

TITLE XV: LAND USAGE

Chapter

150. ZONING

CHAPTER 150: ZONING

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GENERAL PROVISIONS**§ 150.001 TITLE.**

This chapter shall be known as the Zoning Chapter of the City of Ortonville, Minnesota, except as referred to herein, where it shall be known as this chapter.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.002 AUTHORITY.

This chapter is enacted pursuant to the authority granted by the Municipal Planning Act. M.S. §§ 462.351 to 462.363 and the City Charter.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.003 PURPOSE.

The purpose of this chapter is to:

(A) Protect the public health, safety, and general welfare of the city and its people through the establishment of minimum regulations governing land development and use;

(B) Guide the future growth and development of the city in accordance with the Comprehensive Plan;

(C) Divide the city into use districts and establish regulations in regard to location, erection, construction, reconstruction, alteration, and use of structures and land;

(D) Provide adequate light, air, and convenience of access to property;

(E) Prevent congestion in the public right-of-way;

(F) Prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population;

(G) Provide for compatibility of different land uses;

(H) Bring about the gradual conformity of the uses of land and buildings throughout the city through the zoning regulations set forth in this chapter, and to minimize the conflicts among the uses of land and buildings;

(I) Provide for administration of the chapter, to provide for amendments;

(J) Prescribe penalties for violation of such regulations;

(K) Define powers and duties of the city staff, the Planning Commission, and the City Council in relation to the zoning ordinance;

(L) It is the policy of the city that the enforcement, amendment and administration of this chapter be accomplished with due consideration of the county's comprehensive local water plan that establishes goals, objectives and actions for protection, management and development of water resources and related land resources in Big Stone County; and

(M) It is the policy of the city that the enforcement, amendment and administration of this chapter be accomplished with due consideration of the recommendations contained in the city's comprehensive plan as the policy for responsibility to regulate land use and development in accordance with the policies herein set forth.

(N) In all matters relating to building of structures or businesses in any zone, the Minnesota noise rules of Minn. Rules Ch. 7030.0040 must apply. (Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -; Am. Ord. -, passed - -)

§ 150.004 APPLICABILITY OF ZONING CODE.

This chapter is applicable to all land located within the city both now and as may be incorporated in the future. The use of land and buildings or structures, and the construction, reconstruction, alteration, expansion, or relocation of buildings or structures shall conform to the provisions of this chapter. Provisions of this code also apply to acts performed outside the corporate limits and up to the limits prescribed by law, where the law confers power on the city to regulate such particular acts outside the corporate limits. This chapter is enacted pursuant to the authority granted by the Minnesota Municipal Planning Act, M.S. §§ 462.351 to 462.363. (Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.005 RELATION TO COMPREHENSIVE PLAN.

(A) It is the policy of the city that the Comprehensive Plan is the city's guiding document for the regulation of land use and development. The enforcement, amendment, and administration of this chapter is to be accomplished with due consideration of the recommendations contained in the Comprehensive Plan as developed and amended from time to time by the Planning Commission and City Council of the city.

(B) It is the policy of the city that the county's water plan is a guiding document for the regulation of land use and development. The enforcement, amendment, and administration of this chapter is to be accomplished with due consideration of the recommendations contained in the Big Stone County Water Plan as developed and amended from time to time by Big Stone County.
(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.006 ANNEXATION AND DETACHMENT.

(A) In the event of changes in the city limits removing territory from the city, district boundaries shall be constructed as moving with city limits. In the event of annexation of new areas to the city, the new areas once annexed shall be classified as being in the same zoning district as the zoning district of the contiguous land already within the city boundaries, unless otherwise classified in the annexation ordinance.

(B) All territories which may hereafter be annexed to the city shall be considered as being the same district as the adjacent land until an amendment to this chapter shall place annexed land in a different zoning district.
(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.007 RULES OF INTERPRETATION/RULES OF CONSTRUCTION.

(A) In their interpretation and application, the provisions of this chapter shall be held to the minimum requirements for the promotion of the public health, safety and general welfare. Interpretation shall be made by the Zoning Administrator, subject to appeal to the Planning Commission. The language contained in the text of this chapter shall be interpreted in accordance with the following rules of construction:

(1) The singular number includes the plural and the plural the singular;

(2) The present tense includes the past and future tenses, and the future the present;

(3) The word "shall" is mandatory, and the word "may" is permissive;

(4) The masculine gender includes the feminine and neutral genders;

(5) Whenever a word or term defined hereinafter appears in the text of this chapter, its meaning shall be construed as set forth in such definition;

(6) Any word or term not defined herein shall have the meaning indicated by common dictionary definition or as defined elsewhere in this chapter;

(7) All measured distances expressed in feet shall be to the nearest one-tenth of a foot (0.1 feet);

(8) Any act authorized by these regulations to be carried out by a specific official or agency of the city is impliedly authorized to be carried out by a designee of such official or agency; and

(9) In the event of conflicting provisions, the more restrictive provisions shall apply.

(B) Wherever there is uncertainty, contradiction, or conflict as to the location of any zoning district boundary line, whether due to scale, illegibility, or lack of detail of the zoning map, the Zoning Administrator shall make such interpretation and determination. Any person aggrieved by such interpretation may appeal such interpretation to the Board of Adjustment who shall make the final determination, subject to appeal to the District Court. The Zoning Administrator and the Board of Adjustment, in interpreting the official zoning map, and in deciding appeals of such determinations, shall apply the following standards:

(1) Zoning district boundary lines are intended to follow lot lines, or to be parallel or perpendicular thereto, or along the centerline of streets, alleys, rights-of-way, or along the ordinary high-water level of public waters, unless such boundary lines are clearly designated otherwise on the official zoning map.

(2) Where zoning district boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be constructed to be such boundary lines.

(3) Where a zoning district boundary line divided a lot, the location of any such zoning district boundary line, unless indicated by dimensions shown on the zoning map, shall be determined by use of the map scale thereon.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.008 DEFINITIONS.

For the purposes of this subchapter certain terms and words are herein defined as follows:

ACCESSORY BUILDING. An incidental subordinate building customarily incidental to and located on the same lot occupied by the main use or building, such as a detached garage.

ACCESSORY DWELLING UNIT. An internal, attached, or detached accessory dwelling unit accessory to a principal residential structure that provides complete independent living facilities for one or more persons separate from a main unit on the same parcel.

ACCESSORY USE. A use conducted on the same lot as the primary use of the structure to which it is related; a use which is clearly incidental to, and customarily found in connection with, the primary use.

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 § 150.051(B).

AIRPORT BOARD. The Board created in § 31.15.

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

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 § 150.051(B).

AIRPORT TURNING ZONES. Comprises all lands under the horizontal and conical surfaces as defined in § 150.051(B).

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.

ALLEY. A public right-of-way used primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

ALTERATION. Any change, addition or modification in construction, occupancy or use.

AMENDMENT. A change in the wording or substance of this chapter or a change in the boundaries or classifications upon the official zoning map.

APARTMENT HOUSE. Any building or portion thereof which contains three or more dwelling units and, for the purpose of this code, includes residential condominiums.

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.

ARTERIAL STREET. A public right-of-way used primarily for fast or heavy vehicular traffic.

ARTIFICIAL OBSTRUCTION. Any obstruction which is not a natural obstruction.

AUTOMOBILE SALES AREA. An open area, other than a street, used for the display, sale or rental of new or used automobiles, trailers or trucks, where no repair work is done except minor, incidental repair to vehicle for display. Vehicles must be capable of operation under their own power at all times.

AUTOMOTIVE REPAIR, MAJOR. An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar large mechanical equipment, including paint, body and

fender and major engine and engine part overhaul, provided it is conducted within a completely enclosed building.

AUTOMOTIVE REPAIR, MINOR. An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar mechanical equipment, including brake, muffler, upholstery work, tire repair and change, lubrication, tune ups and transmission work, provided it is conducted within a completely enclosed building.

AUTOMOTIVE SERVICE STATION. The portion of property where flammable or combustible liquids or gases used as fuel are stored and dispersed from fixed equipment into the fuel tanks of motor vehicles. Accessory activities may include automotive repair and maintenance, car wash service and food sales.

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.

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 (any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a **BASEMENT** unless the floor level qualifies as a first story, as defined herein).

BED AND BREAKFAST FACILITY. A limited commercial activity, occurring within any zone, conducted within a structure, which includes dining and bathroom facilities with sleeping rooms for short term guest lodging and for compensation.

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-premises signs.

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.

BOARDING HOUSE. A dwelling containing a single dwelling unit and not more than ten guest rooms or suites of rooms, where lodging is provided with or without meals, for compensation for more than one week.

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

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

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

(1) **MAIN BUILDING.** A building in which the principal use of the site is conducted.

(2) **TEMPORARY BUILDING.** A building used temporarily for the storage for construction materials and equipment incidental and necessary to on-site permitted construction of utilities, or other community facilities, or used temporarily in conjunction with the sale of property within a subdivision under construction.

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

BUILDING HEIGHT. The vertical distance to be measured from the mean ground level to the top of a flat roof, to the mean distance of the highest gable on pitched or hip roof, to the decline of a mansard roof, to the uppermost point on other roof types.

BUILDING LINE. The perimeter of that portion of a building or structure nearest a property line, but excluding open steps, terraces, cornices and other ornamental features projecting from the walls of the building or structure.

BUILDING SETBACK. The minimum horizontal distance between the building and the specified lot line as prescribed in this chapter.

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 premises where such a sign is located.

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

CAMPGROUND. An area accessible by vehicle and containing campsites or camping spurs for tent and trailer camping.

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.

CARPORT. A roofed automobile shelter that is open on at least two sides. Carports not open on at least two sides shall be considered a garage.

CELLAR. Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a **CELLAR** unless the floor level qualifies as a first story, as defined herein.

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

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

CITY COUNCIL. The governing body of the city.

CLUB or LODGE.

(1) A nonprofit association of persons who are bona-fide members paying annual dues, use of premises being restricted to the serving of food and meals on the premises providing adequate dining room space and kitchen facilities are available.

(2) Serving of alcoholic beverages to members and their guests shall be allowed, providing the serving is secondary and incidental to the operation of the dining room for the purpose of serving food and meals and providing further that the serving of alcoholic beverages is in compliance with the applicable federal, state and municipal laws.

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.

COMMERCIAL AGRICULTURAL. The use of land for the growing and/or production of field crops, livestock and livestock products.

COMMERCIAL RECREATION. Bowling alley, cart track, golf, pool hall, vehicle racing or amusement, dance hall, skating, trampoline, tavern, theater, firearms range, boat rental, amusement rides, campgrounds, deer park and similar uses for which fees are charged for admission or use of the facility.

COMMERCIAL USES. All permitted, conditional and accessory uses allowed in the B-1, B-2 and B-3 districts.

COMMISSIONER. The Commissioner of the Department of Natural Resources.

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.

COMPREHENSIVE PLAN. The declaration of purposes, policies and programs for the development of the jurisdiction. Also called the "general plan."

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.

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

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

CONGREGATE RESIDENCE. Any building or portion thereof which contains facilities for living, sleeping and sanitation as required by this code, and may include facilities for eating and cooking, for occupancy by other than a family. A **CONGREGATE RESIDENCE** may be a shelter, convent, monastery,

dormitory, and fraternity or sorority house but does not include jails, hospitals, nursing homes, hotels or lodging houses.

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.

CONVALESCENT CENTER. A facility which is publicly or privately operated and intended for long-term patient care due to human illness or infirmity, including the elderly and developmentally disabled, normally employing the services of skilled and licensed practitioners, excluding hospitals.

COURT. A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls of a building.

COVERAGE. Lot covered by principal and accessory use structures.

DAYCARE; GROUP NURSERY. A service provided to the public, in which children of school or preschool age are cared for during established business hours as set forth in M.S. §§ 245A.01 to 245A.18 as they may be amended from time to time.

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.

DENSITY. The number of dwelling units which are allowed on an area of land, which area of land may include dedicated streets contained within the development.

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

DIRECTIONAL SIGNS. A sign erected on a premises 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.

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

DRIVE-IN ESTABLISHMENT. An establishment which accommodates the patron's automobile from which products purchased from the establishment may be consumed.

DRIVEWAY. A private access road, the use of which is limited to persons residing, employed or using or visiting the parcel in which it is located.

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

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

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. Any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, for not more than one family.

(1) ***DWELLING, DUPLEX.*** A building designed or arranged to be occupied by two families living independently, the structure having only two dwelling units.

