ' 150.002.

**LOT OF RECORD.** This word is defined in ' 150.002.

**LOT WIDTH.** This word is defined in ' 150.002.

**NONCONFORMING LOT.** This word is defined in ' 150.002.

**NONRIPARIAN.** A lot that is not contiguous with the ordinary high water mark of a body of water.

**ORDINARY HIGH WATER LEVEL.** The boundary of public waters and wetlands and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the **ORDINARY HIGH WATER LEVEL** is the elevation of the top of the bank of the channel. For reservoirs and flowages, the **ORDINARY HIGH WATER LEVEL** is the operating elevation of the normal summer pool.

**PLANNED UNIT DEVELOPMENT** or **PUD.** This word is defined in ' 150.002.

**PLANNING AND ZONING ADMINISTRATOR.** The City Clerk/Administrator.

**PLANNING COMMISSION.** This word is defined in ' 150.002.

**PRIVACY FENCES.** A fence which may be placed on a property line which includes fences, walls, hedges or shrubbery.

**PUBLIC WATERS.** Any waters as defined in M.S. ' 105.37 (14) and (15), as it may be amended from time to time.

**RESIDENTIAL PLANNED UNIT DEVELOPMENT.** A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For

example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as **RESIDENTIAL PLANNED UNIT DEVELOPMENTS**. To qualify as a **RESIDENTIAL PLANNED UNIT DEVELOPMENT**, a development must contain at least five dwelling units or sites.

**RIPARIAN.** A lot that is contiguous with the ordinary high water mark of a body of water.

**SEMIPUBLIC USE.** The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

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

**SETBACK.** This word is defined in ' 150.002.

**SEWAGE SYSTEM DATA FORM.** A checklist for use with on-site sewage system inspections available from the City Clerk/Administrator.

**SEWAGE TREATMENT SYSTEM.** A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in ' 152.045.

**SEWER SYSTEM.** Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances or appurtenances

used for conducting sewage or industrial waste or other wastes to a point of ultimate treatment.

**SHORE IMPACT ZONE.** Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the structure setback.

**SHORELAND.** Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of **SHORELANDS** may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.

**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 it may be 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 Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be **SIGNIFICANT HISTORIC SITES**.

**STEEP SLOPE.** Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and

the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this chapter. Where specific information is not available, **STEEP SLOPES** are lands having average slopes over 12%, as measured over horizontal distances of 50 feet or more, that are not bluffs.

**STRUCTURE.** This word is defined in ' 150.002.

**SUBDIVISION.** This word is defined in ' 150.002.

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

**TOE OF THE BLUFF.** The lower point of a 50-foot segment with an average slope exceeding 18%.

**TOP OF THE BLUFF.** The higher point of a 50-foot segment with an average slope exceeding 18%.

**VARIANCE.** This word is defined in ' 150.002.

**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 such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses and detached decks.

**WETLAND.** A surface water feature classified as a **WETLAND** in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).

**CLASSIFICATION SYSTEM; LAND USE DISTRICTS**

**' 152.020 CLASSIFICATION SYSTEM.**

(A) (1) The public waters of the city have been classified below consistent with the criteria found in Minnesota Rules part 6120.3300, as it may be amended from time to time, and the AProtected Waters Inventory Map@ for the city. The map is hereby made a part of this chapter and shall be known as the ACounty Protected Waters Map.@ The map, consisting of sheets and all notations, references and data shown thereon are hereby incorporated by reference into this chapter and shall be as much a part of it as if all were fully described herein.

(2) It shall be the responsibility of the Zoning Administrator to maintain the maps, and amendments thereto shall be recorded on the county protected waters map within 30 days after the official adoption of the amendments. The official protected waters map shall be kept on file in the office of the City Clerk/Administrator.

## Ortonville - Land Usage

(B) The shoreland area for the waterbodies listed below shall be as defined in ' 152.008 and as shown on the official zoning map.

(1) Lakes, protected waters: general development lakes:

- (a) REC NO.: 1160;
- (b) REG NO.: 4;
- (c) CO NO.: 6;
- (d) MUNICIPALITY: Ortonville;
- (e) MUNI. CODE: 6999;
- (f) BDRY: B;
- (g) LAKE NAME: Big Stone;
- (h) LAKE NO.: 6152; and
- (i) LAKE CLASS: GD.

(2) Rivers and streams: agricultural rivers:

- (a) CLASS: A;
- (b) RIVER: Minnesota;
- (c) FROM: Outlet of Big Stone L., Sec. 9, T121N, R46W
- (d) TO: South section line, Sec. 16, T121N, R46W, city limits; and

(e) All other non-classified water-courses as shown on county protected waters inventory map and list shall be Class TR. (Ord. 552, passed 3-15-1993)

### ' 152.021 CRITERIA FOR DESIGNATION.

The land use districts in ' 152.022, and the delineation of a land use district=s boundaries on the official zoning map, must be consistent with the goals, policies and objectives of the comprehensive land use plan and the following criteria, considerations and objectives:

(A) *General considerations and criteria for all land uses.*

- (1) Preservation of natural areas;
- (2) Present ownership and development of shoreland areas;
- (3) Shoreland soil types and their engineering capabilities;
- (4) Topographic characteristics;
- (5) Vegetative cover;
- (6) In-water physical characteristics, values and constraints;
- (7) Recreational use of the surface water;
- (8) Road and service center accessibility;
- (9) Socioeconomic development needs and plans as they involve water and related land resources;
- (10) The land requirements of industry which, by its nature, requires location in shoreland areas; and
- (11) The necessity to preserve and restore certain areas having significant historical or ecological value.

(B) *Factors and criteria for planned unit developments.*

(1) Existing recreational use of the surface waters and likely increases in use associated with planned unit developments;

(2) Physical and aesthetic impacts of increased density;

(3) Suitability of lands for the planned unit development approach;

(4) Level of current development in the area; and

(5) Amounts and types of ownership of undeveloped lands.  
(Ord. 552, passed 3-15-1993)

**' 152.022 LAKES, RIVERS AND STREAMS.**

(A) The land use districts provided below, and the allowable land uses therein for the given classifications of waterbodies, shall be properly delineated on the official zoning map for the shorelands of this community.

(B) These land use districts are in conformance with the criteria specified in Minn. Rules, part 6120.3200, subd. 3, as it may be amended from time to time.

(1) *Land use districts for lakes.*

(a) General development lakes, GDL;

(b) Permitted, P;

(c) Conditional use permit required, C;

(d) Non-permitted, N.

<i>Special Protection</i>	<i>GDL</i>
Forest management	P
Sensitive resource management	P
Agricultural: cropland and pasture	P
Agricultural feedlots	C
Parks and historic sites	C
Extractive use	C
Single residential	C
Mining of metallic minerals and peat	P
<i>Residential</i>	<i>GDL</i>
Single residential	P
Semipublic	C
Parks and historic sites	C
Extractive use	C
Duplex, triplex, quad residential	P
Forest management	P

## Ortonville - Land Usage

Mining of metallic minerals and peat	P	Public, semipublic	P
<b><i>High Density Residential</i></b>	<b><i>GDL</i></b>	Extractive use	C
Residential PUDs	C	Parks and historic sites	C
Single residential	P	Forest management	P
Surface water-oriented commercial	C	Mining of metallic minerals and peat	P
Semipublic	C	(2) <i>Land use districts for rivers and streams.</i>	
Parks and historic sites	C	(a) Agricultural, A;	
Duplex, triplex, quad residential	P	(b) Permitted, P;	
Forest management	P	(c) Conditional use permit required, C;	
<b><i>Water-Oriented Commercial</i></b>	<b><i>GDL</i></b>	(d) Non-permitted, N.	
Surface water-oriented commercial	P	<b><i>Special Protection</i></b>	<b><i>A</i></b>
Commercial planned unit development	C	Forest management	P
Public, semipublic	C	Sensitive resource management	P
Parks and historic sites	C	Agricultural: cropland and pasture	C
Forest management	P	Agricultural feedlots	C
<b><i>General Use</i></b>	<b><i>GDL</i></b>	Parks and historic sites	C
Commercial	P	Extractive use	C
Commercial planned unit development	C	Single residential	C
Industrial	C		



Mining of metallic minerals and peat	C	Commercial planned unit development	C
<b>Residential</b>	<b>A</b>	Public, semipublic	P
Single residential	P	Parks and historic sites	C
Semipublic	C	Forest management	P
Parks and historic sites	C	<b>General Use</b>	<b>A</b>
Extractive use	C	Commercial	C
Duplex, triplex, quad residential	C	Commercial planned unit development	C
Forest management	P	Industrial	N
Mining of metallic minerals and peat	P	Public, semipublic	C
<b>High Density</b>	<b>A</b>	Extractive use	C
Residential planned unit developments	C	Parks and historic sites	C
Single residential	P	Forest management	P
Surface water-oriented commercial	C	Mining of metallic minerals and peat (Ord. 552, passed 3-15-1993)	P
Semipublic	C		
Parks and historic sites	C	<b>' 152.023 USE AND UPGRADING OF INCONSISTENT DISTRICTS.</b>	
Duplex, triplex, quad residential	P		
Forest management	P	(A) The land use districts, as they apply to shoreland areas and their delineated boundaries on the official zoning map, are consistent with the land use district designation criteria specified in ' 152.022. Inconsistent land use district designations may continue until revisions are proposed to change either	
<b>Water-Oriented Commercial</b>	<b>A</b>		
Surface water-oriented commercial	C		

the land use district designation within an existing land use district boundary shown on the official zoning map or to modify the boundary of an existing land use district shown on the official zoning map.

(B) When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply:

(1) *Lakes.* When a revision to a land use district designation on a lake is considered, the land use district boundaries and use provisions therein for all the shoreland areas within the jurisdiction of this chapter on the lake must be revised to make them substantially compatible with the framework in " 152.021 and 152.022.

(2) *Rivers and streams.* When a revision to a land use district designation on a river or stream is proposed, the land use district boundaries and the use provisions therein for all shoreland on both sides of the river or stream within the same classification within the jurisdiction of this chapter must be revised to make them substantially compatible with the framework in " 152.021 and 152.022. If the same river classification is contiguous for more than a five-mile segment, only the shoreland for a distance of 22 miles upstream and downstream, or to the class boundary if closer, need be evaluated and revised.

(C) When an interpretation question arises about whether a specific land use fits within a given AUSE category, the interpretation shall be made by the Board of Adjustment. When a question arises as to whether a land use district's boundaries are properly delineated on the official zoning map, this decision shall be made by the Planning Commission.

(D) When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The Planning Commission will direct the City Clerk/Administrator to provide additional information for this waterbody as is necessary to satisfy divisions (B) and (C).

(E) The Planning Commission must make a detailed finding of fact and conclusion when taking final action that this revision, and the upgrading of any inconsistent land use district designations on the waterbody, are consistent with the enumerated criteria and use provisions of ' 152.022. (Ord. 552, passed 3-15-1993)

**GENERAL REGULATIONS**

**' 152.035 LOT AREA AND WIDTH STANDARDS.**

The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex and quad residential lots created after the date of enactment of this chapter for the lake and river/stream classifications are the following.

(A) *Sewered lakes.*

	<i>Riparian Lots</i>	
	<i>Area</i>	<i>Width</i>
<b>Single</b>	15,000	75
<b>Duplex</b>	26,000	135
<b>Triplex</b>	38,000	195
<b>Quad</b>	49,000	255

*Nonriparian Lots*  
**Area**                      **Width**

<b>Single</b>	10,000	75
<b>Duplex</b>	17,500	135
<b>Triplex</b>	25,000	190
<b>Quad</b>	32,500	245

(B) *River/stream lot width standards.*

(1) There is no minimum lot size requirements for rivers and streams.

(2) The lot width standards for single, duplex, triplex and quad residential developments for the river/stream classifications area.

	<i>Agricultural</i>	<i>Tributary</i>	
		<i>No Sewer</i>	<i>Sewer</i>

<b>Single</b>	150	100	75
<b>Duplex</b>	225	150	115
<b>Triplex</b>	300	200	150
<b>Quad</b>	375	250	190

(C) *Additional special provisions.*

(1) Residential subdivisions with dwelling unit densities exceeding those in the tables in divisions (A) and (B) above can only be allowed if designed and approved as residential planned unit developments under " 152.095 through 152.101.

(2) Only land above the ordinary high water level 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 at the building line.

The sewer lot area dimensions in division (A) can only be used if publicly owned sewer system services are available to the property.

(3) One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in divisions (A) and (B), provided the following standards are met:

(a) For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit;

(b) A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and

(c) A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.