(2) ***DWELLING, MULTIPLE-UNIT.*** A building or portion thereof designed for occupancy by three or more families living independently in which they may or may not share common entrances and/or other spaces. Individual dwelling units may be owned as condominiums, or offered for rent.

(3) ***DWELLING, SINGLE-FAMILY.*** A detached dwelling unit designed for occupancy of one family. A manufactured home shall be considered to be a dwelling if attached to a permanent foundation and if it meets the building size and architectural requirements of § 150.181(D).

EASEMENT. The portion of a lot or lots reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The ***EASEMENT*** may be for use under, on or above the lot or lots.

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

ESSENTIAL SERVICES. Underground or overhead gas, electrical, steam or water distribution systems; collection, communication, supply or disposal system including poles, wires, mains, drains, sewer, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants or the similar equipment and accessories in conjunction therewith.

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;

(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; or

(4) *Special requirements.* Every use, unless expressly exempted in this section or allowed by a conditional use permit, shall operate in its entirety within a completely enclosed structure; the exemption of a use from the requirement of enclosure will be indicated by the phrase need not be enclosed appearing after any use exempted or in the case of a permitted establishment by the granting of a conditional use permit. The requirements do not apply to the temporary display of merchandise during regular business hours.

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.

FACADE. Visible surface: the face of a building, especially the principal or front face showing its most prominent architectural features, including roofs.

FAMILY. An individual or two or more persons related by blood, marriage or adoption or a group of not more than five unrelated persons living together as a single housekeeping unit.

FARM. A tract of land ten or more acres which is principally used for commercial agriculture, all of which is owned and operated by a single family, farm corporation, individual or corporation.

FARM ANIMALS. Animals other than household pets that may, where permitted, be kept and maintained for commercial production and sale and/or family food production, education or recreation. **FARM ANIMALS** are identified by these categories: large animals, such as horses and cattle; medium

animals, such as sheep, goats; or small animals, such as rabbits, chinchilla, chickens, turkeys, pheasants, geese, ducks and pigeons.

FARM DWELLING. A single-family dwelling located on a farm which is used or intended for use by the farm's owner, a relative of the owner, or a person employed thereon.

FENCE. A barrier forming a boundary to, or enclosing some area. It is defined as a structure and regulated as an accessory structure.

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.

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 floodplain 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.

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

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

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

FLOOR AREA. The sum of the gross horizontal area of the several floors of the building, measured from the exterior faces of the exterior walls.

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

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.

GARAGE, PRIVATE. An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the occupants at the building to which it is accessory.

GARAGE, PUBLIC. A building or portion of a building, except as herein defined as a private garage or as a repair garage, used for the storage of motor vehicles, or where any vehicles are kept for remuneration or hire and which any sale of gasoline, oil and accessories is only incidental to the principal traffic.

GOVERNING BODY. The City Council.

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

GRADE; ADJACENT GROUND ELEVATION. The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five feet from the building, between the building and a line five feet from the building.

GRADING. Changing the natural or existing topography of land.

GREENBELT. A planned barrier consisting of dense vegetation used for the purpose of separation and screening of land uses.

GREENHOUSE. A building with a roof and walls of glass often heated and used for growing flowers and plants that need warmth.

GROWTH MANAGEMENT SYSTEMS. The goals, policies, programs, ordinances and regulations used to guide the city's growth and development.

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

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

HABITABLE SPACE; ROOM. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas, are not considered **HABITABLE SPACE**.

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. 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.

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.

HERITAGE PRESERVATION SITE. Any area, place, building, structure, land, district or other object that has been duly designated a **HERITAGE PRESERVATION SITE** pursuant to § 150.067(G).

HOME OCCUPATION. Any occupation or profession carried on by a member of the family residing on the premises, provided that the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the dwelling.

HOME OCCUPATION, CONDITIONAL USE. Conditional use home occupations are that of a business profession that would generate traffic or customers visiting the premises. State regulated daycares are exempt from this provision.

HOSPITAL. An institution designed for the diagnosis, treatment and care of human illness or infirmity and providing health services, primarily for inpatients, and including as related facilities, laboratories, outpatient departments, training facilities and staff offices.

HOUSEHOLD PETS. Dogs, cats, rabbits, birds, for family use only (non-commercial) with cages, pens, and the like.

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

INDUSTRIAL USE. All permitted, conditional and accessory uses allowed in the I-1 and I-2 districts.

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.

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**.

LIVESTOCK. Livestock means animals that are traditionally raised as agricultural commodities, and are sold, or their offspring sold, for meat, food or fiber.

LOT. Land occupied or to be occupied by one principal building or use and its accessory buildings, together with open spaces as are required under the provisions of this chapter, having not less than the minimum area required by this chapter for a building site in the district in which the lot is situated and having its principal frontage on a street, or a proposed street approved by the Council.

LOT AREA. The area of a horizontal plane within the lot lines.

LOT, CORNER. A lot abutting on two intersecting or intercepting streets, where the interior angle of intersection or interception does not exceed 135 degrees.

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

LOT, DOUBLE FRONTAGE. Double frontage lots are lots with frontage on two non-intersecting streets. These lots generally have a material impact on the aesthetic appeal of the community because the back sides of the lots are normally adjacent to highly traveled streets.

LOT FRONTAGE. In the case of an interior lot, the front of a lot shall be that boundary abutting a public right-of-way; in the case of a corner lot, the front of a lot shall be that boundary having the least frontage on a public right-of-way.

LOT, INTERIOR. A lot other than a corner lot.

LOT, IRREGULAR. A lot having opposing property lines are generally not parallel, such as a pie-shaped lot on a cul-de-sac, or where the side property lines are not parallel to each other.

LOT LINE. A property boundary line of any lot held in single or separated ownership, except that where any portion of the lot extends into the abutting street or alley right-of-way.

LOT OF RECORD. A parcel of land, whether subdivided or otherwise legally described of record as of the effective date of this chapter, or approved by the city as a lot subsequent to the date and which is occupied by or intended for occupancy by one principal building or principal use together with any accessory buildings and such open spaces as required by this chapter and having its principal frontage on a street, or a proposed street approved by the Council.

LOT, REAR. A lot line opposite and most distant from the front lot line and, in the case of a triangular or gore-shaped lot, a line ten feet in length within the lot, parallel to and at a maximum distance from the front lot line.

LOT, THROUGH. A lot fronting on two parallel streets.

LOT WIDTH. The mean horizontal distance between the side lot lines measured at right angles to the lot depth.

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 dwelling as defined by M.S. § 327.31, subd. 6. as it may be amended from time to time, and which is constructed

in compliance with the Manufactured Home Building Code established by M.S. §§ 327.312 and 327.32, as they may be amended from time to time.

MANUFACTURED HOME PARK. Shall be defined by M.S. § 317.14, subd. 3. as it may be amended from time to time, and shall be a conditional use in all zoning districts which allow the construction or placement of a duplex or multiple unit dwelling if the **MANUFACTURED HOME PARK** is licensed by the state under the provisions of M.S. § 327.15 and Minn. Rules, parts 4630.0200 to 4630.2210, as they shall be amended from time to time.

MANUFACTURING, HEAVY. The manufacture, compounding, processing, packaging, treatment or assembly of products and materials that may emit objectionable and offensive influences beyond the lot on which the use is located. Manufacturing activities associated with the district.

MANUFACTURING, LIGHT. All uses which include the compounding, processing, packaging, treatment or assembly of products and materials provided such use will not generate offensive odors, glare, smoke, dust, noise, vibration or other objectionable influences that extend beyond the lot on which the use is located. Manufacturing activities associated with the district.

MARGINAL ACCESS STREET. A public right-of-way parallel and adjacent to arterial streets, used primarily for access to abutting properties.

MARQUEE. See **CANOPY SIGN**.

MEMBRANE/TENT STRUCTURE. A structure usually consisting of an aluminum, steel or plastic frame, which is covered with a plastic, fabric, canvas or similar non-permanent material.

MINING OPERATION. The removal from the land of stone, sand and gravel, coal, salt, iron, copper, nickel, granite, petroleum products or other material for commercial, industrial or governmental purposes.

MINOR STREET. A public right-of-way used primarily for access to abutting properties.

MORTUARY or FUNERAL HOME. An establishment in which the dead are prepared for burial or cremation. The facility may include a chapel for the conduct of funeral services and spaces for funeral services and informal gatherings and/or display of funeral equipment.

MOTEL or HOTEL. Any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.

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

NAME PLATE. 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.

NON-CONFORMING LOT. A lot whose width, area or other dimensions did not conform to the regulations when this chapter became effective.

NON-CONFORMING 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.

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

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

NON-RIPARIAN. A lot that is not contiguous with the ordinary high-water mark of a body of water.

NURSING HOME or REST HOME. A building having accommodations where care is provided for two or more invalids, infirmed, aged convalescent or physically disabled persons that are not of the immediate family, but not including hospitals, clinics, sanitariums or similar institutions as defined by M.S. § 144.50, as amended.

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

OFF-PREMISES 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 premises where such a sign is located.

OFF-STREET LOADING SPACE. A space accessible from the street, alley or way, in a building or on the lot, for the use of trucks while loading or unloading merchandise or materials. The space shall be of a size as to accommodate one truck of the type typically used in the particular business.

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

OPEN SALES LOT. Any open land used or occupied for the purpose of buying, selling and/or renting merchandise and for the storing of same prior to sale.

OPEN SPACE. Land areas that are not occupied by buildings, structures, parking areas, streets, alleys or required yards. **OPEN SPACE** may be devoted to landscaping, preservation of natural features, patios, and recreational areas and facilities.

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.

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

PARK. A public or private area of land, with or without buildings, intended for outdoor active or passive recreational uses.

PARKING AREA, PUBLIC. A structure or an open area, other than a public street or alley, designed or used for the temporary parking of automobiles and available for public use, whether free, for compensation, or as an accommodation for customers or clients.

PARKING SPACE, OFF-STREET. A space located off any public right-of-way which is adequate in size for parking of any automobile with room to get out on either side of the vehicles, with adequate maneuvering space, and with access to a public street or alley.

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

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

PERSONAL SERVICE. A business which is neither the practice of a profession nor dealing primarily with the sale of products as stock-in-trade on the premises.

PLANNED UNIT DEVELOPMENT or PUD. A residential or commercial development guided by a total design plan in which one or more of the zoning or subdivision regulations, other than use regulations, may be waived or varied to allow flexibility and creativity in site and building design and location, in accordance with general guidelines.

PLANNING AND ZONING ADMINISTRATOR. The City Clerk/Administrator.

PLANNING COMMISSION. The planning agency of the city, designated by the City Council. The **PLANNING COMMISSION** is created in § 150.269(A) and shall also be the Board of Adjustment and Appeals, and have all of the duties provided for by M.S. §§ 462.351 to 462.365, as they may be amended from time to time.

PLOT PLAN. A plat of a lot, drawn to scale, showing the actual measurements, the size and location of any existing buildings or buildings to be erected, the location of the lot in relation to abutting streets, and other information.

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.

PRELIMINARY SUBDIVISION PLAT. Preliminary maps, drawings, sketches and supplemental information used to describe existing conditions and the proposed layout in a subdivision.

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

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

PROFESSION. An occupation or calling requiring the practice of an art or science through specialized knowledge based on a degree issued by an institution of higher learning.

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

PROPERTY LINE. The boundary line of the area over which the entity applying for WECS permit has legal control for the purposes of installation of a WECS. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the project developer and landowner.

PUBLIC IMPROVEMENT. Work within dedicated rights-of-way or easements.

PUBLIC SERVICES. Uses operated by a unit of government to serve public needs, such as police (with or without jail), fire service, ambulance, judicial court or government offices, but not including public utility stations or maintenance facilities.

PUBLIC USES. Uses owned or operated by municipalities, school districts, counties, states or other governmental units.

PUBLIC WATERS. Any waters as defined in M.S. § 103G.005, subd. 15, as it may be amended from time to time.

PUBLIC WAY. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky which is deeded, dedicated or permanently appropriated to the public for public use.

PYLON SIGN. A sign with no visible secondary supports.

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.

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

RECREATION, INDOOR. An establishment providing completely enclosed recreation activities. Accessory uses may include the preparation and serving of food and beverages and/or the sale of equipment related to the enclosed uses. Included in this definition shall be bowling, roller skating or ice skating, billiards, pool, motion picture theaters, and related amusements.

RECREATION, OUTDOOR. An area free of buildings except for restrooms, dressing rooms, equipment storage, maintenance buildings, open-air pavilions, and similar structures, used primarily for recreational activities.