(4) Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:

(a) They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots;

(b) If docking, mooring or over-water storage of more than six watercraft is allowed at a controlled access lot, 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:

***Controlled Access Lot Frontage Requirements***

<b><i>Ratio of Lake Size to Shore Length (Acres/Mile)</i></b>	<b><i>Increase in Frontage (Percent)</i></b>
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Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	5

(c) They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and

(d) 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 vehicles allowed to be parked and 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 topographic 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. 552, passed 3-15-1993)

**' 152.036 PLACEMENT, DESIGN AND HEIGHT STANDARDS.**

(A) *Placement of structures on lots.*

(1) When more than one setback applies to a site, structures and facilities must be located to meet all setbacks.

(2) 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.

(3) Where structures exist on both sides of a proposed building site with setbacks from the shoreline greater than those required, structure setbacks from the shoreline shall conform to the adjoining setbacks.

(4) Structures shall be located as follows:

(a) *Structure and on-site sewage system setbacks (in feet) from ordinary high water level for public waters.* One water-oriented accessory structure designed in accordance with this section may

be set back a minimum distance of ten feet from the ordinary high water level.

Classes	Structures		Sewage
	No Sewer	Sewer	
Lakes			
General development	- 50		50
Rivers			
Agriculture, tributary	100	50	75

(b) *Additional structure setbacks.* The following additional structure setbacks apply, regardless of classification of the waterbody:

Setback From	Setback (feet)
Side-yard property line or percent of lot width, whichever is least	10
Top of bluff	30
Unplatted cemetery	50
Right-of-way line of federal, state or county highway	50
Right-of-way line of township road, public street, alleys or streets not classified	20

(c) *Bluff impact zones.* Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

(d) *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.

(B) *Design criteria for structures.*

(1) *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:

(a) For lakes, 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;

(b) For rivers and streams, 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 feet 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 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and

(c) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item 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.

(2) *Water-oriented accessory structures.*

Each lot may have one water-oriented accessory structure, including decks, not meeting the normal structure setback in division (A) above if this 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; and

(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 and provided the shoreline width of the lot is at least 100 feet.

(3) *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:

(a) Stairways and lifts must not exceed four feet width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational property and planned unit developments;

(b) 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 developments;

(c) Canopies or roofs are not allowed on stairways, lifts or landings;

(d) Stairways, lifts and landings may be either constructed above the 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;

(e) 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; and

(f) Facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subsections (d) and (e) above are complied with in addition to requirements of Minn. Rules Chapter 1340, as it may be amended from time to time.

(C) *Significant historic sites.* No structure 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.*

(1) The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public water before issuing a permit for construction of treatment systems, roads, driveways, structures or improvements on steep slopes.

(2) 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 nonresidential agricultural structures, must not exceed 25 feet in height.

(Ord. 552, passed 3-15-1993)

#### ' 152.037 SHORELAND ALTERATIONS.

(A) 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.

(B) *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 ' 152.038 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 " 152.041 and 152.042, respectfully, 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 an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located; and

(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 not 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.

(C) *Topographic alterations/grading and filling.*

(1) Grading and 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 section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems and driveways.

(2) Public roads and parking areas are regulated by ' 152.038.

(3) Notwithstanding subsections (1) and (2) above, a grading and filling permit will be required for:

(a) The movement of more than ten cubic yards of material on steep slopes or within shore or bluff impact zones; and

(b) The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

(4) 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:

(a) Grading or filling in any type 2, 3, 4, 5, 6, 7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland. 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 Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised by the City Clerk/Administrator.

1. Sediment and pollutant trapping and retention;

2. Storage of surface runoff to prevent or reduce flood damage;

3. Fish and wildlife habitat;

4. Recreational use;

5. Shoreline or bank stabilization;

and

6. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others;



(b) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground exposed for the shortest time possible;

(c) 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;

(d) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;

(e) 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;

(f) Fill or excavated material must not be placed in a manner that creates an unstable slope;

(g) 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;

(h) Fill or excavated material must not be placed in bluff impact zones;

(i) Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under M.S. ' 105.42, as it may be amended from time to time;

(j) 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

(k) 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 the three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.

(5) 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. Permission may be given only after the Commissioner has approved the proposed connection to public waters.  
(Ord. 552, passed 3-15-1993)

**' 152.038 ROADS, DRIVEWAYS AND PARKING STANDARDS.**

(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 of this section are met. For private facilities, the grading and filling provisions of ' 152.037(B) must be met. (Ord. 552, passed 3-15-1993)

#### ' 152.039 STORMWATER MANAGEMENT.

The following general and specific standards shall apply:

(A) *General standards.*

(1) When possible, existing natural drainage ways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff before discharge to public waters.

(2) 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.

(3) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater 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 man-made materials and facilities.

(B) *Specific standards.*

(1) Impervious surface coverage of lots must not exceed 25% of the lot area.

(2) When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

(3) New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(Ord. 552, passed 3-15-1993)

#### ' 152.040 COMMERCIAL, INDUSTRIAL AND PUBLIC USES.

(A) Surface water-oriented commercial uses and industrial, public or semipublic 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. Those uses with water-oriented needs must meet the following standards:

(1) In addition to meeting impervious coverage limits, setbacks and other zoning standards in this chapter, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;

(2) 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; and

(3) 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:

(a) 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;

(b) 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 product 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; and

(c) 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) 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 leaf-on conditions.

(Ord. 552, passed 3-15-1993)

**' 152.041 AGRICULTURAL USES.**

(A) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (resource management systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

(B) Animal pastures and feedlots must meet the following standards:

(1) All livestock must be fenced off from the shore impact zone and no grazing is permitted within the impact zone;

(2) New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins; and

(3) Modifications or expansions to existing feedlots that are located within 300 feet of the

ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

(Ord. 552, passed 3-15-1993)

**' 152.042 FOREST MANAGEMENT.**

The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment Forestry and the provisions of Water Quality in Forest Management ABest Management Practices in Minnesota.@

(Ord. 552, passed 3-15-1993)

**' 152.043 EXTRACTIVE USES.**

(A) *Site development and restoration plan.* An extractive use site development and restoration plan must be developed, approved and followed over the course of operation of the site. The plan 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.

(B) *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. 552, passed 3-15-1993)

**' 152.044 MINING REGULATIONS.**

Mining of metallic minerals and peat, as defined in M.S. " 93.44 to 93.51, as they may be amended from time to time, shall be a permitted use provided the provisions of M.S. " 93.44 to 93.51 are satisfied.

(Ord. 552, passed 3-15-1993)

**' 152.045 WATER SUPPLY AND SEWAGE TREATMENT.**

(A) *Water supply.* Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

(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 Minnesota Pollution Control Agency=s standards for individual sewage treatment systems contained in Minn. Rules, Chapter 7080, as it may be amended from time to time, a copy of which is hereby adopted by reference and declared to be a part of this section;

(3) On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in ' 152.036(A);

(4) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subsections (1) through (3) above. 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 site field investigations; and

(5) Evaluation criteria:

(a) Depth to the highest known or calculated ground water table or bedrock;

(b) Soil conditions, properties, and permeability;

(c) Slope;

(d) The existence of lowlands, local surface depressions and rock outcrops; and

(e) Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with ' 152.063.

(Ord. 552, passed 3-15-1993)

***NONCONFORMING USES***

**' 152.060 CONTINUANCE.**

All legally established nonconformities as of the date of this chapter may continue, but they will be managed according to applicable state statutes and other regulations of this community 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 in shoreland areas.

(Ord. 552, passed 3-15-1993)

**' 152.061 CONSTRUCTION ON NONCONFORMING LOTS OF RECORD.**

(A) Lots of record in the office of the Big Stone County Recorder on the date of enactment of local shoreland controls that do not meet the requirements of ' 152.035 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 the sewage treatment and setback requirements of this chapter are met.

(B) 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.

(C) If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of ' 152.035, 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 requirements of ' 152.035 as much as possible.

(Ord. 552, passed 3-15-1993)

**' 152.062 ADDITIONS AND EXPANSIONS.**

(A) (1) All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height and other requirements of " 152.035 through 152.045.

(2) Any deviation from these requirements must be authorized by a variance pursuant to ' 152.116(C).

(B) 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:

(1) The structure existed on the date the structure setbacks were established;

(2) 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;

(3) 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; and

(4) The deck is constructed primarily of wood, and is not roofed or screened.  
(Ord. 552, passed 3-15-1993)

**' 152.063 SEWAGE TREATMENT SYSTEMS.**

(A) (1) A sewage treatment system not meeting the requirements of ' 152.045(B) must be upgraded, at a minimum, at any time a land transfer occurs or when a permit or variance of any type is required for any improvement on, or use of, the property.

(2) For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

(B) (1) The governing body of the city has, by formal resolution, notified the Commissioner of its program to identify nonconforming sewage treatment systems.

(2) The city will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time which will not exceed five years.

(3) Sewage systems installed according to all applicable local shoreland management standards adopted under M.S. ' 105.485, as it may be amended from time to time, in effect at the time of the 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 Minn. Rules Chapter 7080, as it may be amended from time to time, for design of on-site sewage treatment systems, shall be considered nonconforming.

(Ord. 552, passed 3-15-1993)

***SUBDIVISION AND PLATTING PROVISIONS*****' 152.075 LAND SUITABILITY.**

Each lot created through subdivision, including planned unit developments authorized under " 152.095 through 152.101 must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of

government 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 community.

(Ord. 552, passed 3-15-1993)

**' 152.076 CONSISTENCY WITH OTHER CONTROLS.**

(A) Subdivisions must conform to all official controls of this community. 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 awarded sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with " 152.036 and 152.045 can be provided for every lot.

(B) Each lot shall meet the minimum lot size and dimensional requirements of ' 152.035, 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.

(Ord. 552, passed 3-15-1993)

**' 152.077 INFORMATION REQUIREMENTS.**

(A) Sufficient information must be submitted by the applicant for the community to make a determination of land suitability.

(B) 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 characteristics;

(2) The surface water features required in M.S. ' 505.02 (1) as it may be 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 stormwater runoff and erosion, both during and after construction activities;

(5) Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and

(6) A line or contour representing the ordinary high water level, the Atoe@ and the Atop@ of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.  
(Ord. 552, passed 3-15-1993)

#### ' 152.078 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 stormwater and significant wetlands.  
(Ord. 552, passed 3-15-1993)

#### ' 152.079 PLATTING.

All subdivisions that create five or more lots or parcels that are 22 acres or less in size shall be processed as a plat in accordance with M.S. Chapter 505, as it may be 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.  
(Ord. 552, passed 3-15-1993)

#### ' 152.080 CONTROLLED ACCESS ON RECREATIONAL LOTS.

Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in ' 152.035(C).  
(Ord. 552, passed 3-15-1993)

### ***PLANNED UNIT DEVELOPMENTS***

#### ' 152.095 TYPES 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. The land use districts in which they are an allowable use are identified in the land use district descriptions in " 152.021 through 152.023 and the official zoning map.  
(Ord. 552, passed 3-15-1993)

#### ' 152.096 PROCESSING.

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 date this chapter was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in ' 152.099. Approval cannot occur until the environmental review process (EAW/EIS) is complete.  
(Ord. 552, passed 3-15-1993)

#### ' 152.097 APPLICATION PROCEDURE.

The applicant for a PUD must submit the following documents prior to final action being taken on the application request:

(A) A site plan and/or plat for the project showing locations of 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;

(B) A property owners association agreement (for residential PUDs) with mandatory membership, and all in accordance with the requirements of ' 152.100;

(C) Deed restrictions, covenants, permanent easements or other instruments that:

(1) Properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and

(2) Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in ' 152.100;

(D) When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied; and

(E) Those additional documents as requested by the City Clerk/Administrator and/or the Planning Commission that are necessary to explain how the PUD will be designed and will function.  
(Ord. 552, passed 3-15-1993)

**' 152.098 SITE EVALUATION.**

(A) 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 ' 152.099.

(B) 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>Dimensions</i>	<i>Unsewered (feet)</i>	<i>Sewer (feet)</i>
General development lakes first tier		200
General development lakes second and additional tiers		200
All river classes	300	300

(C) (1) 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.

(2) 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.  
(Ord. 552, passed 3-15-1993)

**' 152.099 DENSITY EVALUATION.**

The procedures for determining the Abase@ density of a PUD and density increase multipliers are

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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.

*(A) Residential PUD Abase@ density evaluation.*

(1) 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 local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier.

(2) 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 ' 152.100.

*(B) Commercial PUD Abase@ density evaluation.*

(1) Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites.

(2) Computation of inside living area sizes need not include decks, patios, stoops, steps, garages or porches and basements, unless they are habitable space.

(3) Select the appropriate floor area ratio from the following table.

(4) 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.

<i>Floor Area (sq. ft.)</i>	<i>Sewered development lakes and agricultural rivers</i>
200	.040
300	.048
400	.056
500	.065
600	.072
700	.082
800	.091
900	.099
1,000	.108
1,100	.116
1,200	.125
1,300	.133
1,400	.142
1,500	.150

(5) 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.