RECREATIONAL VEHICLE. A vehicular unit, other than a mobile home, whose gross floor area is less than 320 square feet, which is designed as a temporary dwelling for travel, recreational and vacation use, and which is either self-propelled, mounted on or pulled by another vehicle. Examples include, but are not limited to a travel trailer, camping trailer, truck camper, motor home, fifth-wheel trailer or van.

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 floodplain that result from designation of a floodway.

RELIGIOUS, CULTURAL AND FRATERNAL ACTIVITY. A use or building owned or maintained by organized religious organizations or nonprofit associations for social, civic or philanthropic purposes, or the purpose for which persons regularly assemble for worship.

RENOVATION. Interior or exterior remodeling of a structure, other than ordinary repair.

RESIDENTIAL PLANNED UNIT DEVELOPMENT. A use where the nature of residency is non-transient 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.

RESTAURANT. An establishment which provides food for on-premises consumption.

RESTAURANT, DRIVE-IN. A restaurant which serves food to customers seated in vehicles.

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

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 PITCH. The final exterior slope of a building roof calculated by the rise over the run, typically, but not exclusively, expressed in twelfths such as 3/12, 9/12, 12/12.

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.

SALVAGE YARD. Any location whose primary use is where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled or handled, including, but not limited to materials such as scrap metals, paper, rags, tires and bottles.

SCREENED. Concealed or cut off from visual access.

SELECTIVE CUTTING. The removal of single scattered trees.

SEMI-PUBLIC 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. The minimum required distance between the property line and the building line.

SEWAGE DISPOSAL SYSTEM. Any system for the collection, treatment and dispersion of sewage, including but not limited to septic tanks, soil absorption systems, and drain fields.

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 § 150.092(K).

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.

SHOPPING CENTER. An integrated grouping of commercial stores, under single ownership or control.

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.

SHORT-TERM RENTAL. The rental to a person or group of persons a residential unit for a period of less than 30 consecutive calendar days in a zoning district where residential uses are allowed.

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.

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 un-platted 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 un-platted cemeteries are automatically considered to be **SIGNIFICANT HISTORIC SITES**.

SIGNIFICANT TREE. Any tree defined as a significant tree in the city's tree preservation ordinance.

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

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.

STORMWATER POND. These are ponds created for stormwater treatment. A stormwater pond shall not include wetlands created to mitigate the loss of other wetlands.

STORY. That portion of a building included between the upper surface of any floor and upper surface of floor next above, except that the topmost story shall be that portion of a building, included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar, or unused underfloor space is more than six feet above grade, as defined herein, for more than 50% of the total perimeter or is more than 12 feet above grade, as defined herein, at any point, the basement, cellar or unused under-floor space shall be considered as a **STORY**.

STREET. Any thoroughfare or public way not less than 16 feet in width which has been dedicated or deeded to the public for public use.

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.

STREET, PRIVATE. A right-of-way or easement in private ownership, not dedicated or maintained as a public street, which affords the principal means of access to two or more sites.

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 § 150.117(C) and other similar items.

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 re-subdivision 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. Ch. 505, as it may be amended from time to time, and the provisions of this chapter.

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 C.F.R. Part 59.1.

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.

SWIMMING POOL. Any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, above-ground and in-ground swimming pools, hot tubs and spas.

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

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%.

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

TRAILER. A movable vehicle with wheels designed or used as living and sleeping quarters or for business purposes, and such vehicles that have had the wheels removed and been placed on a foundation. This definition includes trailer coaches, trailer houses and manufactured homes.

TREE. Any object of natural growth.

USE. The activity occurring on a lot or parcel for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied, including all accessory uses.

USEABLE OPEN SPACE. A required ground area or terrace area on a lot which is graded, developed, landscaped and equipped and intended and maintained for either active or passive recreation or both, available and accessible to and useable by all persons occupying a dwelling unit or rooming unit on the lot and their guests. The areas shall be grassed and landscaped or covered only for a recreation purpose. Roofs, driveways and parking areas shall not constitute ***USEABLE OPEN SPACE.***

USE, CHANGE OF. The change within the classified use of a structure or premises.

USE, NON-CONFORMING. A use which lawfully occupied a building or land at the time this code became effective, which has been lawfully continued and which does not now conform with the use regulations.

USE, TEMPORARY. A use that is authorized by this code to be conducted for a fixed period of time. **TEMPORARY USES** are characterized by the activities as the sale of agricultural products, contractors' offices and equipment sheds, fireworks, carnivals, flea markets and garage sales.

VARIANCE. A variance from the literal provisions of the chapter in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under construction. **VARIANCES** shall be granted only when it is demonstrated that the variance will be in keeping with the spirit and intent of the chapter. An undue hardship as used in connection with the granting of a **VARIANCE** means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the **VARIANCE**, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the chapter.

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.

WAREHOUSE, WHOLESALE OR STORAGE. A building or premises in which goods, merchandise or equipment are stored for eventual distribution.

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.

WATER SURFACE. The same meaning as land for the established protected zones.

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

WINDOW SIGN. A sign affixed to or inside of a window in view of the general public. This does not include merchandise on display.

WRECKING YARD. Any place where damaged, inoperable or obsolete machinery such as cars, trucks and trailers, or parts thereof, are stored, bought, sold, accumulated, exchanged, disassembled or handled.

YARD. An open, unoccupied space on a lot, other than a court, which is unobstructed from the ground upward by buildings or structures except as otherwise provided in this code.

(1) **FRONT YARD.** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto.

(2) **REAR YARD.** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line or ordinary high-water line parallel thereto.

(3) **SIDE YARD.** An open, unoccupied space on the same lot with the building and between the building line and the side lot line, or to the ordinary high-water line.

ZONING MAP. The maps or map incorporated into this chapter as part thereof, and as amended, designating the zoning district. (Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -; Am. Ord. -, passed - -)

ZONING DISTRICT REGULATIONS

§ 150.020 GENERAL DISTRICT PROVISIONS.

(A) *Establishment of zoning districts.*

(1) The development of the City of Ortonville, including the shoreland of its public waters, shall be controlled by means of zoning districts. The following districts are created in order to promote the orderly development of land within the city. The city is hereby divided into the following districts which shall be known by the following respective symbols or names:

- (a) Agricultural - Open Space District (AO);
- (b) Traditional Neighborhood Residential District (R-2);
- (c) Medium Density Residential District (R-3);
- (d) Manufactured Home Park District (R-4);
- (e) Central Business District (B-1);
- (f) General Business District (B-2);

- (g) Highway Business District (B-3);
- (h) Limited Industrial District (I-1);
- and
- (i) General Industrial District (I-2)

(2) The following will be outlined in each zoning district:

(a) *Intent.* States the intent and function of each particular zoning district.

(b) *Use designations.*

1. *Permitted uses.* Uses that are allowed in a district as a matter of right without further need for review or approval of the city.

2. *Prohibited uses.* Uses that are not permitted in a district under any circumstance. Any uses not specifically listed are deemed prohibited without further review from the city.

3. *Conditional uses.* Uses that are permitted, after approval of the city, if conditions listed in the chapter are met.

4. *Interim uses.* Uses that are permitted for a limited amount of time upon approval of the city if conditions of the chapter are met.

5. *Accessory uses.* Uses that are permitted or conditionally permitted to serve a permitted or conditionally permitted use. The accessory use will not be permitted absent the primary use. For example, a tool shed is a standard accessory use in a residential zone.

(c) *Performance standards.*

1. *Setback requirements.* Establish the minimum horizontal distance between a structure and the lot line, road, highway or high-water mark (if the property abuts shoreland).

2. *Height requirements.* Establish maximum and/or minimum height requirements for structures and/or their attachments (such as antennas, cupolas, etc.).

3. *Density requirements.* Establish the number of structures or units allowed per lot or area.

4. *Parking requirements.* Establish regulations for off-street parking in each district.

5. *Property standards requirements.* Establish regulations regarding the property as a whole; yards, open space, screening, fencing, landscaping and the like.

(B) *Zoning map.* The location and boundaries of the districts established by this chapter are hereby set forth on the official zoning map. The official City of Ortonville Zoning Map is located at City Hall, Ortonville, Minnesota. This map is hereby adopted by reference. A copy of this map, showing the location of all zoning districts within the city, is adopted herein by reference. Said maps and all of the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this chapter by reference.

(C) *Interpretation of zoning map/zoning district boundaries.* Wherever there is uncertainty, contradiction or conflict as to the location of any zoning district boundary line, whether due to scale, illegibility or lack of detail on the zoning map; the Zoning Administrator shall make such interpretation and determination. Any person aggrieved by such interpretation may appeal such interpretation to the Planning Commission who shall make the final recommendation to the City Council. The Planning Commission, in interpreting the official zoning map, and in deciding appeals of such determinations shall apply the following standards.

(1) Zoning district boundary lines are intended to follow lot lines, or to be parallel or perpendicular thereto, or along the centerline of streets, alleys, rights-of-way, or along the ordinary high-water level of public waters, unless such boundary lines are clearly designated otherwise on the official zoning map.

(2) Where zoning district boundary lines are so indicated that they approximately follow lot lines or city limits, such lot lines and city limits shall be construed to be such boundary lines.

(3) Where a zoning district boundary line divides a lot, the location of any such zoning district boundary line, unless indicated by dimensions shown on the zoning map, shall be determined by use of the map scale there on.

(4) Where a district boundary line divides a lot that was in single ownership at the time of passage of this chapter, the extension of the regulations for either portion of the lot may be interpreted by the Planning Commission upon request of the owner.

(5) The exact location of all district boundaries shall be interpreted by the Planning Commission, subject to appeal through the Board of Adjustment.

(D) *Zoning classifications for newly annexed property.*

(1) All territories which may hereafter be annexed to the city shall be considered as being the same district as the adjacent land until an amendment to this chapter shall place annexed land in a different zoning district.

(2) In the event of changes in the city limits by adding or removing territory from the city, district boundaries shall be constructed or removed by moving the city limits.

(Ord. 17-05, passed 9-18-2017; Ord. -, passed - -)

§ 150.021 AGRICULTURAL-OPEN SPACE ZONING DISTRICT (AO).

(A) *Intent.* The Agricultural-Open Space District is intended to provide a district which will allow suitable areas of the city to be retained and utilized in open space and/or agricultural uses, prevent scattered non-farm uses from developing improperly, limit development to maintain and preserve agricultural areas, and to limit government expenditures for public utilities and service.

(B) *Use designations.*

(1) *Permitted uses.*

(a) Those uses commonly associated with the growing of produce on farms. These include: field crop farming; pasture for hay; fruit growing; tree, plant, shrub or flower nursery without building; truck gardening; roadside stand for sale in season; and livestock raising and feeding; but not including fur farms, feedlots, and other commercial operations.

(b) Short-term rentals

(2) *Conditional uses.*

(a) All development of buildings and structures in this district require a conditional use permit.

(b) Golf courses, clubs, tennis courts, parks, swimming pools and additional public and private recreational uses, all non-commercial.

(c) Nurseries, tree farms, farm drainage, irrigation systems and historic sites.

(d) Airports, radio and television transmitting and receiving stations and antennae.

(e) Single-family dwellings on a site not less than one acre, public or private schools, cemeteries, commercial recreational facilities.

(f) Accessory dwelling units consistent with § 150.181(H).

(g) Residential large lot dwellings § 150.181(F).

(h) Churches, parish houses, convents, daycares.

(i) Planned unit developments, as regulated by §§ 150.165 et seq. and § 150.095.

(j) Animal kennels.

(k) Additionally, the City Council may require any farm operator to secure a conditional use permit to expand or intensify said operations in the event of the following:

1. The farm is adjacent to or within 400 feet of any dwelling unit and may be detrimental to living conditions creating safety hazards or by emitting noise, odor, vibrations or similar nuisances.

2. The farming operations are so intensive as to constitute an industrial type use consisting of the compounding, processing and packaging of products for wholesale or retail trade.

(3) *Interim uses.* Mining, sand and gravel operations, subject to the regulations outlined in § 150.180(D).

(4) *Accessory uses.* Any private incidental structure or buildings necessary to the conduct of a permitted or conditional use allowed in this district. All accessory uses and development shall require a conditional use permit.

(a) Living quarters consistent with § 150.180(A).

(b) Accessory dwelling units consistent with § 150.181(H).

(c) Home occupations consistent with § 150.181(G).

(d) Fencing, screening and landscaping as permitted and regulated by § 150.180(E)

(e) Piers and docks.

(f) Any incidental machinery, fencing, structure, or building necessary to the conduct of existing uses.

(g) Essential services, including necessary equipment and structures.

(C) *Performance standards.*

(1) *Setback requirements.* All setbacks shall be set by the conditional use permit process.

(a) *Front yard.* A front yard of not less than 35 feet is required.

(b) *Double frontage lot.* Double frontage lots are lots with frontage on two non-intersecting streets. These lots generally have a material impact on the aesthetic appeal of the community because the back sides of the lots are normally adjacent to highly traveled streets. Set by conditional use permit process.

(c) *Side yard.* Two side yards are required, each having a width of not less than 30 feet. Where a lot is located at the intersection of two or more streets, the width of the yard along the side street shall not be less than 30 feet. A side yard of not less than ten feet may be permitted for accessory buildings or structures when the buildings or structures are located 100 feet from the front lot line.

(d) *Rear yard.* A rear yard of not less than 20 feet is required. No accessory building shall be less than ten feet from the rear lot line.

(e) *Lot width and depth.* A lot width of not less than 150 feet is required for each farm non-farm dwelling unit; a lot depth of not less than 150 feet is required.

(f) *Lot area.* A lot area of more than one acre is required for each farm or non-farm dwelling unit.

(2) *Height requirements.* Building heights shall not exceed 35 feet except for agricultural buildings.

(3) *Density requirements.* No more than 10% of the lot area shall be occupied by impervious surfaces as specified in § 150.095(E).

(4) *Parking requirements.* Parking requirements may be set by the conditional use permit process.

(5) *Property standards requirements.* See the property standards requirements section in §§ 150.090 et seq. of this chapter.

(a) See additional general development standards in § 150.180

1. Dwelling unit restrictions;
2. Building restrictions;
3. Land reclamation;
4. Mining;
5. Fencing, screening and landscaping;
6. Nuisances and blight, vision obstructions;
7. Junk yards;
8. Performance standards;

- 9. Lighting;
- 10. Public water alterations; and
- 11. Design standards.

(b) See additional requirements in § 150.181

- 1. Reduction requirements;
- 2. Yard requirements;
- 3. Lot area requirements;
- 4. Building size and architectural requirements; and
- 5. Accessory structures, uses and equipment.

(D) *Signage*. Regulated by § 150.220. (Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -; Am. Ord. -, passed - -; Am. Ord. 22-06, passed 12-5-2022)

§ 150.022 RESIDENTIAL, TRADITIONAL NEIGHBORHOOD DISTRICT (R-2).

(A) *Intent*. The Traditional Neighborhood Residential District is established to allow the continuation of existing residential development and infilling of existing lots in the older residential areas of the city that are well connected to existing city infrastructure. This district also provides areas within the city for a wide range of housing options including higher density single-family residential development as well as multi-family residential development.

(B) *Use designations*.

(1) *Permitted uses*.

(a) Additional dwelling units on the same property as existing single-family dwellings/structures, but in a separate structure (i.e. apartment above a detached garage, carriage house, etc.);

(b) Additional dwelling units within existing single-family dwelling units (i.e. basement or upstairs apartment);

(c) Historic sites;

(d) Multi-family housing units not to exceed four units per structure including: condominiums, townhomes and twin homes; and quadplexes.

(e) Permitted home occupations (as regulated by § 150.181(G) of this chapter);

(f) Public recreation, including parks, playgrounds and gardens;

(g) Single-family dwelling units/residential structures;

(h) Accessory dwelling units (as regulated by § 150.181(H) of this chapter);

(i) Short-term rentals (as regulated by § 150.181(I) of this chapter; and

(j) Large lot residential (§ 150.181(F)).

(2) *Prohibited uses*. Carports and membrane/tent structures are prohibited as an integral part of the principal building.

(3) *Conditional uses*.

(a) Bed and breakfasts;

(b) Daycare centers (not including in-home daycare establishments);

- (c) Golf courses;
- (d) Home occupations that require a permit;
- (e) Hospitals and clinics;
- (f) Multi-family housing units exceeding four units per structure;
- (g) Nursing homes, assisted living, senior living or care centers;
- (h) Places of worship and other religious facilities;
- (i) Private garages on existing lots which contain no principal structure;
- (j) Public swimming pools; and
- (k) Schools (public and private).

(4) *Accessory uses.* Any incidental private structure or buildings necessary to the conduct of a permitted use. The following are permitted accessory uses, so long as they do not encroach into the front yard setbacks outlined in division (C) of this section:

- (a) Decks and patios, swimming pools, tennis courts, basketball courts and other recreational facilities that are operated for the enjoyment and convenience of the residents of the principal use and their guests;
- (b) Garages;
- (c) Non-commercial greenhouses;
- (d) Tool houses, sheds and similar buildings for storage of domestic supplies and non-commercial recreational equipment;

- (e) Outdoor storage of recreational vehicles, equipment and/or boats;
- (f) Essential services, including necessary equipment and structures;
- (g) Pet shelters, pens, runs, cages, houses and kennels for non-commercial use and accessory to the principal structure and residential use;
- (h) Gazebos, screen porches and other similar structures;
- (i) Fencing, screening, and landscaping as permitted and regulated by § 150.180(E); and
- (j) See accessory building design standards in § 150.181(E).

(C) *Performance standards.*

(1) *Setback requirements.*

(a) *Front yard.* For the principal structure and all other accessory structures, there shall be a front yard of at least 25 feet.

(b) *Double frontage lot; corner lot.* Where a lot is located at the intersection of two or more roadways, there shall be a front yard setback of at least 25 feet or the average front yard setback for the neighborhood, on each roadway side of each corner lot.

(c) *Side yard.* For principal structures, there shall be a minimum side yard of not less than ten feet. For all accessory structures, there shall be a minimum side yard of not less than five feet. For all buildings built in 1996 or before, the side yard width requirement shall not be less than five feet. Two side yards are required, each with a width of not less than ten feet. Where a lot is located at the intersection of two or more streets, the width of the yard along the side street shall not be less than 25 feet.

(d) *Rear yard.* For principal structures, there shall be a rear yard with a depth of not less than 15 feet. No accessory building shall be less than five feet from the rear lot line.

(e) *Lot width and depth.* There shall be a minimum lot width of 50 feet (at front yard setback line) and a minimum lot depth of 100 feet.

1. *Lot area.* The minimum lot area shall be 6,000 square feet for all single-family structures and 7,200 square feet for multi-family structures. A conditional use permit is required for all lots less than 6,000 square feet.

2. Multiple dwelling units having four or less dwelling units must have minimum lot area of 15,000 square feet. Not less than 1,500 square feet is required for each dwelling unit over four.

(f) *Earth sheltered buildings.* (Consistent with § 150.181(B)(6) (from general development standards).

(2) *Height requirements.*

(a) The maximum height of all principal buildings and structures shall not exceed three stories or 45 feet.

(b) Accessory structures shall not exceed 16 feet in height in the R-2 District.

(3) *Density requirements.*

(a) There should be no more than one main structure per lot.

(b) Accessory buildings in R-2 district on lots where a garage is attached to the home shall be limited to one additional storage building and one non-storage building, so long as the total floor area does not exceed 1,200 square feet or result in a total lot coverage by buildings of 25% or more; a lot larger

than 15,000 square feet shall justify accessory buildings not to exceed 1,500 square feet and a lot larger than 25,000 square feet shall justify accessory buildings not to exceed 1,800 square feet; accessory buildings on lots where a garage is not attached to the home shall be limited to two storage buildings and one non-storage building, with the total floor area not to exceed 1,800 square feet or result in a total lot coverage by buildings of 25% or more.

(4) *Parking requirements.* General parking regulations can be found in § 150.182 of this chapter. Specific parking requirements and regulations related to this district include:

(a) All lots shall front on, and have ingress and egress by means of a public right-of-way.

(b) There shall be a minimum of one off-street parking spot per dwelling unit. This may include enclosed space, such as a garage, and/or outdoor driveway space.

(c) There shall be no regular or permanent parking on lawns.

(5) *Property standards requirements.*

(a) No buildings or structures shall occupy more than 25% of lot. See maximum combined non-permeable surface regulations found in § 150.181(J).

(b) Conversion of any dwelling shall be in accordance with the Minnesota State Building Code, especially in relationship to minimum floor area required .

(c) See additional general development standards in § 150.180:

1. Dwelling unit restrictions;

2. Building restrictions;
3. Land reclamation;
4. Mining;
5. Fencing, screening and landscaping;
6. Nuisances and blight, vision obstructions;
7. Junk yards;
8. Performance standards;
9. Lighting;
10. Public water alterations; and
11. Design standards.
- (d) See additional requirements in § 150.181:
1. Reduction requirements;
2. Yard requirements;
3. Lot area requirements;
4. Building size and architectural requirements; and
5. Accessory structure design, uses and equipment.
- (D) *Signage.* Regulated by § 150.220. (Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -; Am. Ord. -, passed - -; Am. Ord. -, passed - -)
- § 150.023 MEDIUM DENSITY RESIDENTIAL DISTRICT (R-3).**
- (A) *Intent.* The medium density residential district is intended to establish an area of medium density residential uses consisting of one- and two-family dwellings and multiple unit dwellings in order to provide housing options suitable for all ages and family types.
- (B) *Use designations.*
- (1) *Permitted uses.*
- (a) Single-family dwellings if on lots of the areas and widths as hereinafter required;
- (b) Two-family dwellings if on lots of the areas and widths as hereinafter required;
- (c) Non-commercial gardening;
- (d) Churches, parish houses, convents and child nurseries;
- (e) Public buildings and uses of the following kinds: parks, playgrounds, libraries, museums, community centers, public offices, golf courses;
- (f) Accessory dwelling units (as regulated by § 150.181(H) of this chapter);
- (g) Short-term rentals (as regulated by § 150.181(I) of this chapter); and
- (h) Large lots residential.
- (2) *Prohibited uses.* Carports and membrane/tent structures are prohibited as an integral part of the principal building.
- (3) *Conditional uses.*

(a) Multiple-dwelling structure consistent with the surrounding land uses and in conformance with the minimum lot dimensions and setback requirements as hereinafter required;

(b) Cemeteries, crematoriums, public utility and public services uses, hospitals, sanitariums, homes for the aged and similar institutions and institutions of an educational, philanthropic or charitable nature when required for the public health, safety or welfare;

(c) Golf courses, country clubs, tennis courts, swimming pools and additional private and private club recreational uses, all non-commercial;

(d) Automobile parking lots when required for off-street parking spaces for any use not more than 300 feet distant therefrom;

(e) The extension of a use into a district where it would otherwise be prohibited, in a case where a district boundary line is so located that a lot is in more than one district;

(f) Boarding and lodging houses;

(g) Outdoor furnaces or boilers of any size or type when used in conjunction with the heating of adjacent interior spaces or the heating of domestic hot water used within the spaces; includes all furnaces not completely enclosed on all sides by the exterior building enveloped walls;

(h) Planned unit developments, as regulated by §§ 150.165 et seq. and § 150.095;

(i) Private garages as the primary use of subject property provided:

1. Must be accessory use to an existing conforming residential use in the city;

2. Lot for garage must not be a buildable lot;

3. Lot must be within 300 feet of primary use lot; and

4. Must be the only building on said lot and must conform in architecture and appearance to neighboring residential uses.

(j) *Twin homes.* Two-family dwellings and twin homes may be divided into single parcels of record with the party wall acting as the dividing lot line by issuance of a conditional use permit and subject to the following conditions:

1. Each of the lots created in subdividing lands on which a two-family structure is located shall be as equal as is reasonably possible;

2. Each lot so created shall contain no less than 6,000 square feet, and shall be shown on a registered survey;

3. Except for setbacks along the common property line, all other setback and yard requirements shall be met;

4. Separate services shall be provided to each residential unit for sanitary sewer, water, electricity, natural gas, telephone, and other utilities;

5. The two-family units, either existing or proposed, must be constructed in a side-by-side manner; and

6. To protect the safety and property of the owner and occupants of each individual unit, no existing two-family structure may be split into two separate ownerships unless and until the common party wall fire rating is brought up to

new construction standards contained in the Minnesota State Building Code. Party walls must provide sound transmission control ratings as per the UBC.

a. *Uniformity in outside appearance.* Siding and roofing need to be made of the same product and same color.

b. *Party walls.*

i. *Definition.* Each wall which is built as a part of the original construction of the living units upon the properties and placed on the dividing line between the lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this division, the general rules of law regarding party walls and liability for property damage due to negligence or willful act or omissions shall apply thereto.

ii. *Repairs and maintenance.* The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use of wall.

iii. *Destruction by fire and other casualties.* If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owner thereafter makes use of the wall, he or she shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(4) *Accessory uses.* Any private incidental structure or buildings necessary to the conduct of a permitted use. The maximum number of accessory structures in this district shall be three. Additional accessory structures may be applied for through the

conditional use permit process. The following are permitted accessory uses, so long as they do not encroach into the front yard setbacks outlined in division (C) of this section:

(a) Decks and patios, swimming pools, tennis courts and other recreational facilities which are operated for the enjoyment and convenience of the residents of the principal use and their guests;

(b) Private garages and parking spaces for licensed and operable passenger cars and trucks of no more than 9,000 pounds as specified by § 150.182(E), are not to exceed a total area of 1,200 square feet (see § 150.181(E)(5)(c)).