(6) Divide the total floor area by tier computed in subsection (2) above by the average inside living area size determined in subsection (1) above. This yields a base number of dwelling units and sites for each tier.

(7) Proposed locations and numbers of 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 ' 152.100.

(C) *Density increase multipliers.*

(1) Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in ' 152.035 through 152.045 are met or exceeded and the design criteria in ' 152.100 are satisfied.

(2) The allowable density increases in subsection (3) 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 local unit of government and the setback is at least 25% greater than the minimum setback.

(3) Allowable dwelling unit or dwelling site density increases for residential or commercial planned unit developments are as follows.

***Tiers                      Maximum Density Increase  
   within Each Tier (Percent)***

First	50
Second	100
Third	200
Fourth	200
Fifth	200

(Ord. 552, passed 3-15-1993)

**' 152.100 MAINTENANCE AND DESIGN CRITERIA.**

(A) (1) *Maintenance and administration requirements.* 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.

(2) *Open space preservation.*

(a) 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.

(b) 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 water craft prohibited.

(3) *Development organization and functioning.* Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the following features:

(a) Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;

(b) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;

(c) Assessments must be adjustable to accommodate changing conditions; and

(d) The association must be responsible for insurance, taxes and maintenance of all commonly owned property and facilities.

(B) *Open space requirements.* Planned unit developments must contain open space meeting all of the following criteria:

(1) At least 50% of the total project area must be preserved as open space;

(2) 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 and shall not be included in the computation of minimum open space;

(3) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;

(4) 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;

(5) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;

(6) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;

(7) 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;

(8) The shore impact zone, based on normal structure setbacks, must be included as open space; and

(9) 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.

(C) *Erosion control and stormwater management.* Erosion control and stormwater management plans must be developed and the PUD must:

(1) Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction:

(a) This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, and sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features; and

(b) Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and

(2) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater 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 stormwater management plan and consistency with ' 152.037.

(D) *Centralization and design of facilities.* Centralization and design of facilities and structures must be done according to the following standards:

(1) 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 Minnesota Department of Health and " 152.036 and 152.045, as they may be amended from time to time. 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;

(2) (a) 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;

(b) Setbacks from the ordinary high water level must be increased in accordance with ' 152.037 for developments with density increases;

(3) (a) 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 groundwater 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);

(b) Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants located in other tiers;

(4) Structures, parking areas and 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 local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;

(5) Accessory structures and facilities, except water-oriented accessory structures, must meet the required principal structure setback and must be centralized; and

(6) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in ' 152.036 and are centralized. (Ord. 552, passed 3-15-1993)

**' 152.101 CONVERSIONS.**

Local governments 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, structure 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 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; and

(D) (1) Existing dwelling unit or dwelling site densities that exceed standards in ' 152.099 may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future;

(2) 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. 552, passed 3-15-1993)

***ADMINISTRATION AND ENFORCEMENT*****' 152.115 ENFORCEMENT.**

The Zoning Administrator is responsible for the administration and enforcement of this chapter. Any violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this chapter can occur regardless of whether or not a permit is required for a regulated activity pursuant to ' 152.121.

(Ord. 552, passed 3-15-1993)

### ' 152.116 PERMITS; APPLICATIONS AND FEES.

(A) (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 ' 152.037(B)(1).

(2) 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.

(B) A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by ' 152.063(A), shall be reconstructed or replaced in accordance with the provisions of this chapter. ' 152.063(A) states that Aa sewage treatment system not meeting the requirements of ' 152.045(B) must be upgraded, at a minimum, at any time a land transfer occurs or when 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 nonconforming if the only deficiency is the sewage treatment system=s improper setback from the ordinary high water level.

(C) (1) Application for the permit shall be made to the Zoning Administrator on a form to be provided by the city; and

(2) Each application shall indicate the use to be made of the structure, location and dimensions of the property and the nature of the proposed construction, alteration or repair.

(D) (1) A fee shall be paid to the Zoning Administrator before any application is processed; and

(2) The amount of the fee shall be determined by the City Council by resolution.

(E) (1) Upon determining that the proposed construction, alteration or repair conforms to all provisions of this chapter and other applicable codes and ordinances, the Zoning Administrator shall issue the permit.

(2) No permit shall be required for interior alterations or remodeling of structures provided that the building use is not changed. A change in outside dimensions including height, requires a permit.

(3) One copy of the permit and application shall be returned to the applicant and the other shall be retained permanently as part of the records of the city. (Ord. 552, passed 3-15-1993)

### ' 152.117 CERTIFICATE OF ZONING COMPLIANCE.

The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in ' 152.116. This certificate will specify that the use of land conforms to the requirements of this chapter. Any use, arrangement or construction at variance with that authorized by

permit shall be deemed a violation of this chapter and shall be punishable as provided in ' 152.115. (Ord. 552, passed 3-15-1993)

#### ' 152.118 AMENDMENTS.

(A) *Purpose.* Amendments to this chapter shall be made following the procedures in ' 150.138.

(B) *Initiation.* An amendment to official controls may be initiated by the City Council, the Planning Commission or by petition of affected property owners.

(C) *Procedure for application.* An application for amendment initiated by petition of the owner or owners of the actual property shall be filed with the Zoning Administrator. The application shall be accompanied by a map showing lands proposed to be changed and all lands within 300 feet of the property, together with the names and addresses of the owners of the land.

(D) *Fees.*

(1) A fee shall be paid to the Zoning Administrator before any application is processed and the fee shall be transferred to the Zoning Administrator for deposit to the account of the City Revenue Fund.

(2) The amount of the fee shall be determined by the City Council by resolution.

(E) *Planning Commission review.*

(1) Any amendment initiated by the Planning Commission shall be studied and reported to the City Council and shall not be acted upon by the

City Council until it has received the recommendation of the Planning Commission or until 60 days have elapsed from the time of referral.

(2) An amendment not initiated by the Planning Commission shall be referred to the Planning commission for study and report, and may not be acted upon by the City Council until it has received the recommendation of the Planning Commission.

(F) *Notice and hearing.*

(1) The Planning Commission shall hold at least one public hearing in a location to be prescribed by the Planning Commission at least ten days in advance of each hearing.

(2) Notice of the time and place of the hearing shall be published in the official paper of the city.

(3) Following the public hearing, the Planning Commission shall make a report of its findings and recommendations on the proposed amendment and shall file a copy with the City Council and the Zoning Administrator within 60 days after the hearing.

(G) *City Council action.* If no report or recommendation is transmitted by the Planning Commission within 60 days after the hearing, the City Council may take action without awaiting the recommendation.

(1) Upon the filing of the report or recommendation, the City Council may hold public hearings upon the amendment as it deems advisable.

(2) After the conclusion of the hearings, if any, the City Council may adopt the amendment or any part thereof in such form as it deems advisable.



(3) The amendment shall be effective only if five-sevenths of all the members of the City Council concur in its passage.

(H) *Recording of amendment.* A certified copy of any and all amendments or changes to this chapter shall be filed with the Zoning Administrator for record.

(I) *Petitions previously denied.* A period of not less than one year is required between presentation of petitions for a change or amendment applying to a specific piece of property, where prior petition was denied.

(Ord. 552, passed 3-15-1993)

**' 152.119 CONDITIONAL USES.**

(A) Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established city-wide. Conditional uses may be granted as provided in ' 150.138.

(B) *Conditional use review criteria.* No conditional use shall be recommended by the Planning Commission unless the Planning Commission shall find:

(1) That the use is one of the conditional uses specifically listed for the district in which it is to be located;

(2) That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish nor impair property values within the immediate vicinity;

(3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area;

(4) That adequate utilities, access roads, drainage and other necessary facilities have been or are being improved;

(5) That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use; and

(6) That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise or vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

(C) *Shoreland specific conditional use criteria.* Additional evaluation criteria and conditions apply within shoreland areas. A thorough evaluation of the waterbody and the topographic, vegetation and soil conditions on the site must be made to ensure:

(1) The prevention of soil erosion or other possible pollution of public waters, both during and after construction;

(2) The visibility of structures and other facilities as viewed from public waters is limited;

(3) The site is adequate for water supply and on-site sewage treatment; and

(4) 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 these watercraft.

(D) *Conditions attached to conditional use permits.* The Planning Commission, upon consideration of the criteria listed above and the purposes of this chapter, shall attach the conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this chapter. The conditions may include, but are not limited to the following:

(1) Increased setbacks from the ordinary high water level;

(2) Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and

(3) Special provisions for the location, design and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

(Ord. 552, passed 3-15-1993)

#### ' 152.120 VARIANCES.

Variations may be granted as provided in ' 150.139.

#### ' 152.121 VIOLATIONS.

(A) Any person, firm or corporation who violates any of the provisions of this chapter, or who fails to comply with any of the provisions of this chapter, shall be subject to the penalty of ' 10.99.

(B) Each day that a violation continues shall constitute a separate offense.

(C) In the event of a violation or a threatened violation of the chapter, the Zoning Administrator or the City Council or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate the violations or threatened violations, and it shall be the duty of the City Attorney to pursue legal action.

(D) Any taxpayer or taxpayers of the city may institute mandamus proceedings in District Court to compel specific performance by the proper official or officials of any duty required by this chapter.

(Ord. 552, passed 3-15-1993)

#### ' 152.122 NOTIFICATIONS.

(A) (1) Copies of all notices of any public hearings to consider variances, amendments or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner=s designated representative and postmarked at least ten days before the hearings.

(2) Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

(B) A copy of approved amendments and subdivisions/plats and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner=s designated representative and postmarked within ten days of final action.

(Ord. 552, passed 3-15-1993)

Section

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### **GENERAL PROVISIONS**

#### **' 153.001 STATUTORY AUTHORIZATION.**

The legislature of the State of Minnesota has, in M.S. Chapter 103F and 462 for municipalities delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. (Ord. 06-01, passed 2-21-2006)

#### **' 153.002 FINDINGS OF FACT.**

(A) The flood hazard areas of the city are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) Methods used to analyze flood hazards. This chapter is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

(C) National Flood Insurance Program compliance. This chapter is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 - 78, as amended, so as to

maintain the community's eligibility in the National Flood Insurance Program.

(Ord. 06-01, passed 2-21-2006)

#### **' 153.003 STATEMENT OF PURPOSE.**

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize those losses described in ' 153.002(A) by provisions contained herein.

(Ord. 06-01, passed 2-21-2006)

#### **' 153.004 LANDS TO WHICH CHAPTER APPLIES.**

This chapter shall apply to all lands within the jurisdiction of the city shown on the official zoning map and/or the attachments thereto as being located within the boundaries of the floodway, flood fringe, or general flood plain districts.

(Ord. 06-01, passed 2-21-2006)

#### **' 153.005 ESTABLISHMENT OF OFFICIAL ZONING MAP.**

The official zoning map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this chapter. The attached material shall include the Flood Insurance Study for Big Stone County, Minnesota and Incorporated Areas prepared by the Federal Emergency Management Agency and dated April 17, 2006, and the Flood Insurance Rate Map Panels numbered 27011C0354C, 27011C0355C, 27011C0362C, 27011C0366C and dated April 17, 2006 therein. The official zoning map shall be on file in the Office of the City Clerk/Administrator and the Zoning Administrator.

(Ord. 06-01, passed 2-21-2006)

**' 153.006 REGULATORY FLOOD PROTECTION ELEVATION.**

The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

(Ord. 06-01, passed 2-21-2006)

**' 153.007 INTERPRETATION.**

(A) In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(B) The boundaries of the zoning districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.

(Ord. 06-01, passed 2-21-2006)

**' 153.008 ABROGATION AND GREATER RESTRICTIONS.**

It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

(Ord. 06-01, passed 2-21-2006)

**' 153.009 WARNING AND DISCLAIMER OF LIABILITY.**

This chapter does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This chapter shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. 06-01, passed 2-21-2006)

**' 153.010 DEFINITIONS.**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application.

**ACCESSORY USE** or **STRUCTURE**. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**BASEMENT**. Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

**CONDITIONAL USE.** A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

(1) Certain conditions as detailed in the zoning ordinance exist; and

(2) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

**EQUAL DEGREE OF ENCROACHMENT.** A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

**FLOOD.** A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

**FLOOD FREQUENCY.** The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

**FLOOD FRINGE.** That portion of the flood plain outside of the floodway. **FLOOD FRINGE** is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Big Stone County, Minnesota and Incorporated Areas.

**FLOOD PLAIN.** The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

**FLOOD PROOFING.** A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

**FLOODWAY.** The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

**LOWEST FLOOR.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.

**MANUFACTURED HOME.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term **MANUFACTURED HOME** does not include the term **RECREATIONAL VEHICLE**.

**OBSTRUCTION.** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

**PRINCIPAL USE or STRUCTURE.** All uses or structures that are not accessory uses or structures.

**REACH.** A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

**RECREATIONAL VEHICLE.** A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is

designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this chapter, the term **RECREATIONAL VEHICLE** shall be synonymous with the term travel trailer/travel vehicle.

**REGIONAL FLOOD.** A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. **REGIONAL FLOOD** is synonymous with the term "base flood" used in a flood insurance study.

**REGULATORY FLOOD PROTECTION ELEVATION.** An elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

**STRUCTURE.** Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in ' 153.092(A) and other similar items.

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT.** Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure

before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

(2) Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure." For the purpose of this chapter, "historic structure" shall be as defined in Code of Federal Regulations, Part 59.1.

**VARIANCE.** A modification of a specific permitted development standard required in an official control including this chapter to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.  
(Ord. 06-01, passed 2-21-2006)

**' 153.011 ANNEXATIONS.**

The flood insurance rate map panels adopted by reference into ' 153.005 may include floodplain areas that lie outside of the corporate boundaries of the city at the time of adoption of this chapter. If any of these floodplain land areas are annexed into the city after the date of adoption of this chapter, the newly annexed floodplain lands shall be subject to the provisions of this chapter immediately upon the date of annexation into the city.  
(Ord. 06-01, passed 2-21-2006)

**ESTABLISHMENT OF  
ZONING DISTRICTS**

**' 153.020 DISTRICTS.**

(A) *Floodway District.* The Floodway District shall include those areas designated as floodway on the flood insurance rate map adopted in ' 153.005.

(B) *Flood Fringe District.* The Flood Fringe District shall include those areas designated as floodway fringe. The Flood Fringe District shall include those areas shown on the flood insurance rate map as adopted in ' 153.005 as being within Zones AE, AO, or AH but being located outside of the floodway.

(C) *General Flood Plain District.* The General Flood Plain District shall include those areas designated as Zone A or Zones AE, AO, or AH without a floodway on the flood insurance rate map adopted in ' 153.005. (Ord. 06-01, passed 2-21-2006)

**' 153.021 COMPLIANCE.**

No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter. Within the Floodway, Flood Fringe and General Flood Plain Districts, all uses not listed as permitted uses or conditional uses in " 153.030 through 153.033, " 153.045 through 153.049, and " 153.060 and 153.061, respectively, shall be prohibited. In addition, a caution is provided here that:

(A) New manufactured homes, replacement manufactured homes and certain recreational vehicles

are subject to the general provisions of this chapter and specifically " 153.090 through 153.092.

(B) Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this chapter and specifically ' 153.104.

(C) As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this chapter and specifically as stated in " 153.100 through 153.103. (Ord. 06-01, passed 2-21-2006)

**FLOODWAY DISTRICT (FW)**

**' 153.030 PERMITTED USES.**

(A) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

(B) Industrial-commercial loading areas, parking areas, and airport landing strips.

(C) Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

(D) Residential lawns, gardens, parking areas, and play areas. (Ord. 06-01, passed 2-21-2006)



**' 153.031 STANDARDS FOR FLOODWAY PERMITTED USES.**

(A) The use shall have a low flood damage potential.

(B) The use shall be permissible in the underlying zoning district if one exists.

(C) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

(Ord. 06-01, passed 2-21-2006)

**' 153.032 CONDITIONAL USES.**

(A) Structures accessory to the uses listed in ' 153.030 and the uses listed in divisions (B) through (H) of this section.

(B) Extraction and storage of sand, gravel, and other materials.

(C) Marinas, boat rentals, docks, piers, wharves, and water control structures.

(D) Railroads, streets, bridges, utility transmission lines, and pipelines.

(E) Placement of fill or construction of fences.

(F) Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of ' 153.092.

(G) Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect

agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event. (Ord. 06-01, passed 2-21-2006)

**' 153.033 STANDARDS FOR FLOODWAY CONDITIONAL USES.**

(A) *All uses.* No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

(B) All floodway conditional uses shall be subject to the procedures and standards contained in ' 153.103.

(C) The conditional use shall be permissible in the underlying zoning district if one exists.

(D) *Fill.*

(1) Fill, dredge spoil, and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

(2) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

(3) As an alternative, and consistent with division (D)(2) of this section, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or

regional flood but only after the governing body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the Office of the County Recorder.

(E) *Accessory structures.*

(1) Accessory structures shall not be designed for human habitation.

(2) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:

(a) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and

(b) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(3) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards:

(a) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;

(b) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and

(c) To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(F) *Storage of materials and equipment.*

(1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

(G) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of M.S. Chapter 103G. Community- wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

(H) A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must

assume equal conveyance or storage loss on both sides of a stream.

(Ord. 06-01, passed 2-21-2006) Penalty, see ' 153.999

***FLOOD FRINGE DISTRICT (FF)***

**' 153.045 PERMITTED USES.**

Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non-residential structure or use of a structure or land shall be a permitted use in the Flood Fringe District provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe District "permitted uses" listed in ' 153.046 and the "standards for all flood fringe uses" listed in ' 153.049.

(Ord. 06-01, passed 2-21-2006)

**' 153.046 STANDARDS FOR FLOOD FRINGE PERMITTED USES.**

(A) All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon.

(B) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at its largest projection may be internally flood proofed in accordance with ' 153.033(E)(3).

(C) The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with division (A) of this section.

(D) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

(E) The provisions of ' 153.049 shall apply.  
(Ord. 06-01, passed 2-21-2006)

**' 153.047 CONDITIONAL USES.**

Any structure that is not elevated on fill or flood proofed in accordance with ' 153.046(A) and (B) and or any use of land that does not comply with the standards in ' 153.046(C) and (D) shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in " 153.048 and 153.049 and ' 153.103 of this chapter.

(Ord. 06-01, passed 2-21-2006)

**' 153.048 STANDARDS FOR FLOOD FRINGE CONDITIONAL USES.**

(A) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above grade and not a structure's basement or lowest floor if:

(1) The enclosed area is above-grade on at least one side of the structure;

(2) It is designed to internally flood and is constructed with flood resistant materials; and

(3) It is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

(a) Design and certification. The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

(b) Specific standards for above-grade, enclosed areas. Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

1. A minimum area of automatic openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one-foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

2. The enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

(B) Basements, as defined by ' 153.010, shall be subject to the following:

(1) Residential basement construction shall not be allowed below the regulatory flood protection elevation; and

(2) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with division (C) of this section.

(C) All areas of non-residential structures including basements to be placed below the regulatory flood protection elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.

(D) When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to

stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the governing body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

(E) *Storage of materials and equipment.*

(1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

(F) The provisions of ' 153.049 shall also apply. (Ord. 06-01, passed 2-21-2006) Penalty, see ' 153.999

**' 153.049 STANDARDS FOR ALL FLOOD FRINGE USES.**

(A) All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

(B) *Commercial uses.* Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be

used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four upon occurrence of the regional flood.

(C) *Manufacturing and industrial uses.* Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in division (B) of this section. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

(D) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(E) Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the official zoning map.

(F) Standards for recreational vehicles are contained in ' 153.092.

(G) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.  
(Ord. 06-01, passed 2-21-2006) Penalty, see ' 153.999

### ***GENERAL FLOOD PLAIN DISTRICT***

#### **' 153.060 PERMISSIBLE USES.**

(A) The uses listed in ' 153.030 shall be permitted uses.

(B) All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to ' 153.061. Sections 153.030 through 153.033 shall apply if the proposed use is in the Floodway District and " 153.045 through 153.049 shall apply if the proposed use is in the Flood Fringe District.  
(Ord. 06-01, passed 2-21-2006)

#### **' 153.061 PROCEDURES FOR FLOODWAY AND FLOOD FRINGE DETERMINATIONS.**

(A) Upon receipt of an application for a permit or other approval within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway or Flood Fringe District.

(1) A typical valley cross-section(s) showing the channel of the stream, elevation of land

areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.

(2) Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.

(3) Photographs showing existing land uses, vegetation upstream and downstream, and soil types.

(4) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

(B) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 B 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

(1) Estimate the peak discharge of the regional flood.

(2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

(3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

(C) The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the governing body. The governing body must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The governing body, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe District Boundaries have been determined, the governing body shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of " 153.030 through 153.033 and " 153.045 through 153.049.  
(Ord. 06-01, passed 2-21-2006)

***SUBDIVISIONS***

**' 153.070 LAND SUITABILITY REVIEW CRITERIA.**

No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall be able to contain a building site outside of the Floodway District at or

above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this chapter and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

(Ord. 06-01, passed 2-21-2006) Penalty, see ' 153.999

**' 153.071 REQUIREMENTS FOR FLOODWAY/FLOOD FRINGE DETERMINATIONS.**

In the General Flood Plain District, applicants shall provide the information required in ' 153.061 to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

(Ord. 06-01, passed 2-21-2006)

**' 153.072 REMOVAL OF SPECIAL FLOOD HAZARD AREA DESIGNATION.**

The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(Ord. 06-01, passed 2-21-2006)

***PUBLIC UTILITIES, RAILROADS,  
ROADS, AND BRIDGES***

**' 153.080 PUBLIC UTILITIES.**

All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation. (Ord. 06-01, passed 2-21-2006) Penalty, see ' 153.999

**' 153.081 PUBLIC TRANSPORTATION FACILITIES.**

Railroad tracks, roads, and bridges to be located within the flood plain shall comply with " 153.030 through 153.033 and " 153.045 through 153.049. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety. (Ord. 06-01, passed 2-21-2006) Penalty, see ' 153.999

**' 153.082 ON-SITE SEWAGE TREATMENT AND WATER SUPPLY SYSTEMS.**

Where public utilities are not provided:

(A) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and

(B) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding.

(C) Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this section. (Ord. 06-01, passed 2-21-2006) Penalty, see ' 153.999

***MANUFACTURED HOMES; TRAVEL TRAILERS AND TRAVEL VEHICLES***

**' 153.090 NEW MANUFACTURED HOME PARKS.**

New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by " 153.070 through 153.072. (Ord. 06-01, passed 2-21-2006)

**' 153.091 REPLACEMENT MANUFACTURED HOMES; EXISTING PARKS.**

(A) The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with " 153.045 through 153.049. If vehicular road access for preexisting manufactured home parks is not provided in accordance with ' 153.049, then replacement manufactured homes will not be allowed



until the property owner(s) develops a flood warning emergency plan acceptable to the governing body.

(B) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(Ord. 06-01, passed 2-21-2006) Penalty, see ' 153.999

**' 153.092 RECREATIONAL VEHICLES.**

Recreational vehicles that do not meet the exemption criteria specified in division (A) of this section shall be subject to the provisions of this chapter and as specifically spelled out in divisions (C) and (D) of this section.

(A) Exemption. Recreational vehicles are exempt from the provisions of this chapter if they are placed in any of the areas listed in division (B) of this section and further they meet the following criteria:

(1) Have current licenses required for highway use.

(2) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.

(3) The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

(B) Areas exempted for placement of recreational vehicles.

(1) Individual lots or parcels of record.

(2) Existing commercial recreational vehicle parks or campgrounds.

(3) Existing condominium type associations.

(C) Recreational vehicles exempted in division (A) of this section lose this exemption when development occurs on the parcel exceeding \$500 for a structural addition to the recreational vehicle or exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in " 153.030 through 153.033 and " 153.045 through 153.049. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

(D) New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five units or dwelling sites shall be subject to the following:

(1) Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe Districts provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with ' 153.049. No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100-year or regional flood.

(2) All new or replacement recreational vehicles not meeting the criteria of division (1) above may, as an alternative, be allowed as a conditional use

if in accordance with the following provisions and the provisions of ' 153.103. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of division (A)(1) and (2) of this section will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with ' 153.082.

(Ord. 06-01, passed 2-21-2006)

#### ***ADMINISTRATION AND ENFORCEMENT***

##### **' 153.100 ZONING ADMINISTRATOR.**

A Zoning Administrator or other official designated by the governing body shall administer and enforce this chapter. If the Zoning Administrator finds a violation of the provisions of this chapter the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in ' 153.999.

(Ord. 06-01, passed 2-21-2006)

##### **' 153.101 PERMITS, CERTIFICATION REQUIREMENTS AND RECORD KEEPING.**

(A) *Permit required.* A permit issued by the Zoning Administrator in conformity with the provisions of this chapter shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion

thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

(B) *Application for permit.* Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

(C) *State and federal permits.* Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.

(D) *Certificate of zoning compliance for a new, altered, or nonconforming use.* It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this chapter.

(E) *Construction and use to be as provided on applications, plans, permits, variances and certificates of zoning compliance.* Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth

in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter, and punishable as provided by ' 153.999.