1. The uses are intended for the storage of passenger vehicles of the family or families residing upon the premises, and in which no business service or industry is carried on. The space can be rented to non-residents of the property for private passenger vehicles and/or non-commercial vehicles, trailers or equipment if sufficient off-street parking in full compliance with this chapter is provided elsewhere on the property;

2. The garage shall not be used for the storage of more than one commercial vehicle owned or operated by a resident per dwelling unit;

(c) Recreation vehicles and equipment;

(d) Non-commercial greenhouses and conservatories;

(e) Tool houses, sheds and similar buildings for storage of domestic supplies and non-commercial recreational equipment;

(f) Boarding or renting of rooms within principal building to not exceed more than two persons;

(g) Essential services, including necessary equipment and structures;

(h) Fencing, screening and landscaping as permitted and regulated by § 150.180(E);

(i) Piers and docks;

(j) Home occupations consistent with § 150.181(G);

(k) Pet shelters, pens, runs, cages, houses and kennels for non-commercial use and accessory to the principal structure and residential use; and

(l) Gazebos, screen porches and other similar structures.

(C) *Performance standards.*

(1) *Setback requirements.*

(a) *Front yard.*

1. For the principal structure and all other accessory structures, there shall be a front yard of at least 25 feet.

2. For buildings exceeding 35 feet in height, each front yard shall be an additional front yard setback of one foot for each one foot that the building exceeds the height of 35 feet.

(b) *Double frontage lot; corner lot.*
Where a lot is located at the intersection of two or more roadways, there shall be a front yard setback of at least 25 feet or the average front yard setback for the neighborhood, on each roadway side of each corner lot.

(c) *Side yard.*

1. Two side yards are required, each with a width of not less than ten feet. Where a lot is located at the intersection of two or more streets, the width of the yard along the side street shall not be less than 25 feet.

2. For all buildings built in 1996 or before, the side yard width requirement shall not be less than five feet.

(d) *Rear yard.* For principal structures, a rear yard with a depth of at least 20 feet is required. No accessory building shall be less than ten feet from the rear lot line.

(e) *Lot width and depth.*

1. A lot or plot of ground on which a one-family dwelling is hereinafter erected or moved shall have a minimum width of 80 feet at the front yard setback line and a minimum depth of 100 feet.

2. A lot width of not less than 100 feet (at the front yard setback) and a lot depth of not less than 100 feet are required for multi-family dwellings.

3. For all buildings built before 1996, no more than 50% of lot shall be occupied by buildings or structures.

(f) 1. *Lot area.* A lot area of not less than 10,000 square feet is required for single-family dwelling and a minimum lot area of 12,000 square feet is required for every two-family dwelling hereinafter erected, enlarged or moved.

2. Multiple dwelling units having four or less dwelling units must have a minimum lot area of 15,000 square feet. Not less than 1,500 square feet is required for each additional dwelling unit over four.

(2) *Height requirements.*

(a) Principal building heights shall not exceed 35 feet. A conditional use permit is required for any principal building height exceeding 35 feet.

(b) In the R-3 district, accessory structures shall not exceed a height of 16 feet.

(3) *Density requirements.*

(a) There shall be no more than one main structure per lot.

(b) Accessory buildings in the R-3 district.

1. On lots where a garage is attached to the home, accessory buildings shall be limited to one additional storage building and one non-storage building, so long as the total floor area does not exceed 1,200 square feet or result in a total lot coverage by buildings of 25% or more; a lot larger than 15,000 square feet shall justify accessory buildings not to exceed 1,500 square feet, and a lot larger than 25,000 square feet shall justify accessory buildings not to exceed 1,800 square feet.

2. On lots where a garage is not attached to the house, accessory buildings shall be limited to two storage buildings and one non-storage building, with a total floor area not to exceed 1,800 square feet or result in a total lot coverage by buildings of 25% or more.

(4) *Parking requirements.* General parking regulations can be found in § 150.182 of this chapter. Specific parking requirements and regulations related to this district include:

(a) All lots shall front on, and have ingress and egress by means of a public right-of-way.

(b) There shall be a minimum of one off-street parking spot per dwelling unit. This may include enclosed space, such as a garage, and/or outdoor driveway space.

(c) There shall be no regular or permanent parking on lawns.

(5) *Property standards requirements.*

(a) For all uses, no more than 25% of the lot shall be occupied by buildings or structures. See maximum combined non-permeable surface regulations found in § 150.181(J).

(b) Conversion of any dwelling shall be in accordance with the Minnesota State Building Code, especially in relationship to minimum floor area required.

(c) See additional general development standards in § 150.180:

1. Dwelling unit restrictions;
2. Building restrictions;
3. Land reclamation;
4. Mining;
5. Fencing, screening and landscaping;
6. Nuisances and blight, vision obstructions;
7. Junk yards;
8. Performance standards;
9. Lighting;

- 10. Public water alterations; and
- 11. Design standards.

(d) See additional requirements in § 150.181:

- 1. Reduction requirements;
- 2. Yard requirements;
- 3. Lot area requirements;
- 4. Building size and architectural requirements; and
- 5. Accessory structure design, uses and equipment.

(D) *Signage*. Regulated by § 150.220. (Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -; Am. Ord. -, passed - -; Am. Ord. -, passed - -)

§ 150.024 MANUFACTURED HOME PARK DISTRICT (R-4).

(A) *Intent*. The purpose of the R-4, manufactured home park district, is to provide for manufactured home uses in an appropriate, safe, sanitary and attractive environment.

(B) *Use designations*.

(1) *Permitted uses*.

(a) Manufactured homes in manufactured home parks.

(b) Short-term rentals.

(2) *Conditional uses*. No conditional uses shall be permitted in an R-4 district.

(3) *Prohibited uses*. Carports and membrane/tent structures are prohibited as an integral part of the principal building.

(4) *Accessory uses*.

- (a) Off-street private parking facilities;
- (b) Recreational vehicles and equipment;
- (c) Swimming pools, tennis courts and other recreational facilities;
- (d) Fencing, screening, and landscaping, as permitted and regulated by § 150.180(E).
- (e) Tool houses, sheds and similar storage buildings;
- (f) Central offices and central community buildings; and
- (g) Home occupations, consistent with § 150.182(G).

(C) *Performance standards*.

(1) *Setback requirements*. No unit shall be located within 30 feet of the exterior boundary of any manufactured home park.

(a) *Front yard*. No unit shall be placed closer than 20 feet to its front lot line.

(b) *Side yard*. No unit shall be placed closer than five feet to its side lot line.

(c) *Rear yard*. No unit shall be placed closer than ten feet to its rear lot line.

(d) *Lot width and depth*. A single-wide home shall have a lot width of no less than 40 feet and

a depth no less than 100 feet. A double-wide home shall have a lot width of no less than 50 feet and a depth no less than 100 feet.

(e) *Lot area.* The minimum lot area for the exclusive use of the occupant shall be 4,000 square feet for a single-wide home. The minimum lot area for the exclusive use of the occupant shall be 5,000 square feet for a double-wide home.

(2) *Height requirements.* Unit height may not exceed 12 feet. Accessory structures shall not exceed a height of 16 feet.

(3) *Density requirements.* The average density shall not exceed eight dwelling units per net acre.

(4) *Parking requirements.*

(a) Each manufactured home site shall have off-street parking space for two automobiles and these parking spaces shall be hard surfaced.

(b) Access drives off roads to all parking spaces and home sites shall be hard surfaced.

(5) *Property standards requirements.*

(a) *General provisions.*

1. No manufactured home for residential purposes shall be permitted within any manufactured home park unless the manufactured home park is or has been approved by the Minnesota Department of Administration, in accordance, with M.S. §§ 327.14 through 327.34, as amended, and licensed under the provisions of Minn. Rules parts 4630.0200 to 4630.2210 as they may be amended from time to time.

2. Manufactured homes shall not be used for residential purposes in the city if they:

a. Do not conform to the requirements of the Minnesota Vehicle Code:

b. Are in an unsanitary condition or have an exterior in bad repair;

c. Are structurally unsound and do not protect the inhabitants against all elements; or

d. Do not have adequate sewage facilities as required by the City Council in accordance with regulations.

3. No tents shall be used for other than recreational purposes in a manufactured home park.

4. Access to manufactured home parks shall be enclosed except that the enclosure must have access for inspection. Materials used for enclosure must be of a non-flammable nature.

5. Where the manufactured home park is dependent:

a. It shall have an adequate central community building with the following features:

i. Laundry drying areas and machines;

ii. Laundry washing machines;

iii. Showers; and

iv. Public toilets and lavatories.

b. The buildings shall have central heating and be maintained in a safe, clean and sanitary condition.

(b) *Site plan requirements.* A site plan shall be submitted to the Planning Commission and the City Council in accordance with procedures outlined and information required within the subdivision regulations.

(c) *Frontage.* Each manufactured home site shall have frontage on an approved roadway and the corner of each manufactured home site shall be marked and each site shall be numbered.

(d) *Buffer area.* A greenbelt, at least 20 feet in width and 12 feet in height shall be located along all boundaries of the manufactured home park, except where it is crossed by driveways, streets and roads.

(e) *Utilities.*

1. All manufactured homes shall be connected to a public water and sanitary sewer system.

2. All utility connections shall be as approved by the city.

3. All utilities shall be underground; there shall be no overhead wires or supporting poles except those essential for street or other lighting purposes.

4. The method of garbage, waste and trash disposal must be approved by the city.

5. The park owner shall pay any required sewer and water connection fees to the city.

(f) See additional general development standards in § 150.180:

- 1. Dwelling unit restrictions;
- 2. Building restrictions;

- 3. Land reclamation;
- 4. Mining;
- 5. Fencing, screening and landscaping;
- 6. Nuisances and blight, vision obstructions;
- 7. Junk yards;
- 8. Performance standards;
- 9. Lighting;
- 10. Public water alterations; and
- 11. Design standards.

(g) See additional requirements in § 150.181:

- 1. Reduction requirements;
- 2. Yard requirements;

- 3. Lot area requirements;
- 4. Building size and architectural requirements; and
- 5. Accessory structures, uses and equipment.

(D) *Signage*. Regulated by § 150.220.

(1) *Streets*.

(a) Streets shall be hard surfaced as approved by the city.

(b) The minimum street widths shall be:

<i>On-Street Parking</i>	<i>Traffic Width (feet)</i>
Parallel, one side	One-way: 20
	Two-way: 30
Parallel, both sides	One-way: 26
	Two-way: 36

(2) *Buffer area*. A greenbelt, at least 20 feet in width and 12 feet in height shall be located along all boundaries of the manufactured home park, except where it is crossed by driveways, streets and roads.

(3) *Recreation*. All manufactured home parks shall have at least 10% of the land areas developed for recreational use (tennis courts, children's play equipment, swimming pool, golf greens, and the like) developed and maintained at the owner/operator's expense.

(4) *Lighting*. Artificial light shall be maintained during all hours of darkness in all buildings containing public toilets, laundry equipment and other facilities when open for use.

(5) *Drainage*. All manufactured home parks shall be provided with adequate drainage facilities as approved by the city.

(6) *Storage buildings*. The maximum size of accessory storage buildings in the R-4 district shall not exceed 120 square feet of a seven-foot sidewall or ten-foot ridge height. All buildings shall be securely anchored.

(7) *Anchoring and support systems*. The provisions made for anchoring systems shall be based on the regulations outlined by the Minnesota Department of Administration, Building Code Division.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.025 CENTRAL BUSINESS DISTRICT (B-1).

(A) *Intent*. The B-1, Central Business District, is designed and intended as a specialized district directed to serve the pedestrian in a compact central area of the city. The B-1 district will provide for a high-density shopping and business environment, especially, stressing the pedestrian function and interaction of people and businesses, rather than being heavily oriented toward the use of automobile.

(B) *Use designations*.

(1) *Permitted uses*:

- (a) Antique store;
- (b) Apparel and accessory store;
- (c) Appliance store, sales and service;
- (d) Art supply store;
- (e) Art gallery;

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| (f) Artist studio or school; | (aa) Floral sales; |
| (g) Auto parts and accessory sales; | (bb) Funeral home; |
| (h) Auto repairs, need not be enclosed; | (cc) Furniture store and home furnishings; |
| (i) Bakery retail; | (dd) Garden supplies store, need not be enclosed, provided all unenclosed portions of the use are located on the rear 0.5% of the zoning lot; |
| (j) Bank, including drive-in bank; | (ee) Gift, novelty or souvenir store; |
| (k) Barbershop; | (ff) Grocery store; |
| (l) Beauty shop; | (gg) Hardware store; |
| (m) Bicycle sales and repairs; | (hh) Health equipment store; |
| (n) Book store; | (ii) Interior decorator; |
| (o) Business machine store; | (jj) Jewelry store; |
| (p) Café; | (kk) Liquor store (off sale); |
| (q) Camera and photographic supply store; | (ll) Locksmith; |
| (r) Candy, ice cream and confectionery store, in which all manufacturing is permitted only as an accessory use and is limited to 15% of the gross floor area of the use; | (mm) Luggage store; |
| (s) Catalog and mail order house; | (nn) Music store; |
| (t) Caterer; | (oo) Newsstand; |
| (u) Clothing store; | (pp) Office of any type; |
| (v) Dance studio; | (qq) Optician; |
| (w) Delicatessen store; | (rr) Optical goods; |
| (x) Department store; | (ss) Paint and wallpaper store; |
| (y) Dressmaking, seamstress; | (tt) Photographic studio or picture processing; |
| (z) Drugstore; | (uu) Restaurants; |

(vv) Savings and loan association; state or Federally chartered; including drive in facilities;

(ww) Second hand shops;

(xx) Shoe repair shop;

(yy) Shipping mall or centers;

(zz) Sporting goods store;

(aaa) Stationary store;

(bbb) Tailor;

(ccc) Telephone exchange;

(ddd) Theater, not including drive-in theater;

(eee) Theatrical studio;

(fff) Ticket agency;

(ggg) Toy store;

(hhh) Travel bureau or agency;

(iii) Variety store;

(jjj) Medical, dental and ophthalmology offices/clinics;

(kkk) Pet store; and

(lll) Veterinarian, including observation kennels for household pets, provided however, all such kennels are contained within completely enclosed structures.

(2) Conditional uses:

(a) Apartments;

(b) Multi-family dwellings;

(c) Public, private parking facilities;

(d) Public or quasi-public development;

(e) Restaurants, cocktail lounges and other eating or drinking establishments which require additional parking spaces;

(f) Automobile service stations;

(g) Auto sales;

(h) Clinics and selected labs;

(i) Radio and television broadcasting including transmitter;

(j) Other residential and commercial uses determined by the Planning Commission to be of the same general character as identified permitted and conditional uses and found out not to be detrimental to the general public health and welfare; and

(k) Additions/alterations to existing single-family dwellings.

(3) *Accessory uses.*

(a) Commercial or business buildings and structures for a use accessory to the principal use, but shall not exceed 30% of the gross floor area of the principal use;

(b) Off-street parking, as regulated by § 150.182;

(c) Off-street loading, as regulated by § 150.182; and

(d) Fencing, screening and landscaping as permitted and regulated by § 150.180(E).

(C) *Performance standards.*

(1) *Setback requirements.*

(a) Front yard, side yard, and rear yard. No yards are required. The space resulting from the foregoing setbacks (yard requirements) shall be utilized only for access to the permitted use and for landscaping purposes.

1. Where a side lot coincides with a side or rear lot line in an adjacent residential district, a yard shall be provided along the side lot line. The yard shall not be less than the minimum side yard which would be required under this chapter for a residential use on the adjacent residential lot.

2. Where a rear lot line coincides with a side lot line in an adjacent residential district, a yard shall be provided along the rear lot line. The yard shall not be less than the minimum side yard which would be required for a residential use on the adjacent residential lot.

3. Where a rear lot line coincides with a rear lot line in an adjacent residential district, a yard shall be not less than the minimum required for the rear yard for a residential use on the adjacent residential lot.

4. Where the extension of a front or side lot line coincides with a front lot line of an adjacent lot located in a residential district, a yard not less than the minimum front yard required by this chapter on the adjacent residential lot shall be provided along the front or side lot lines.

5. In each case, the lot line located in the central business district adjacent to a residential district shall erect a fence or vegetative screening as determined by the governing body. The screening shall be set back five feet from the central business district's lot line adjacent to the residential district. The fence or screening shall be located along the entire length of the transitional lot line.

(b) *Lot width and depth.*

1. A lot width of not less than 50 feet of street frontage is required. A lot depth of not less than 100 feet is required.

2. a. A non-conforming lot may be used within the guidelines of this district and as long as it is a lot of record with the City of Ortonville.

b. *Lot area.* A lot area of not less than 5,000 square feet is required.

(2) *Height requirements.* Building heights shall not exceed three stories or 45 feet.

(3) *Density requirements.* There shall be no more than one main structure per lot.

(4) *Parking requirements.* See § 150.182 of this chapter.

(5) *Property standards requirements.* Every use, unless expressly exempted in this section or allowed by a conditional use permit, shall operate in its entirety within a completely enclosed structure; the exemption of a use from the requirement of enclosure will be indicated by the phrase "need not be enclosed" appearing after any use exempted or in the case of a permitted establishment by the granting of a conditional use permit. The requirements do not apply to the temporary display of merchandise during regular business hours.

(Ord. 17-05, passed 9-18-2017; Ord. -, passed - -; Ord. -, passed - -; Am. Ord. -, passed - -)

§ 150.026 GENERAL BUSINESS DISTRICT (B-2).

(A) *Intent.* The B-2, General Business District, is designed and intended to promote the development of uses which require large concentrations of automobile traffic. The district is also designed to accommodate those commercial activities which may be incompatible with the uses permitted in the B-1 district and whose service is not confined to any one neighborhood or community.

(B) *Use designations.*

(1) *Permitted uses:*

- (a) Appliance store, sales and storage;
- (b) Auction rooms;
- (c) Auto, glass, muffler and upholstery shop;
- (d) Auto parts and accessory sales including outdoor display of auto accessories provided that the outdoor display of storage is separated from abutting development by ornamental fencing or screen planting to be not less than eight feet in height;
- (e) Auto sales;
- (f) Auto storage, new or used;
- (g) Auto repair garage;
- (h) Barber shop;
- (i) Beauty shop;
- (j) Bicycle store;
- (k) Blueprinting, photo staving and lithographing;

- (l) Boat sales and repair, not including dismantling or wrecking;
- (m) Blowing alley and billiard parlor;
- (n) Building material yard;
- (o) Bus, railway or airline depot or ticket office;
- (p) Dairy products store;
- (q) Dance hall;
- (r) Diaper store;
- (s) Discount store;
- (t) Drugstore;
- (u) Dry cleaning;
- (v) Electric contractor;
- (w) Exterminator;
- (x) Feed store;
- (y) Floral sales;
- (z) Food locker plant; a food locker plant renting only individual lockers for home customer storage of food, including sale of retail, delivery of individual home orders and the cutting and packaging of meats or game, but not including slaughtering or eviscerating thereof;
- (aa) Fruit store;
- (bb) Garden supplies and landscape nursery;

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| (cc) Grocery store; | (xx) Pawn shop; |
| (dd) Gunsmith; | (yy) Pet store; |
| (ee) Hall, renting for meetings,
conventions or social gatherings; | (zz) Photographic studio, picture
processing or equipment; |
| (ff) Hardware store; | (aaa) Plumbing contractor; |
| (gg) Health equipment and supply store; | (bbb) Printing, publishing and allied
industries; |
| (hh) Health club or gym; | (ccc) Sign contractor; |
| (ii) Hotel, motel or tourist home; | (ddd) Second hand store; |
| (jj) Ice plant; | (eee) Tailor; |
| (kk) Janitorial service; | (fff) Taxidermist; |
| (ll) Laboratory, scientific and testing; | (ggg) Theatrical studio; |
| (mm) Laundromat; | (hhh) Tire recapping and supply store; |
| (nn) Linen supply; | (iii) Upholstery shop of any type; |
| (oo) Liquor store (off-sale); | (jjj) Variety store; |
| (pp) Locksmith; | (kkk) Veterinarian, including
observation kennels for household pets, provided
however, all such kennels are contained within
completely enclosed structures; and |
| (qq) Marine sales and service; | (lll) Wholesale offices and showrooms. |
| (rr) Medical appliances, sales and
fittings; | (2) <i>Conditional uses.</i> |
| (ss) Mortuary; | (a) Apartments; |
| (tt) Motorcycle store; | (b) Multi-family dwellings; |
| (uu) Newsstand; | (c) Public, private parking facilities; |
| (vv) Paint and wallpaper store; | (d) Public or quasi-public
development; |
| (ww) Painting and decorating
contractor; | |

(e) Restaurants, cocktail lounges and other eating or drinking establishments which require additional parking spaces;

(f) Automobile service stations;

(g) Auto sales;

(h) Meat market and processing, not including slaughtering;

(i) Clinic, dental, or medical, animal clinics, and related laboratories;

(j) Small animal veterinary clinic (for animals less than 100 pounds);

(k) Radio and television broadcasting including transmitter;

(l) Other residential and commercial uses determined by the Planning Commission to be of the same general character as identified permitted and conditional uses and found out not to be detrimental to the general public health and welfare; and

(m) Additions/alterations to existing single-family dwellings.

(3) *Accessory uses.*

(a) Commercial or business buildings and structures for a use accessory to the principal use, but shall not exceed 30% of the gross floor area of the principal use;

(b) Off-street parking, as regulated by § 150.182;

(c) Off-street loading, as regulated by § 150.182; and

(d) Fencing, screening and landscaping as permitted and regulated by § 150.180(E).

(B) *Minimum lot size.*

(1) A lot area of not less than 5,000 square feet is required.

(2) A lot width of not less than 50 feet of street frontage is required.

(3) A lot depth of not less than 100 feet is required.

(C) *Front, side and rear yard requirements.* No yards are required. The space resulting from the foregoing setbacks (yard requirements) shall be utilized only for access to the permitted use and for landscaping purposes.

(1) Where a side lot coincides with a side or rear lot line in an adjacent residential district, a yard shall be provided along the side lot line. The yard shall not be less than the minimum side yard which would be required under this chapter for a residential use on the adjacent residential lot.

(2) Where a rear lot line coincides with a side lot line in an adjacent residential district, a yard shall be provided along the rear lot line. The yard shall not be less than the minimum side yard which would be required for a residential use on the adjacent residential lot.

(3) Where a rear lot line coincides with a rear lot line in an adjacent residential district, a yard shall be not less than the minimum required for the rear yard for a residential use on the adjacent residential lot.

(4) Where the extension of a front or side lot line coincides with a front lot line of an adjacent lot located in a residential district, a yard not less than the minimum front yard required by this chapter on the adjacent residential lot shall be provided along the front or side lot lines.

(5) In each case, the lot line located in the central business district adjacent to a residential district shall erect a fence or vegetative screening as determined by the governing body. The screening shall be set back five feet from the central business district's lot line adjacent to the residential district. The fence or screening shall be located along the entire length of the transitional lot line.

(D) *Maximum building heights.* Building heights shall not exceed three stories or 45 feet. (Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.027 HIGHWAY BUSINESS DISTRICT (B-3).

(A) *Intent.* The purpose of the Highway Business District is to provide for accommodations and services to the traveling public and related retail services activities.

(B) *Use designations.*

(1) *Permitted uses:*

(a) Services to the traveling public limited to diners, restaurants, taverns, liquor stores, motels, hotels and motor inns;

(b) Automobile sales, need not be enclosed;

(c) Auto accessory retail stores;

(d) Commercial recreational uses;

(e) Private clubs or lodges;

(f) Implement dealerships, need not be enclosed;

(g) Churches;

(h) Administrative/clerical office buildings;

(i) Steel seed tank and corresponding treatment shed;

(j) City maintenance building, agriculture sales, storage rental, bowling alley, construction business, church, blacksmith, museum, garbage transfer; and

(k) Newspaper plants and office.