(F) *Certification*. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this chapter. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

(G) *Record of first floor elevation*. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.

(H) *Notifications for watercourse alterations*. The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to M.S., Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

(I) *Notification to FEMA when physical changes increase or decrease the 100-year flood elevation*. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator shall notify the

Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data. (Ord. 06-01, passed 2-21-2006) Penalty, see ' 153.999

**' 153.102 APPEALS AND VARIANCES;  
DUTIES OF THE BOARD OF ADJUSTMENT.**

(A) The Board of Adjustments as designated by ' 150.139 shall act as the Board of Adjustments herein.

(B) *Rules*. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by state law.

(C) *Administrative review*. The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this chapter.

(D) *Variances*. The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this chapter as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this chapter, any other zoning regulations in the community, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional

variance criteria of the Federal Emergency Management Agency must be satisfied:

(1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances shall only be issued by a community upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship to the applicant, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(E) *Hearings.* Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board of Adjustment shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

(F) *Decisions.* The Board of Adjustment shall arrive at a decision on such appeal or variance within 60 days. In passing upon an appeal, the Board of Adjustment may, so long as such action is in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning

Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board of Adjustment may prescribe appropriate conditions and safeguards such as those specified in ' 153.103(F), which are in conformity with the purposes of this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter punishable under ' 153.999. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten days of such action.

(G) *Appeals.* Appeals from any decision of the Board of Adjustment may be made, and as specified in this community's official controls and also by Minnesota Statutes.

(H) *Flood insurance notice and record keeping.* The Zoning Administrator shall notify the applicant for a variance that: The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

(Ord. 06-01, passed 2-21-2006) Penalty, see ' 153.999

### **' 153.103 CONDITIONAL USES; STANDARDS AND EVALUATION PROCEDURES.**

The Board of Adjustments shall hear and decide applications for conditional uses permissible under this chapter. Applications shall be submitted to the Zoning

Administrator who shall forward the application to the Board of Adjustments for preliminary consideration. The Board of Adjustment shall issue a decision for review by the Council based upon the conditions of division (D) of this section.

(A) *Hearings.* Upon filing with the Zoning Administrator an application for a conditional use permit, the Zoning Administrator shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

(B) *Decisions.* The City Council shall arrive at a decision on a conditional use within 60 days. In granting a conditional use permit the City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in division (F) of this section, which are in conformity with the purposes of this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this chapter punishable under ' 153.999. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten days of such action.

(C) *Procedures to be followed by the City Council in passing on conditional use permit applications within all flood plain districts.*

(1) Require the applicant to furnish such of the following information and additional information as deemed necessary by the City Council for determining the suitability of the particular site for the proposed use:

(a) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures,

and the relationship of the above to the location of the stream channel; and

(b) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

(2) Transmit one copy of the information described in division (C)(1) of this section to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

(3) Based upon the technical evaluation of the designated engineer or expert, the City Council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

(D) *Factors upon which the decision of the City Council shall be based.* In passing upon conditional use applications, the City Council shall consider all relevant factors specified in other sections of this chapter, and:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(2) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(5) The importance of the services provided by the proposed facility to the community.

(6) The requirements of the facility for a waterfront location.

(7) The availability of alternative locations not subject to flooding for the proposed use.

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

(10) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

(12) Such other factors which are relevant to the purposes of this chapter.

(E) *Time for acting on application.* The City Council shall act on an application in the manner described above within 60 days from receiving the application, except that where additional information is required pursuant to division (C) of this section. The City Council shall render a written decision within 60 days from the receipt of such additional information.

(F) *Conditions attached to conditional use permits.* Upon consideration of the factors listed above and the purpose of this chapter, the City

Council shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:

(1) Modification of waste treatment and water supply facilities.

(2) Limitations on period of use, occupancy, and operation.

(3) Imposition of operational controls, sureties, and deed restrictions.

(4) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

(5) Flood proofing measures, in accordance with the State Building Code and this chapter. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

(Ord. 06-01, passed 2-21-2006) Penalty, see ' 153.999

#### ' 153.104 NONCONFORMING USES.

A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions. Historic structures, as defined in ' 153.010, shall be subject to the provisions of this section.

(A) No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.

(B) Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in divisions (C) and (G) of this section.

(C) The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50% of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50% of the market value of the structure, then the structure must meet the standards of " 153.030 through 153.033 or " 153.045 through 153.049 for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

(D) If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this chapter. The Assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses that have been discontinued for a period of 12 months.

(E) If any nonconforming use or structure is substantially damaged, as defined in ' 153.010, it shall not be reconstructed except in conformity with the provisions of this chapter. The applicable provisions for establishing new uses or new structures in " 153.030 through 153.033, " 153.045 through 153.049 or " 153.060 and 153.061 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

(F) If a substantial improvement occurs, as defined in ' 153.010, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of " 153.030 through 153.033 and " 153.045 through 153.049 for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. (Ord. 06-01, passed 2-21-2006) Penalty, see ' 153.999

#### **' 153.105 AMENDMENTS.**

(A) The flood plain designation on the official zoning map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he or she determines that, through other measures, lands are adequately protected for the intended use.

(B) All amendments to this chapter, including amendments to the official zoning map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the official zoning map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this chapter and said notice shall include a draft of the chapter amendment or technical study under consideration. (Ord. 06-01, passed 2-21-2006)

**' 153.999 PENALTY.**

(A) Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.

(B) Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

(1) In responding to a suspected chapter violation, the Zoning Administrator and local government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct chapter violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(2) When a chapter violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the community's plan of action to correct the violation to the degree possible.

(3) The Zoning Administrator shall notify the suspected party of the requirements of this chapter and all other official controls and the nature and extent of the suspected violation of these controls. If the

structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the community. If the construction or development is already completed, then the Zoning Administrator may either: issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30-days.

(4) If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this chapter and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this chapter.

(Ord. 06-01, passed 2-21-2006)



Section

**CHAPTER 154: AIRPORT HAZARD AREAS**

- 154.01 Authority
- 154.02 Definitions
- 154.03 Conflicts; greater restrictions

Protect the lives and property of the users of the Municipal Airport and of the owners and occupants of land in its vicinity to adopt the following chapter as authorized by M.S. " 360.061 to 360.074, as they may be amended from time to time. (Ord. 371, passed 10-1-1973)

***Zones; Use Regulations***

- 154.15 Imaginary reference surfaces
- 154.16 Zones and map
- 154.17 Height limitations
- 154.18 Land use restrictions
- 154.19 Nonconforming uses

**' 154.02 DEFINITIONS.**

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

***Administration and Enforcement***

- 154.30 Variances; permits required
- 154.31 Zoning administration
- 154.32 Board of Zoning Adjustments
- 154.33 Appeals
- 154.34 Judicial review

**AIRPORT.** The Municipal Airport located in the west half of Section 10 , Township 121 North, Range 46 West of the Fifth Principal Meridian, Big Stone County, Minnesota.

**AIRPORT APPROACH ZONES.** Comprises all lands under the approach surfaces defined in ' 154.16.

**AIRPORT BOARD.** The board created in ' 31.15.

**GENERAL PROVISIONS**

**AIRPORT ELEVATION.** The highest point established on the usable airport landing area which elevation is established at 1,100 feet above sea level.

**' 154.01 AUTHORITY.**

The City Council finds that it is necessary, in order to promote public health, safety and general

**AIRPORT HAZARD.** Any structure, tree or use of land which obstructs the air space required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport.

**AIRPORT TRANSITION ZONES.** Comprises of lands under the transitional surfaces as defined in ' 154.16.

**AIRPORT TURNING ZONES.** Comprises all lands under the horizontal and conical surfaces as defined in ' 154.16.

**AIRPORT ZONING MAP.** The Airport Zoning Map consisting of three pages dated October 23, 1973, together with amendments thereto as may from time to time be made.

**DWELLING.** Any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

**HEIGHT.** For the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

**LANDING AREA.** The area of the airport used for the landing, taking off or taxiing of aircraft.

**LANDING STRIP.** Any grass or turf covered area of the airport specifically designated and used for the landing and/or take-off of aircraft. This term shall have the same meaning throughout this chapter as does the term Runway.

**NON-INSTRUMENT RUNWAY.** A runway other than an instrument runway.

**NONCONFORMING USE.** Any structure, tree or use of land which does not conform to the regulations described herein as of its effective date.

**PERSON.** Any individual, firm, partnership, corporation, company, association, joint stock association or body politic; and includes any trustee, receiver, assignee or similar representative thereof.

**SLOPE.** An incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.

**STRUCTURE.** Any object constructed or installed by man including, but not limited to buildings, towers, smoke stacks and overhead transmission lines.

**TREE.** Any object of natural growth.

**WATER SURFACE.** The same meaning as land for the established of protected zones.  
(Ord. 371, passed 10-1-1973)

### ' 154.03 CONFLICTS; GREATER RESTRICTIONS.

In the event of a conflict within this or other federal, state or local regulations, the more stringent limitation or regulation shall govern and prevail.  
(Ord. 371, passed 10-1-1973)

### ZONES; USE REGULATIONS

### ' 154.15 IMAGINARY REFERENCE SURFACES.

In order to carry out the purpose of this chapter, the following imaginary airport reference surfaces are hereby established: primary surfaces, approach surfaces, horizontal surface, transitional surfaces and conical surfaces and are defined as follows.

(A) *Primary surface.*

(1) A surface longitudinally centered on a runway and extending 200 feet beyond each end of the runways.

(2) The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 500 feet for all runways.

(B) *Approach surface.*

(1) The approach surface is longitudinally centered on the extended runway centerline and extends outward and upward from each end of the runway and its dimensions are measured horizontally.

(2) The inner edges of all approach surfaces are the same width and elevation as, and coincide with the primary surface and extend uniformly to a width of 2,500 feet at a distance of 10,000 feet and continues at the same rate of divergence to the perimeter of the conical surface.

(C) *Horizontal surface.* The horizontal surface is a horizontal plane 100 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 6,000 foot radii from the center of each end of the primary surface of runway and connecting adjacent arcs by lines tangent to those arcs.

(D) *Conical surface.* The conical surface extends upward and outward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

(E) *Transitional surface.* Transitional surface is a surface extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surfaces until they intersect the horizontal surface or conical surface.

(Ord. 371, passed 10-1-1973)

' **154.16 ZONES AND MAP.**

(A) In order to carry out the purposes of this chapter, the following zones are established:

(1) *Zone A.* All that land in the approach areas of the runway which is located within a horizontal distance of one mile from each end of each runway;

(2) *Zone B.* All that land in the approach areas of the runway which is located within a horizontal distance of two miles from each end of the runway and which is not included in Zone A; and

(3) *Zone C.* All that land which is within a horizontal distance of two miles from the airport boundary and is not included in Zones A and B.

(B) The several zones above established are shown on the airport zoning map attached hereto and made a part hereof, which map, together with all notations, references, elevations, data, zone boundaries and other information thereon, shall be and the same is hereby adopted as part of this chapter.

(Ord. 371, passed 10-1-1973)

**' 154.17 HEIGHT LIMITATIONS.**

Except as otherwise provided in the chapter, and except as necessary and incidental to airport operations, no structure shall be constructed, altered or maintained so as to project above any of the airport reference surfaces described in ' 154.15.  
(Ord. 371, passed 10-1-1973)

**' 154.18 LAND USE RESTRICTIONS.**

(A) *General restrictions.* Subject at all times to the height restrictions set forth in ' 154.17, no use shall be made of any land in any of the zones defined in ' 154.16 which creates or causes interference with the operations of radio or electronic facilities on the airport or which radio or electronic communities between the airport and aircraft makes it difficult for pilots to distinguish between airport and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off or maneuvering of aircraft.

(B) *Zone A.* Subject at all times to the height restrictions set forth in ' 154.17 and to the general restrictions contained in division (A) above, land included in Zone A shall be used for the following purposes only:

(1) For agricultural purposes, except that dwellings are prohibited:

(a) Each single commercial or industrial site shall contain no dwellings; and

(b) The use shall not permit, require, cause or attract an assembly or concentration, public

or private, at any one time, regardless of duration, of more than 50 persons in any commercial building or of more than ten persons in any one acre of the site;

(2) The following uses are specifically prohibited in Zone A:

(a) Churches;

(b) Hospitals;

(c) Schools;

(d) Theaters;

(e) Stadia, and other places of public or semi-public assembly;

(f) Hotels and motels;

(g) Trailer courts;

(h) Campgrounds; and

(i) Multi-unit dwellings; and

(3) Other compatible uses for Zone A include:

(a) Auto parking; and

(b) Light recreation (no stadia).