(2) *Conditional uses.*

(a) Drive-in and convenience food services, car washes, auto service stations, auto repair (minor), enclosed building materials sales, and other retail establishments provided that:

1. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot;

2. When a lot line coincides with a residential district, a buffer of not less than five feet in width shall be landscaped and screened in compliance with § 150.180(E);

3. A minimum lot frontage of 100 feet is provided;

4. Parking shall be screened from view from abutting residential district and uses in compliance with § 150.180(E);

5. The entire area other than that occupied by buildings or structures shall be surfaced or grassed to control dust and drainage;

6. Vehicular access points shall create a minimum of conflict with any through traffic movement;

7. All lighting shall be designed as to have no direct source of light visible from adjacent residential land or from the public right-of-way; and

8. Open and outdoor storage as a principal or accessory use provided that:

a. The area is fenced and screened from view of neighboring residential uses and districts in compliance with § 150.180(E);

b. Is screened from view from the public right-of-way in compliance with § 150.180(E);

c. Storage area is grassed or surfaced to control dust;

d. All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences; and

e. The use does not take up parking space as required for conformity to this chapter.

(b) Open or outdoor service, sale and rental as a principal or accessory use and including sales in or from motorized vehicles, trailers or wagons provided that:

1. Outside services, sales and equipment rental connected with the principal use is limited to 30% of the gross floor area of the principal use;

2. Outside sales areas are fenced or screened from view of neighboring residential uses or districts in compliance with § 150.180(E);

3. All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences;

4. Sales area is grassed or surfaced to control dust;

5. Does not take up parking space as required for conformity to this chapter; and

6. Planned unit developments, as regulated by §§ 150.165 et seq. and § 150.095.

(3) *Accessory uses.*

(a) Commercial or business buildings and structures for a use accessory to the principal use, but shall not exceed 30% of the gross floor area of the principal use.

(b) Off-street parking, as regulated by § 150.182;

(c) Off-street loading, as regulated by § 150.182; and

(d) Fencing, screening and landscaping as permitted and regulated by § 150.180(E).

(C) *Performance standards.*

(1) *Setback requirements.*

(a) *Front yard.* Except as otherwise hereinafter provided, all uses allowed in the B-3 districts (permitted or conditional uses) shall provide a front yard of 20 feet which shall be devoted exclusively to landscaping except for necessary access drives. When off-street parking is to occur in the front yard area, the front yard requirement shall be such that the provisions of § 150.182 are complied with.

(b) *Side yard.* Two side yards are required, each with a width of not less than ten feet.

(c) *Rear yard.* A rear yard with a depth of not less than 15 feet is required.

(d) *Transitional yard requirements.* In the B-3 district, the minimum transitional yard requirements shall not be less than those specified below:

1. Where a side lot coincides with a side or rear lot line in an adjacent residential district, a yard shall be provided along the side lot line. The yard shall be not less than the minimum side yard which would be required under this chapter for a residential use on the adjacent residential lot;

2. Where a rear lot line coincides with a side line in an adjacent residential district, a yard shall be provided along the rear lot line. The yard shall not be less than the minimum side yard which would be required under this chapter for a residential use on the adjacent residential lot;

3. Where a rear lot line coincides with a rear lot line in an adjacent residential district, a yard shall be provided along the rear lot line. The yard shall not be less than the minimum required for the rear yard for a residential use on the adjacent residential lot;

4. Where the extension of a front or side lot line coincides with a front lot line of an adjacent lot located in a residential district, a yard not less than the minimum front yard required by this chapter on the adjacent residential lot shall be provided along the front or side lot lines; and

5. In each case the lot line located in the B-3 district adjacent to the residential district shall erect a fence or vegetative screening, as determined by the governing body. The fence or screening shall set back five feet from the highway business related district and shall be located along the entire length of the transitional lot line.

(2) *Height requirements.* Building heights shall not exceed three stories or 45 feet.

(3) *Density requirements.* There shall be no more than one main structure per lot.

(4) *Parking requirements.* See § 150.182 of this chapter.

(5) *Property standards requirements.*

(a) *Lot width and depth.* A lot width of not less than 100 feet of street frontage is required. A lot depth of not less than 150 feet is required.

(b) *Lot area.* A lot area of not less than 20,000 square feet is required.
(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.028 LIMITED INDUSTRIAL DISTRICT (I-1).

(A) *Intent.* The Limited Industrial District is established to provide exemplary standards of development for certain industrial uses that prefer to be located in choice or strategic sites. The limited industrial district is intended for administrative, wholesaling, manufacturing and related uses which can maintain high standards of appearance, including open spaces and landscaping; limit external effects such as noise, odors, smoke and vibration; and not require a high level of public services, including sewer and water services. With proper control, these areas should become compatible with commercial or residential areas.

(B) *Use designations.*

(1) *Permitted uses:*

(a) Bottling plants and manufacturing or processing of soft drinks, beer or milk;

(b) Commercial printing and publishing establishments;

(c) Contractors' offices;

(d) Dry cleaning, dyeing and laundering establishments;

(e) Hay, grain, feed and farm supply sales and storage;

(f) Newspaper plants and offices;

(g) Public utility structures and government buildings; and

(h) Warehousing, wholesaling and distribution operations.

(2) *Conditional uses.*

(a) Freight terminals;

(b) Other manufacturing, production, servicing, processing, storage or commercial use determined by the Planning Commission to be the same general character as the permitted and conditional uses and conform with the purpose and performance standards set forth in this district;

(c) Outdoor furnaces or boilers of any size or type when used in conjunction with the heating of adjacent interior spaces or the heating of domestic hot water used within the spaces; includes all furnaces not completely enclosed on all sides by the exterior building envelope walls;

(d) Planned unit developments, as regulated by §§ 150.165 et seq. and 150.095;

(e) Salvage yards;

(f) Solar gardens; and

(g) One-family dwelling.

(3) *Accessory uses.*

(a) Commercial or business buildings and structures for a use accessory to the principal use, but shall not exceed 30% of the gross floor area of the principal use;

(b) Off-street parking, as regulated by § 150.182;

(c) Off-street loading, as regulated by § 150.182; and

(d) Fencing, screening and landscaping as permitted and regulated by § 150.180(E).

(C) *Performance standards.*

(1) *Setback requirements.*

(a) *Front yard.* There shall be a front yard having a depth of not less than 30 feet between building and the street right-of-way line to be devoted exclusively to landscaping except for necessary points of access.

(b) *Side yard.* Two side yards required, each with a width of not less than 15 feet.

(c) *Rear yard.* There shall be a rear yard of not less than 20 feet provided that no building shall be located within 30 feet of a rear lot line abutting a lot in any residential district.

(d) *Transitional yard requirements.* In each case the lot line located in the limited industrial district adjacent to the residential district shall erect a fence or vegetative screening, as determined by the governing body. The fence or screening shall be set back five feet from the limited industrial district lot line and shall be located along the entire length of the transitional lot line.

(e) *Lot width and depth.* Not applicable.

(2) *Height requirements.* There shall be no height limits, except those that may be imposed by other city, state or federal regulations.

(3) *Density.* Not applicable.

(4) *Parking requirements.* There are no minimum or maximum off-street parking requirements; however, off-street parking shall be provided that is adequate for all staff and patrons of each establishment.

(5) *Property standards.*

(a) Fencing may not exceed an overall average of six feet without a permit. With a conditional use permit, fencing shall not exceed an overall average of eight feet.

(b) *Intent.* It is the intent of this division to provide that industry and related activities shall be established and maintained with proper appearance from streets and adjoining properties and to provide that each permitted use shall be a good neighbor to adjoining properties by the control of the following:

(c) *Noise.*

1. Noise shall be measured on any property line of the tract on which the operation is located. Noise shall be muffled so not to become objectionable due to intermittence, beat, frequency, shrillness or intensity.

2. At the property line, the sound pressure level of noise radiated continuously from a facility shall not exceed the values given in the table herein.

3. Maximum permissible sound pressure levels of specified points of measurement for noise radiated continuously from a facility.

<i>Bank Cycles/Second (Frequency)</i>	<i>Maximum Permitted Sound Level (Decibels)</i>
20-75	72
75-100	67
150-300	[59] 69
300-600	52
600-1,200	46
1,200-2,400	40
2,400-4,800	34
Over 4,800	[32] 30

(d) *Odor.* No activity or operation shall cause at any time the discharge of toxic, noxious or odorous matter beyond the limits of the immediate site where it is located in concentrations as to be obnoxious or otherwise detrimental to, or endanger the public health, welfare, comfort or safety or cause injury to property or business.

(e) *Glare.* Glare, whether direct or reflected, such as from floodlights, spotlights or high temperature processes, and as differentiated from general illumination, shall not be visible beyond the site of origin at any property line.

(f) *Exterior lighting.* Any lights used for exterior illuminations shall be directed away from adjacent properties.

(g) *Smoke, dust, fumes or gases.* Every operation shall conform to local standards.

(h) *Hazard.* Every operation shall be carried on in accordance with local and Minnesota State Department of Health standards and requirements.

(i) *Water supply.* The design and construction of water supply facilities and water supply source shall be in accordance with local and Minnesota State Department of Health standards and requirements.

(j) *Waste.* All sewage and industrial wastes shall be treated and disposed in such manner as to comply with Minnesota State Department of Health standards and requirements, Minnesota Pollution Control Agency standards and requirements and local codes.

(k) *Investigations and tests.* In order to assure compliance with the performance standards set forth above, the Planning Commission may require the owner or operator of any permitted use to make investigations and tests as may be required to show adherence to the performance standards.

(l) *Additions.* All subsequent additions and outbuildings constructed after the erection of an original building or buildings shall be reviewed by the Planning Commission.

(m) *Regulations on screening.* Any unenclosed uses, including storage, manufacturing and assembly, occurring within 50 feet of a residential district, shall be screened and buffered from the district by a separation of open space which shall have a minimum depth of 30 feet and a required fence or vegetative screening of not less than seven feet in height above the level of the residential district property at the district boundary. Walls, fences or planting screens of lesser heights may be permitted by the Board of Adjustment and Appeals if there is a finding that the nature or extent of the use being screened is such that a lesser degree of screen will as adequately promote and protect the use and enjoyment of the properties within the adjacent residential district, or there is a finding that a screening of the type required by this chapter would interfere with the provision of adequate amounts of light and air to the same properties. Loading docks in the industrial district shall be screened so as not to be visible from

any public street right-of-way within a residential the residential district property at the district boundary. Walls, fences or planting screens of lesser heights may be permitted by the Board of Adjustment and Appeals if there is a finding that the nature or extent of the use being screened is such that a lesser degree of screen will as adequately promote and protect the use and enjoyment of the properties within the adjacent residential district, or there is a finding that a screening of the type required by this chapter would interfere with the provision of adequate amounts of light and air to the same properties. Loading docks in the industrial district shall be screened so as not to be visible from any public street right-of-way within a residential district. All required screening devices shall be designed so that they are architecturally harmonious with the principal structures on the site and they shall be properly maintained so as not to become unsightly, hazardous or less opaque than when originally constructed.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.029 GENERAL INDUSTRIAL DISTRICT (I-2).

(A) *Intent.* The general industrial district is established to provide exemplary standards of development for certain industrial uses that prefer to be located in choice or strategic sites. These general industrial uses are less compatible with commercial and residential areas and, therefore, are not appropriate in the I-1 district.