(C) *Zone B.* Subject at all times to the height restrictions set forth in ' 154.17, and to the general restrictions contained in division (A) above, land included in Zone B shall be used for the following purposes only:

(1) For agricultural and residential purposes provided there shall not be more than one single-family dwelling and accessory buildings (accessory farm buildings may include one single-family tenant dwelling) per five-acre land tract; and

(2) Any commercial or industrial use which meets with the minimum standard, set forth in subsection (B)(2).

(D) *Zone C*. Subject at all times to the height restrictions set forth in ' 154.17 and to the general restrictions contained in division (A) above, land included in Zone C may be used for any agricultural, residential, commercial or industrial purposed, subject to the limitation that dwellings are restricted to single family dwellings constructed on not less than one acre lots.

(Ord. 371, passed 10-1-1973)

**' 154.19 NONCONFORMING USES.**

Except that as provided in ' 154.30(B), the provisions of " 154.17 and 154.18 shall not be construed to require the removal, lowering or other change or alteration of any nonconforming use, or otherwise interfere with the continuance of any nonconforming use as of the effective date hereof. Nothing herein contained shall require any change in structure, the construction or alteration of which was begun prior to the effective date of this chapter and which is diligently prosecuted and completed within two years thereof.

(Ord. 371, passed 10-1-1973)

***ADMINISTRATION AND ENFORCEMENT***

**' 154.30 VARIANCES; PERMITS REQUIRED.**

(A) (1) Any person desiring to erect or increase the height of any structure or permit the growth of any tree, or otherwise use his or her property not in accord with the regulations prescribed in this chapter may apply to the Airport Board hereinafter established for a variance from the regulation in question.

(2) The variance shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary with the spirit of the regulations; provided, any variance may be allowed subject to any reasonable condition that the Airport Board may deem necessary to effectuate the purposes of this chapter.

(B) (1) Except as specifically provided in subsections (b) and (c) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted or otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If the determination is in the affirmative, the permit shall be granted.

(a) In the areas lying within the limits of the horizontal zone and the conical zone, no permit shall be required for any tree or structure less than 100 feet of vertical height above the ground, except

when because of terrain, land contour or topographic features the tree or structure would extend above the height limits prescribed for the zone.

(b) In the areas lying within the limits of the approach zone but at a horizontal distance of not less than 4,200 feet from each end of the runways, no permit shall be required for any tree or structure less than 100 feet of vertical height above the ground, except when the tree or structure would extend above the height limit prescribed for the approach zone.

(c) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 100 feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for the transition zones.

(d) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limitations established by this chapter, except as set forth in ' 154.15.

(2) Before any existing use or structure may be replaced, substantially altered or repaired or rebuilt within any zone established in ' 154.15, a permit must be secured authorizing the replacement, change or repair. No permit shall be issued which would allow the establishment or creation of an airport hazard or permit a nonconforming use of structure to be made higher, enlarged, intensified or become a greater hazard to air navigation than it was on the effective date of this chapter or than it was when the application for a permit is made.

(3) Whenever the Airport Board determines a nonconforming structure or tree has been abandoned, more than 80% torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(C) Any permit issued, or variance granted, under divisions (A) and (B) above, may, if the action is deemed advisable to effectuate the purposes of this chapter and reasonable in the circumstances, be so conditioned as to require the owner of the land or structure in question to permit the city at its own expense to install, operate and maintain thereon the markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

(Ord. 371, passed 10-1-1973)

#### **' 154.31 ZONING ADMINISTRATION.**

The City Clerk/Administrator is hereby charged with the duty of administering and enforcing the provisions of this chapter. The duties of the City Clerk/Administrator shall include that of receiving applications for and the granting or denying of permits as provided in ' 154.30(B). The City Clerk/Administrator shall not have or exercise any of the powers or duties herein delegated to the Airport Board.

(Ord. 371, passed 10-1-1973)

#### **' 154.32 BOARD OF ZONING ADJUSTMENTS.**

(A) The City Planning Commission shall be the Airport Board and shall have and exercise the following powers:

(1) To hear and decide appeals from any order, requirements, decision or determination made by the Airport Board in the enforcement of this chapter; and

(2) To hear and decide requests for variances.

(B) The Board of Zoning Adjustment shall adopt rules in addition to its existing rules as it deems advisable for its government and procedures so that the same shall be in harmony with the provisions of this chapter and with the applicable state law. Meetings shall be held at the call of the chairman and at other times as the Board may determine. The Board shall keep minutes of its proceedings, showing the vote of each member on each question or, if absent or failing to vote, indicating the fact, shall keep all records of the examination of witnesses and other official actions all of which shall be immediately filed in the office of the Board and shall be of public record.

(C) The Board shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such acts in reversing, affirming or modifying any matter which shall come before it on appeal.

(D) A simple majority vote of the members of the Airport Board shall be sufficient to decide any matter which should come before the Board.  
(Ord. 371, passed 10-1-1973)

**' 154.33 APPEALS.**

(A) Any person aggrieved, or any taxpayer affected, by any decision of the Airport Board made

in the administration of this chapter, shall have the right of appeal to the Airport Board.

(B) All appeals hereunder must be taken within 15 days from the date of the making and filing of any order or decision, by filing with the City Clerk/Administrator, a notice of appeal specifying the grounds thereof. The City Clerk/Administrator shall forthwith transmit to the Airport Board all the papers constituting the record upon which the action appealed was taken.

(C) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the City Council certifies to the Airport Board, after the notice of appeal has been filed with it, in its opinion, cause imminent peril to life or property. In the case, proceedings shall not be stayed except by order of the Airport Board on notice to the City Council and on due cause shown.

(D) The Airport Board shall fix a reasonable time for hearing appeals; shall give public notice and due notice to the parties in interest, and shall decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(E) The Airport Board may, in conformity with the provisions of this chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determinations appealed from and may make the order, requirement, decision or determination, as may be appropriate under the circumstances.

(F) On appeal from a decision of the City Council, the Board shall make findings of fact and conclusions of law as provided in ' 154.32(D).  
(Ord. 371, passed 10-1-1973)

**' 154.34 JUDICIAL REVIEW.**

Any person aggrieved, or any taxpayer affected by a decision of the Airport Board, may appeal to the District Court as provided in M.S. ' 360.072, as it may be amended from time to time.

(Ord. 371, passed 10-1-1973)



**CHAPTER 155: BUILDING REGULATIONS**

Section

155.01 State Building Code adopted

(C) *Violations and penalties.* A violation of this code is a misdemeanor.

**' 155.01 STATE BUILDING CODE ADOPTED.**

(D) *Building Code.*

(A) *Application, administration and enforcement.*

The application, administration, and enforcement of the code shall be in accordance with Minn. Rules part 1300.2100 and as modified by Chapter 1305, as they may be amended from time to time. The code shall be enforced within the extraterritorial limits permitted by M.S. ' 16B.62, subd. 1, as it may be amended from time to time.

(1) The Minnesota State Building Code, established pursuant to M.S. " 16B.59 to 16B.775, as it may be amended from time to time, is hereby adopted as the building code for this jurisdiction. The code is hereby incorporated in this section as if fully set out herein.

(B) *Permits and fees.*

(2) The Minnesota State Building Code includes the following chapters of Minnesota Rules, as they may be amended from time to time:

(1) The issuance of permits and the collection of fees shall be as authorized in M.S. 16B.62, subd. 1, and as provided for in Chapter 1 of the 1997 Uniform Building Code and Minn. Rules parts 1305.0106 and 1305.0107, as they may be amended from time to time.

- (a) 1300 Minnesota Building Code;
- (b) 1301 Building Official Certification;
- (c) 1302 State Building Construction Approvals;
- (d) 1305 Adoption of the 1997 Uniform Building Code including Appendix chapters:
  - 1. 3, Division I, Detention and Correctional Facilities;
  - 2. 12, Division II, Sound Transmission Control;

(2) Permit fees shall be established by City Council resolution for work governed by this code. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with M.S. ' 16B.70, as it may be amended from time to time.

3. 15, Reroofing;
- Design;
4. 15, Division I, Snowload
- Fixtures;
5. 29, Minimum Plumbing
- Structures;
6. 31, Division II, Membrane
- (e) 1307 Elevators and Related Devices. Adoption of 1996 ASME A17.3, A17.5, B.20.1, and 1997 A90.1 (Elevators and Related Devices);
- (f) 1315 Adoption of the 1999 National Electric Code;
- (g) 1325 Solar Energy Systems;
- (h) 1330 Fallout Shelters;
- (i) 1335 Floodproofing Regulations;
- (j) 1341 Minnesota Accessibility Code;
- (k) 1346 Adoption of the 1991 Uniform Mechanical Code;
- (l) 1350 Manufactured Homes;
- (m) 1360 Prefabricated Buildings;
- (n) 1361 Industrialized/Modular Buildings;
- (o) 1370 Storm Shelters (Manufactured Home Parks);
- (p) 4715 Minnesota Plumbing Code;
- and

(q) 7670, 7676, 7678 Minnesota Energy Code.

(3) The city hereby adopts by reference the following optional chapters of Minnesota Rules, as they may be amended from time to time: 1306, Special Fire Protection Systems with optional 8 (Group M, S, or F occupancies with 2,000 or more gross square feet) or 8a (Group M, S, or F occupancies with 5,000 or more gross square feet); 1335, Floodproofing regulations part 1335.0600 to 1335.1200.

(4) The exterior walls of all single-family residences shall be similar in appearance to normal wood or masonry residential construction.

(5) The following metals are prohibited as facade materials:

(a) Any metal roof that has exposed fasteners, semi-concealed fasteners on a facade, or any fastener system that does not adhere directly to the support system.

(b) Any metal that is not a high-quality commercial thickness/weight (for example, the minimum for architectural steel panels is .024 thickness, architectural aluminum panels is .032 thickness and architectural copper panels in 16 ounce sheets, and the equivalent in other metals).

(c) Any metal that had not been treated with a factory applied color coating system against any applicable degradation listed above.

(d) Metal of any kind as a primary facade material (excluding steel or aluminum lap siding). Any metal siding upon single-family residence structures shall have a vertical dimension no greater than twelve (12) inches. Metal may be used for trim or accent up to 15% of any facade.

(e) Metal is prohibited for use as a facade material for accessory structures. This prohibition does not include steel or aluminum lap siding.

(f) Purlins will not more than 16 inches apart if using 24-gauge material.

(6) This section applies to all buildings constructed and improvements or repairs made after the date of enactment in Districts R-1 and R-2 and all single-family or multi-family residences and their accessory buildings in any other district.

(Am. Ord. 13-03, passed 6-17-2013)





Section

**General Provisions CHAPTER 156: SUBDIVISIONS**

- 156.01 Title
- 156.02 Purpose
- 156.03 Jurisdiction
- 156.04 Definitions
- 156.05 Variances

**' 156.01 TITLE.**

This chapter may be cited as AOrtonville  
Subdivision Regulations.@  
(Ord. 306, passed 8-5-68)

**Minor Subdivisions**

- 156.10 Minor subdivisions

**' 156.02 PURPOSE.**

**Platting Procedures**

- 156.15 Preliminary subdivision plat
- 156.16 Final plat

The purpose of this chapter is to provide for the orderly, economic and sound development of land and urban services and facilities within the city and its environs; to safeguard the interests of home owners, land developers, and the city at large; to integrate and coordinate land development with the city=s comprehensive plan; and to promote the health, safety, morals and general welfare of the city=s inhabitants.  
(Ord. 306, passed 8-5-68)

**Minimum Design Standards**

- 156.30 Required improvements
- 156.31 Design guides; conformity
- 156.32 Streets
- 156.33 Alleys
- 156.34 Intersections
- 156.35 Easements
- 156.36 Blocks
- 156.37 Crosswalks
- 156.38 Lots
- 156.39 Dedications and reservations

**' 156.03 JURISDICTION.**

This chapter controls the subdivision of land as defined herein within the corporate limits of the city; but the Council may, by resolution, extend the

**Cross-reference:**

*Flood Hazard Prevention, see Chapter 153*  
*Zoning, see Chapter 150*

application of this chapter to unincorporated territory located not more than two miles beyond the city limits in all directions. No resolution shall be effective in any town which has adopted subdivision regulations pursuant to law, nor in any case unless duly certified copies of the resolution are filed in the office of the County Recorder of Lacqui Parle and Big Stone counties.

(Ord. 306, passed 8-5-68)

#### ' 156.04 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 right-of-way used primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

**ARTERIAL STREET.** A public right-of-way used primarily for fast or heavy vehicular traffic.

**COLLECTOR STREET.** A public right-of-way used to carry traffic from minor streets to the major system of arterial streets, including the principal entrance streets to a residential development and streets used for interior circulation within the development.

**COMPREHENSIVE CITY PLAN.** A compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both public and private, of the city and its environs and may include, but is not limited to a land use plan, a community facilities plan, a transportation plan and recommendations for plan execution.

**MARGINAL ACCESS STREET.** A public right-of-way parallel and adjacent to arterial streets, used primarily for access to abutting properties.

**MINOR STREET.** A public right-of-way used primarily for access to abutting properties.

**PRELIMINARY SUBDIVISION PLAT.** Preliminary maps, drawings, sketches and supplemental information used to describe existing conditions and the proposed layout in a subdivision.

**SUBDIVIDER.** The owner, his or her duly authorized agent or attorney in fact, a contract purchaser, or the holder of an option on a proposed subdivision.

**SUBDIVISION.** The division of a tract of land into two or more lots or parcels for the purpose of transferring ownership or for building construction, or if a new street is involved, any division of a tract of land. The term includes resubdivision and, where appropriate to the context, relates to the subdividing process or the subdivided land; but **SUBDIVISION** does not include division of a tract of land into lots or parcels of five acres or more solely for agricultural purposes.

**SUBDIVISION PLAT.** A survey and map of a subdivision accompanied by the necessary supplemental information and data relating thereto, all prepared in accordance with M.S. Chapter 505, as it may be amended from time to time, and the provisions of this chapter.

(Ord. 306, passed 8-5-68)

#### ' 156.05 VARIANCES.

(A) (1) Variations from the provisions of this chapter may be recommended by the Planning

Commission acting as the Board of Adjustment for the city as provided in ' 150.139 whenever, in its judgment, the tract to be subdivided is of an unusual shape size, or character or affected by unusual conditions that literal enforcement would result in substantial hardship or injustice.

(2) In recommending a variance, the following factors shall be considered by the Planning Commission:

(a) The location of the proposed subdivision, proposed land use, and existing use of land in the vicinity;

(b) The number of persons who will reside or work in the proposed subdivision and the probable effect thereof upon traffic conditions;

(c) The effect of the variance upon the general intent and spirit of the ordinance and the public welfare and interests of the city.

(B) (1) Application for a variance shall be made in writing at the time the preliminary subdivision plan is filed and shall state fully the grounds for the variance and the facts relied upon by the applicant.

(2) The Planning Commission shall consider the application at the meeting on the preliminary subdivision plan and report its recommendations thereon, together with the reasons therefor, at the time of its approval or disapproval of the preliminary plan. Before it reaches its decision, the Commission may hold public hearings upon the notice as it may deem advisable.

(3) No variance shall be recommended unless the Commission finds from evidence submitted by the applicant that:

(a) Special circumstances or conditions affecting the subdivision are such that strict application of the provisions of the chapter would deprive the applicant of the reasonable use of his or her land;

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

(c) The variance will not be detrimental to the public welfare nor injurious to other property in the area in which the subdivision is located; and

(d) An unusual hardship on the land exists.

(C) In granting a variance, the Commission may attach thereto conditions as it deems necessary to carry out the objectives and purposes of this ordinance. If the Commission refuses to recommend a variance, the subdivider may at once, without preparing a final subdivision plat, petition the City Council for a review of the decision of the Planning Commission. (Ord. 306, passed 8-5-1968)

**MINOR SUBDIVISIONS**

**' 156.10 MINOR SUBDIVISIONS.**

(A) *Qualified minor subdivisions.*

(1) *Criteria.* Any subdivision containing not more than two lots and which does not involve any new street or road, and that is not likely to precipitate the extension of municipal facilities or public



improvements may be considered a minor subdivision upon approval by the Planning Commission.

(2) *Exemption from platting requirement.* Minor subdivisions shall be exempt from the requirements of this chapter requiring platting upon approval by the City Council.

(3) *Planning Commission and City Council approval required.* Minor subdivisions must be recommended for approval by the Planning Commission before being submitted to the City Council. If a proposed subdivision is not approved either by the Planning Commission or City Council as a minor subdivision, the subdivider must follow the normal platting procedures.

(4) *Certificate of survey.* An applicant for minor subdivision approval must submit to the city at least ten days prior to the next Planning Commission meeting 15 copies of a certificate of survey. All copies of the certificate of survey shall be 8.5" x 11" in size; one copy shall be reproducible. The survey shall include the following information: legal description of each parcel, parcel area, site improvements including buildings, free standing signs, utilities, paved areas, and distances from buildings to ownership and property lines. In addition to the above information, the city may require a wetland delineation prior to approving an administrative plat.

(B) *Administrative minor subdivisions.*

(1) *Administrative minor subdivisions.* It is intended that administrative minor subdivisions generally be allowed for non-building purposes, for utilizing a Registered Land Survey, for purposes of correcting a boundary line, for the limited attachment of certain properties. The following conveyances may be allowed as administrative subdivisions:

(a) The conveyance is by metes and bounds description and:

1. The conveyance is for a purpose other than to create a building site; and

2. The conveyance does not require the creation or altering of any public road right-of-way.

(b) The conveyance is part of a Registered Land Survey or standard plat and the conveyance is for a purpose other than the creation of a building site.

(c) The conveyance is, in the opinion of the Zoning Administrator, solely for the purpose of correcting a boundary line.

(2) *Standards.* An administrative minor subdivision for the purpose of attachment to a contiguous lot, tract, or parcel may be allowed, provided any residual tract does not become nonconforming with any applicable ordinance. The deed shall state that the subdivision is for the purpose of attachment, and the lot, parcel, or tract to be attached, together with the lot, parcel, or tract to which it is being attached, shall, upon attachment, be considered as one lot, parcel, or tract. The deed shall be accompanied by a declaration of restriction that shall restrict the parcel receiving the attachment and shall also restrict the parcel that is being attached. The declaration of restriction shall state that the parcel receiving the attachment, together with the attached parcel, shall not be further subdivided unless platted pursuant to this section. The declaration of restriction shall be in a form acceptable to the city.

(3) *Procedure.* An administrative minor subdivision shall be considered by the following procedure:

(a) The applicant shall submit, to the Zoning Administrator, a legal description of the existing parcel and proposed legal description of the parcel to be conveyed. When any proposed or existing

tract is described by metes and bounds description, the application shall be accompanied by four copies of a certificate of survey, prepared by a licensed land surveyor. The survey shall include:

1. Legal description of each parcel;
2. Parcel area;
3. Site improvements, including structures;
4. Distances from structures and property lines.

(b) The applicant shall submit a declaration of restriction as provided herein. The declaration shall be executed by all required parties to effect the purposes and intent of this subdivision.

(c) The Zoning Administrator shall review the application for compliance with this subchapter.

(d) The Zoning Administrator shall notify the applicant whether the subdivision is approved or denied. If denied, written reasons shall be provided.

(e) Any declaration of restriction or other documents as appropriate shall be recorded in the office of the County Recorder together with the transfer documents.

(Ord. 09-10, passed 10-5-2009)

### ***PLATTING PROCEDURES***

#### **' 156.15 PRELIMINARY SUBDIVISION PLAT.**

(A) No application for approval of a subdivision plat will be considered by the Planning Commission or the City Council until a preliminary subdivision plat has first been prepared and conditionally approved as provided in this section. The following data shall be included in the preliminary subdivision plat:

(1) Location of the proposed subdivision by section, township and range or other appropriate legal description, together with a sketch map at a legible scale showing the exterior boundary lines of the proposed subdivision and its relationship to the adjacent platted and unplatted lands surrounding it;

(2) Names and addresses of the land owner, mortgagees of record, subdivider, surveyors and, if there is one, the site planner;

(3) Notations stating the name of the proposed subdivision, approximate total acreage, map scale, north point, datum, benchmarks and date of preliminary subdivision plat preparation;

(4) Location, names, right-of-way widths and types of surfacing of all existing or dedicated streets and other public ways on and within 200 feet of the proposed subdivision; location and width of all existing railroad and utility rights-of-way; location and size of all existing parks, recreation areas, and other public open spaces; and location and identification of all permanent buildings and other structures, including public buildings;

(5) Location, size and invert elevation of all existing sanitary, storm, and combined sewer mains; location and size of existing water mains; location of existing gas mains, fire hydrants, electric and telephone poles, and street lights. If no public sewer or water mains are located on or immediately adjacent to the subdivision, the distance and direction to and size of the nearest available mains shall be clearly indicated;

(6) Existing zoning district boundary lines and zoning classifications, if any;

(7) Layout, numbers, dimensions and proposed use of all lots, blocks and parcels within the proposed subdivision, including proposed sites, if any, for multi-family dwellings, shopping centers, churches, schools, cemeteries, industry and other land uses exclusive of single-family homes;

(8) A street and alley layout showing location, names and right-of-way widths of all proposed streets and alleys, together with location and width of all proposed pedestrian ways and utility easements;

(9) Proposed minimum building setback lines with the dimensions thereof;

(10) Location and size of all proposed parks, playgrounds, school sites and other land to be dedicated or reserved for public uses; and

(11) A map indicating natural storm drainage by use of arrows or notes.

(B) If required by the City Engineer or the Planning Commission, the following additional data shall also be furnished by the subdivider:

(1) A topographic map or survey of the proposed subdivision showing contours with an

interval of not more than five feet if the land slopes more than approximately 2%. If the approximate slope is less than 2%, spot elevations shall be shown at all breaks in grade, along all drainage channels or swales, and at selected points not more than 100 feet apart in all directions. Water courses, marshes,

swamps, rock outcrops, wooded areas and other significant topographic features shall also be shown;

(2) Subsurface conditions in the subdivision, including the location and results of soil tests made to ascertain subsurface soil, rock and ground water conditions; depth to ground water unless test pits are dry at a depth of five feet; add location and results of soil percolation tests if individual sewage disposal systems are proposed;

(3) Proposed public improvements, including highways or other major improvements planned by public authorities for future construction on or near the subdivision and preliminary subdivision plat for proposed sanitary and storm water sewers with grades and sizes indicated;

(4) Proposed center line grades of all new streets, alleys and sidewalks, if any, and a complete set of profiles showing both existing and proposed grade lines; and

(5) Preliminary drafts of protective covenants, if any, whereby the subdivider proposes to regulate or restrict the use of land within and preserve the physical and economic integrity of the subdivision.

(C) Application for conditional approval of the preliminary subdivision plat shall be submitted in writing to the City Clerk/Administrator for consideration by the Planning Commission and the City Council. Twelve copies of the preliminary subdivision plat shall be attached to the application, and a fee shall accompany the same to defray the expenses incurred by the city in processing the preliminary subdivision plat. Upon receipt thereof, the City Clerk/Administrator shall forthwith refer one

copy of the preliminary subdivision plat to the City Engineer, one copy to the Health Officer, one copy to the Street Commissioner and one copy to the Superintendent of Utilities for review and recommendations. The remaining copies shall be retained for the use of the Planning Commission and City Council. Recommendations of the Engineer, Health Officer, Street Commissioner and Superintendent of Utilities shall be made in writing to the Planning Commission within 21 days after the application for approval is filed in the City Clerk/Administrator's office, and copies thereof shall be filed with the City Clerk/Administrator.

(D) Following receipt of the recommendations made pursuant to division (C) above, the Planning Commission shall consider the preliminary subdivision plat at a regular or special meeting and make its recommendations with respect thereto. Notice of the time and place of the meeting shall be mailed to the subdivider not less than ten days before the date thereof. The Planning Commission may:

(1) Recommend approval of the preliminary plat;

(2) Recommend disapproval of the preliminary subdivision plat, in which case the specific reasons for disapproval shall be included in the recommendation; or

(3) Recommend approval of the preliminary subdivision plat after specific changes or revisions are made therein, including a recommendation that a revised preliminary subdivision plat incorporating changes or revisions be submitted to the Planning Commission for further consideration before action is taken thereon by the City Council.

(E) Recommendations made by the Planning Commission pursuant to division (D) above shall be recorded in full in the Commission's minutes, and a certified copy thereof shall be submitted to the City Council for consideration at a regular or special meeting. Notice of the time and place of the meeting shall be mailed to the subdivider at least ten days before the date thereof. The Council may by resolution approve or disapprove the preliminary subdivision plat, attaching conditions thereto as it may deem advisable, but if the preliminary subdivision plat is disapproved the reasons therefor shall be stated in the resolution. A certified copy of the resolution shall be mailed to the subdivider no later than ten days after adoption of the same.

(F) Approval of a preliminary subdivision plat means acceptance thereof as a basis for preparation of a final subdivision plat; but approval shall be null and void unless a final subdivision plat is submitted for approval within one year or an extension of time not exceeding one additional year is granted by the City Council.

(Ord. 306, passed 8-5-1968)

**' 156.16 FINAL PLAT.**

(A) The final subdivision plat shall conform substantially to the preliminary subdivision plat as approved or amended by the City Council, and if requested by the subdivider, it may be submitted for approval progressively on more than one sheet with the sheets numbered in sequence. The final subdivision plat shall include the following data and exhibits:

(1) Location by section, township, range, county and state, including outside boundary lines showing bearings on all straight lines, angles at all

angle points, and central angles, radii, and arc lengths for all curves. The outside boundary lines shall close by latitude and departure with an error of closure not exceeding one foot in 7,500 feet. If a river, stream, creek, lake or pond constitutes an outside boundary line, a dashed survey line shall be shown with bearings or angles and distances and their relation to a water line, and all distances measured on the survey line between lot lines;

(2) Names and addresses of the land owner, mortgagees of record, subdivider and land surveyor;

(3) Name of subdivision, map scale, date and north point. The map scale shall be 100 feet to one inch;

(4) Location and description of all monuments. Durable iron monuments shall be placed at each corner of every lot and block, at all intermediate points on the block lines indicating a change of direction, and at each angle point and curve line on the outside boundary lines. Distances between monuments shall be shown to the nearest one hundredth of a foot. Durable monuments shall consist of iron rods or pipes one-half inch or more in diameter extending at least three feet below the finished grade. Off-set monuments may be used where conditions prohibit the location of monuments as prescribed herein;

(5) Location of lots, blocks, streets, roads, public highways, alleys, parks and other public grounds, with accurate dimensions in feet and decimals of feet, central angles, radii and arc distances, and all mathematical information and data necessary to locate all monuments, retrace all interior and exterior boundary lines, and reproduce the plat upon the ground;

(6) All blocks and lots numbered clearly and progressively;

(7) Location of all rivers, streams, creeks, lakes, ponds and swamps;

(8) Names, locations and widths of all streets, roads, alleys and public grounds, and locations and widths of all easements to be dedicated or reserved;

(9) Building setback lines with accurate dimensions;

(10) An instrument of dedication written on the plat continuing a full and accurate description of the land and setting forth what part of the land is dedicated, to whom, and for what purposes. The instrument of dedication shall be signed and acknowledged by the owner of the land in the presence of two witnesses, who shall subscribe their names thereto as such;

(11) Notarized statement by a registered land surveyor certifying that the plat is a correct representation of a survey, that all distances are correctly shown, that all monuments have been correctly placed as shown, and that the outside boundary lines have been correctly designated. If no wet lands or public highways are designated on the plat, the certificate shall so state; and

(12) The name and adjacent boundaries of any adjoining platted land, shown by dotted boundary lines.

(B) If required by the Planning Commission or the City Council, the following additional information shall also be furnished by the subdivider:

(1) Certification that all taxes and special assessments due on the property have been paid in full;

(2) Copies of any protective covenants affecting the subdivision or any part thereof;

(3) A complete set of street profiles showing grade lines as established or constructed;

(4) Names of record owners of adjoining unplatted lands;

(5) Competent proof that the natural ground water level in the subdivision is not less than 14 feet below the finished grade which will surround the proposed buildings thereon, and if not, that a system of ground water control satisfactory to the City Council will be constructed as an integral part of the development;

(6) A certificate, abstract or other evidence of title to the land included in the subdivision; and

(7) A certified copy of the resolution of the Board of County Commissioners approving the plat, when the approval is required by law or by county subdivision regulations.

(C) Application for approval of a final subdivision plat shall be submitted in writing to the City Clerk/Administrator for consideration by the City Council. Six copies of the final plat shall be attached to the application, and a fee shall accompany the same to defray the expenses of the city in processing the final plat. No final subdivision plat shall be approved by the Council until it has been referred to the Planning Commission for a report and recommendations thereon and an attested copy of the report has been submitted to the Council.

(D) After it receives the report of the Planning Commission, the City Council shall hold a public hearing on the final subdivision plat after notice of the time and place thereof has been published once in the official newspaper at least ten days before the day of the hearing. At the hearing all interested persons shall be heard and the Council may thereafter approve or disapprove the plat by resolution. The grounds for disapproval of a plat shall be entered in the Council minutes and forthwith reported to the subdivider. A certified copy of any resolution approving a subdivision plat of land outside the city but subject to this chapter shall be filed with the City Clerk/Administrator of the town in which the land is situated.

(E) Every final subdivision plat when duly approved, certified, signed, witnessed and acknowledged shall be filed with the County Recorder of the county in which the platted land is located. (Ord. 306, passed 8-5-1968)

### ***MINIMUM DESIGN STANDARDS***

#### **' 156.30 REQUIRED IMPROVEMENTS.**

(A) As a condition precedent to the approval of any final subdivision plat, the subdivider shall:

(1) Grade all streets and alleys. Grading of parks and other areas is not required, but any filled, excavated or otherwise disturbed slopes in park or public areas shall be cleared of debris and covered with a minimum of four inches of top soil;

(2) Surface all streets with bituminous surfacing;

(3) Construct curb, gutter and sidewalks, except where a waiver is recommended by the City Engineer and granted by the City Council;

(4) Install storm sewers and catch basins or other drainage facilities adequate to drain surface water from all lots, blocks, streets and alleys within the subdivision;

(5) If the subdivision is located within the service area of the city's public sanitary sewer system, install sanitary sewer mains and service lines adequate to serve all properties within the subdivision, including connections to the public sewer system;

(6) If the subdivision is located within the service area of the city's public water system, install water mains, including hydrants, and service lines adequate to serve all properties within the subdivision, including connections to the public water system. Fire hydrants shall be installed at intervals of not less than 600 feet; and

(7) Furnish and grade all necessary slope easements at no cost to the city.

(B) All improvements shall be made in accordance with plans and specifications recommended by the City Engineer and approved by the City Council. All plans and specifications for public sewer and water systems shall also be approved by the Minnesota Department of Health.

(C) In lieu of the completion of improvements before final approval of the plat, as specified in

division (A) above, the City Council may require or permit the subdivider to furnish a contract secured by a cash deposit, certified check or a bond with surety and conditions satisfactory to the Council, to assure that improvements will be constructed and installed at no cost to the city in accordance with plans and specifications approved by the Council. No cash deposit, certified check or bond shall exceed 12 times the total estimated cost of all improvements as certified by the City Engineer and approved by the Council. (Ord. 306, passed 8-5-1968)

### ' 156.31 DESIGN GUIDES; CONFORMITY.

(A) In approving preliminary subdivision plans and final subdivision plat, the design standards set forth in this chapter shall be used as guides by the Planning Commission and the City Council.

(B) All preliminary subdivision plans and final subdivision plats shall conform to the city's comprehensive plan and, if there is one, the official map identifying land reserved for future public uses. (Ord. 306, passed 8-5-1968)

### ' 156.32 STREETS.

(A) The arrangement, character, extent, width, grade and location of all streets shall be considered in relation to the comprehensive plan and to existing and planned streets, topographic conditions, public safety and convenience, and proposed uses of the land they are intended to serve.

(B) If the arrangement of streets is not shown in the city's comprehensive plan, the street arrangement in the subdivision shall either:

(1) Provide for the continuation or appropriate projection of existing streets into the adjacent areas; or

(2) Conform to a specific plan for the area approved or adopted by the Planning Commission.

(C) If a subdivision abuts on or contains an existing or proposed arterial street, the Planning Commission may require a marginal access street, reverse frontage with screen planting in a non-access reservation along the rear property line, deep lots with rear service alleys, or other treatment as may be necessary to protect residential properties and separate through from local traffic.

(D) If a subdivision borders on or contains a railroad or limited access highway right-of-way, the Planning Commission or City Council may require a street approximately parallel to and on each side of the railroad or highway right of way, at a distance suitable for some appropriate use of the intervening land. Appropriate uses of the intervening land may include, but shall not be limited to parks, commercial or industrial uses.

(E) Reserve strips controlling street access are prohibited except where control thereof is given to the city under conditions approved by the City Council.

(F) Street jogs with centerline offsets of less than 125 feet shall be avoided.



(G) A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets.

(H) Connecting street lines deflecting from each other at any point by more than ten degrees shall be connected by a curve with a radius adequate to insure a sight distance of not less than 500 feet for minor and collector streets, and of a greater radii as the Planning Commission or the City Council shall determine for special cases.

(I) Streets shall intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle of less than 60 degrees.

(J) Street right-of-way widths shall be as shown in the city=s comprehensive plan, and where not shown therein shall be as follows:

<i>Street Type</i>	<i>Right-of-Way (feet)</i>
Arterial	80-120
Collector	60
Minor, for row houses and apartments	60
Minor, for other residences	50
Marginal access	40

(K) (1) Half streets shall be prohibited except where the Planning Commission or City Council finds it practicable to require the dedication of the other half when the adjoining property is subdivided.

(2) Whenever a half street is adjacent to the tract to be subdivided, the other half shall be platted within the tract.

(L) Maximum length of cul-de-sac streets shall be 500 feet measured along the center line from the

intersection of origin to the end of the right of way. The closed end of each cul-de-sac street shall be provided with a turn-around having a minimum roadway diameter of at least 80 feet, and a minimum street property line diameter of at least 100 feet. Except when designed as cul-de-sacs, dead-end streets are prohibited.

(M) (1) Proposed streets in alignment with existing named streets shall bear the names of the existing streets.

(2) No name for a proposed street shall duplicate an existing street name except as herein provided.

(N) Street grades shall not exceed the following, with due allowance for reasonable vertical curves:

<i>Street Types</i>	<i>Grade</i>
Arterial	5%
Collector	6%
Minor	10%
Marginal Access	10%

(Ord. 306, passed 8-5-1968)

**' 156.33 ALLEYS.**

(A) Alleys may be required in commercial or industrial districts, but the Planning Commission or City Council may waive this requirement where definite and assured provision is made for service access in accordance with the zoning ordinance.

(B) The minimum width of alleys shall be 20 feet, and dead-end alleys shall be avoided whenever possible.  
(Ord. 306, passed 8-5-1968)

**' 156.34 INTERSECTIONS.**

Curb lines at street intersections shall be rounded at a radius of not less than ten degrees.  
(Ord. 306, passed 8-5-1968)

**' 156.35 EASEMENTS.**

(A) Easements not less than 20 feet wide across the lots or centered on rear lot lines shall be provided for storm and sanitary sewers where necessary. The minimum width of easements for other purposes shall be at least ten feet, and alleys shall have continuity of alignment from block to block.

(B) Storm water easements or drainage rights-of-way shall be provided along the lines of water courses, drainage ways, channels or streams conforming substantially to the lines of the water courses.  
(Ord. 306, passed 8-5-1968)

**' 156.36 BLOCKS.**

In residential areas, blocks shall not be less than 600 nor more than 1320 feet in length measured along the greatest dimension of the enclosed block area unless minor variations are necessitated by topography or conformance with adjoining plats. Blocks in commercial and industrial areas may vary from these requirements if the nature of the use requires other treatment, but commercial and industrial blocks shall be of sufficient length and width to provide off-street parking for customers and employees and off-street loading and unloading space.  
(Ord. 306, passed 8-5-1968)

**' 156.37 CROSSWALKS.**

Pedestrian crosswalks not less than ten feet wide may be required where deemed essential by the Planning Commission or City Council to provide for circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.  
(Ord. 306, passed 8-5-1968)

**' 156.38 LOTS.**

(A) Side lot lines shall be at right angles to straight street lines or radial to curved street lines. Each lot shall front on a public street or highway, but direct vehicular access from residential lots to major arterial streets shall be prohibited. Lots with frontage on two parallel streets shall also be prohibited except where approved by the Planning Commission or the City Council.

(B) Setback or building lines shall not be less than the setbacks required by Chapter 150.

(C) Depth and width of lots platted for commercial or industrial use shall be adequate for off-street service and parking facilities.

(D) Corner lots for residential use shall be platted at least 15 feet wider than the minimum lot requirement in the zoning chapter.  
(Ord. 306, passed 8-5-1968)

**' 156.39 DEDICATIONS AND RESERVATIONS.**

(A) If deemed essential to the particular type of development proposed in a residential subdivision, the City Council may require the dedication or reservation

of sites in suitable locations and of sufficient size to meet the needs of the development for parks and playgrounds. The minimum area required of the subdivider for this purpose shall not be less than three acres; but open space of a lesser amount may be approved when the difference may be made up in connection with future subdivision of adjacent land. In no event shall the City Council require the subdivider to dedicate or reserve more than 10% of the gross area of the subdivision for park and playground purposes.

(B) In lieu of the dedication or reservation specified in division (A) above, the subdivider may at his or her option contribute cash in an amount not exceeding 10% of the value of the undeveloped land included in the proposed subdivision as determined by the City Council for park and playground purposes. Money received from this source shall be placed in a special fund and used only for the acquisition and improvement of park and playground facilities within or adjacent to the subdivision.

(Ord. 306, passed 8-5-1968)