(B) *Use designations.*

(1) *Permitted uses:*

(a) Art equipment supplies, manufacturing;

(b) Bags, boxes and paper containers, manufacturing and storage;

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- (c) Bottling establishments;
- (d) Books, loose-leaf, binders, fabrication and assembly;
- (e) Books and bookbinding;
- (f) Cabinet and woodworking establishments;
- (g) Clothing and manufacturing;
- (h) Camera and photographic manufacturing;
- (i) Cold storage plants, commercial printing, publishing, engraving and reproduction firms;
- (j) Confectionery and related products, manufacturing and packaging;
- (k) Dental instruments and supplies;
- (l) Laundry, dry cleaning and dyeing establishments;
- (m) Electric lighting and wiring equipment, manufacturing;
- (n) Electric measuring and testing equipment, manufacturing;
- (o) Electronic tubes and other components, manufacturing;
- (p) Electrical products and appliances, manufacturing and assembly;
- (q) Footwear, manufacturing and fabrication;
- (r) Freight terminals;
- (s) Hand and edge tools, except machine tools, manufacturing and assembly;
- (t) Ice plants and ice cream plants;
- (u) Jewelry manufacturing;
- (v) Laboratory instruments and associated equipment, scientific and testing;
- (w) Luggage, handbags and similar items, manufacturing and assembly;
- (x) Mail-order house;
- (y) Meat processing, including slaughter;
- (z) Medical and surgical instruments and supplies, manufacturing and assembly;
- (aa) Newspaper plants and office;
- (bb) Office furniture and supplies, manufacturing and assembly;
- (cc) Patterns, design and manufacturing;
- (dd) Pottery shops;
- (ee) Precision instruments, manufacturing and assembly;
- (ff) Plastic extrusion and molding and fixture;
- (gg) Plumbing fixture and equipment, wholesale;
- (hh) Radio and television, assembly and parts fabrication;
- (ii) Sports equipment, manufacturing and assembly;

(jj) Scientific and research instruments and equipment, manufacturing and assembly;

(kk) Signs and advertising display materials;

(ll) Telephone and telegraph technical apparatus, manufacturing and assembly;

(mm) Trade schools;

(nn) Welding supply;

(oo) Wholesale business facilities; and

(pp) All uses permitted in the I-1 district.

(2) *Conditional uses.*

(a) Other manufacturing, production, processing, cleaning, storage, servicing, repair and testing of materials, goods or products determined by the Planning Commission to be similar to the permitted uses, and which conform with the purpose and performance standards set forth in this district;

(b) Mining and related activities associated with the extraction and processing of sand, gravel and other materials from the land;

(c) Outdoor furnaces or boilers of any size or type when used in conjunction with the heating of adjacent interior spaces or the heating of domestic hot water used within the spaces; includes all furnaces not completely enclosed on all sides by the exterior building envelope walls;

(d) Planned unit developments, as regulated by §§ 150.165 et seq. and § 150.095;

(e) Salvage yards; and

(f) Solar gardens.

(3) *Accessory uses.*

(a) Commercial or business buildings and structures for a use accessory to the principal use, but shall not exceed 30% of the gross floor area of the principal use;

(b) Off-street parking, as regulated by § 150.182;

(c) Off street loading, as regulated by- § 150.182; and

(d) Fencing, screening and landscaping as permitted and regulated by § 150.180(E).

(C) *Performance standards.*

(1) *Setback requirements.*

(a) *Front yard.* There shall be a front yard having a depth of not less than 30 feet between the building and the right-of-way line to be devoted to landscaping, except for necessary points of access.

(b) *Side yard.* Two side yards are required, each with a width of not less than 20 feet.

(c) *Rear yard.* A rear yard with a depth of not less than 25 feet is required.

(d) *Transitional yard requirements.* When any lot line coincides with a lot line of an adjacent residential district, the setback shall be at least 30 feet.

(e) *Lot area.* A lot area of not less than 20,000 square feet is required.

(f) *Lot width and depth.* A lot width of not less than 100 feet abutting a public right-of-way is required. A lot depth of not less than 100 feet is required.

(g) There shall be a required minimum 10% reservation of the total lot area for landscaping use. The landscaping shall conform in design and appearance with the overall development plan as approved by the Planning Commission.

(2) *Height requirements.* There shall be no height limits, except those that may be imposed by other city, state or federal regulations.

(3) *Density.* There shall be no more than one main structure per lot.

(4) *Parking requirements.* There are no minimum or maximum off-street parking requirements; however, off-street parking shall be provided that is adequate for all staff and patrons of each establishment.

(5) *Property standards requirements.*

(a) It is the intent of this section to provide that industry and related activities shall be established and maintained with proper appearance from streets and adjoining properties and to provide that each permitted use shall be a good neighbor to the adjoining properties by the control of the following:

1. *Noise.* Noise shall be measured on any property line of the tract on which the operation is located. Noise shall be muffled so not to become objectionable due to intermittence, beat, frequency, shrillness or intensity. At the property line, the sound pressure level of noise radiated continuously from a facility shall not exceed the values given in the table herein.

<i>Bank Cycles/Second (Frequency)</i>	<i>Maximum Permitted Sound Level (Decibels)</i>
20-75	72
75-100	67
150-300	69
300-600	52
600-1,200	46
1,200-2,400	40
2,400-4,800	34
Over 4,800	30

2. *Odor.* No activity or operation shall cause at any time the discharge of toxic, noxious or odorous matter beyond the limits of the immediate site where it is located in concentrations as to be obnoxious or otherwise detrimental to, or endanger the public health, welfare, comfort or safety or cause injury to property or business.

3. *Glare.* Glare, whether direct or reflected, such as from floodlights, spotlights or high temperature processes, and as differentiated from general illumination, shall not be visible beyond the site of origin at any property line.

4. *Exterior lighting.* Any lights used for exterior illuminations shall be directed away from adjacent properties.

5. *Smoke, dust, fumes or gases.* Every operation shall conform to local standards.

6. *Hazard.* Every operation shall be carried on in accordance with local fire and safety codes.

7. *Water supply.* The design and construction of water supply facilities and water supply source shall be in accordance with local and Minnesota State Department of Health and Minnesota Pollution Control Agency standards and requirements.

8. *Waste.* All sewage and industrial wastes shall be treated and disposed in a manner as to comply with Minnesota State Department of Health and Minnesota Pollution Control Agency standards and requirements, and local codes.

9. *Compliance.* In order to assure compliance with the performance standards set forth above, the Planning Commission may require the owner or operator of any permitted use to make the investigations and tests as may be required to show adherence to the performance standards.

10. All subsequent additions and outbuildings constructed after the erection of an original building or buildings shall be reviewed by the Planning Commission.

(b) *Regulations on screening.* All principal, and conditional uses, except business signs, which are situated within 50 feet of a residential district, shall be screened and buffered from the district by a separation of open space which shall have a minimum depth of 30 feet and a required fence or vegetative screening of not less than seven feet in height above the level of the residential district property at the district boundary. Walls, fences or planting screens of lesser heights may be permitted by the Board of Adjustment and Appeals if there is a finding that the nature or extent of the use being screened is such that a lesser degree of screen will as adequately promote and protect the use enjoyment of the properties within the adjacent residential district, or there is a finding that a screening of the type required by this chapter would interfere with the provision of adequate amounts of light and air to the same properties. Loading docks in the industrial district shall be screened so as not to be visible from any public street right-of-way within a residential

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

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

AIRPORT HAZARD AREAS

§ 150.050 GENERAL PROVISIONS.

(A) *Authority.* The City Council finds that it is necessary, in order to promote public health, safety and general welfare and to 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.

(B) *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. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.051 ZONES; USE REGULATIONS.

(A) *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.

(1) *Primary surface.*

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

(b) 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.

(2) *Approach surface.*

(a) 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.

(b) 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.

(3) *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.

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

(5) *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 seven to one from the sides of the primary surface and from the sides of the approach surfaces until they intersect the horizontal surface or conical surface.

(B) *Zones and map.*

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

(a) *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;

(b) *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

(c) *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.

(2) The several zones above established are shown on the airport zoning map incorporated herein by reference, 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.

(C) *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 § 150.051(A).

(D) *Land use restrictions.*

(1) *General restrictions.* Subject at all times to the height restrictions set forth in no use shall be made of any land in any of the zones defined in § 150.051(C) 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.

(2) *Zone A.* Subject at all times to the height restrictions set forth in § 150.051(C) and to the general restrictions contained in division (A) above, land included in Zone A shall be used for the following purposes only:

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

1. Each single commercial or industrial site shall contain no dwellings; and
2. 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.

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

1. Churches;
2. Hospitals;
3. Schools;
4. Theaters;
5. Stadia, and other places of public or semi-public assembly;
6. Hotels and motels;
7. Trailer courts;
8. Campgrounds; and
9. Multi-unit dwellings.

(c) Other compatible uses for Zone A include:

1. Auto parking; and
2. Light recreation (no stadia).

(3) *Zone B.* Subject at all times to the height restrictions set forth in § 150.051(C) and to the general restrictions contained in division (A) above, land included in Zone B shall be used for the following purposes only:

(a) 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

(b) Any commercial or industrial use which meets with the minimum standard, set forth in § 150.166.

(4) *Zone C.* Subject at all times to the height restrictions set forth in § 150.051(C) 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 purposes, subject to the limitation that dwellings are restricted to single-family dwellings constructed on not less than one-acre lots.

(E) *Non-conforming uses.* Except that as provided in § 150.052(A)(2), the provisions of divisions (C) and (D) shall not be construed to require the removal, lowering or other change or alteration of any non-conforming use, or otherwise interfere with the continuance of any non-conforming 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. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.052 ADMINISTRATION AND ENFORCEMENT.

(A) *Variances; permits required.*

(1) (a) 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.

(b) 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.

(2) (a) Except as specifically provided in divisions (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.

1. 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.

2. 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.

3. 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.

4. 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 § 150.051(A).

(b) Before any existing use or structure may be replaced, substantially altered or repaired or rebuilt within any zone established in § 150.051(A), 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 non-conforming 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.

(c) Whenever the Airport Board determines a non-conforming 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.

(3) 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.

(B) *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 § 150.052(A)(2). The City Clerk/Administrator shall not have or exercise any of the powers or duties herein delegated to the Airport Board.

(C) *Board of Zoning Adjustments.*

(1) The City Planning Commission shall be the Airport Board and shall have and exercise the following powers:

(a) To hear and decide appeals from any order, requirements, decision or determination made by the Airport Board in the enforcement of this chapter; and

(b) To hear and decide requests for variances.

(2) 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.

(3) 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.

(4) A simple majority vote of the members of the Airport Board shall be sufficient to decide any matter which should come before the Board.

(D) *Appeals.*

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(6) On appeal from a decision of the City Council, the Board shall make findings of fact and conclusions of law as provided in § 150.052(C)(4).

(E) *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. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

HERITAGE PRESERVATION COMMISSION

§ 150.065 DECLARATION OF PUBLIC POLICY AND PURPOSE.

(A) As a matter of public policy, the City Council hereby declares that the preservation, protection, perpetuation and use of areas, places, buildings, structures and other objects having a special historical, community or aesthetic interest or value is a public necessity, and is required in the interest of the health, prosperity, safety and welfare of the community.

(B) The purposes of this subchapter are to:

(1) Safeguard the heritage of the city by preserving sites and structures that reflect elements of the city's cultural, social, economic, political, visual or architectural history;

(2) Protect and enhance the city's appeal and attraction to residents, visitors and tourists, and serve as a support and stimulus to business and industry;

(3) Enhance the visual and aesthetic character, diversity and interest of the city;

(4) Foster civic pride in the beauty and notable accomplishments of the past; and

(5) Promote the preservation and continued use of historic sites and structures for the education and general welfare of the people of the City of Ortonville.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.066 HERITAGE PRESERVATION COMMISSION ESTABLISHED.

(A) *Members.*

(1) There is hereby created and established a city Heritage Preservation Commission (hereinafter, the "Commission"), which shall consist of seven voting members to be appointed by the Mayor, by and with the advice and consent of the City Council.

(2) The Chair of the Planning Commission, or his or her designee, and the City Planner shall be ex-officio non-voting members of the Commission.

(B) *Term.*

(1) The Mayor and Council shall initially designate:

(a) One appointee to serve a term of one year;

(b) Two appointees, each to serve a term of two years; and

(c) Two appointees, each to serve a term of three years.

(2) All subsequent appointments shall be for terms of three years.

(3) Members may be reappointed for consecutive terms.

(4) In the event of a vacancy, the vacancy for the unexpired term shall be filled in the same manner as the appointment is made.

(5) Members shall serve without compensation, and shall continue to hold office until their successors have been appointed.

(C) *Organization.*

(1) When formed, the Commission shall elect from its members such officers as it may deem necessary.

(2) The Commission shall have the power to designate and appoint from its members various committees.

(3) For the purpose of carrying out the intent of this subchapter, the Commission shall make such bylaws as it may deem advisable and necessary for the conduct of its affairs, and which are not inconsistent with city and state laws.

(4) The Commission shall make an annual report to the City Council, containing a statement of its activities and plans.

(D) *Program assistance.* To accomplish the intent and purpose of this subchapter, the city shall provide the Commission with staff support to perform the duties prescribed herein.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.067 DESIGNATION OF HERITAGE PRESERVATION SITES.

(A) *Reports.* Upon request of the Commission, the City Council may direct the city staff to prepare studies that catalog buildings, lands, areas, districts or other objects to be considered for designation as heritage preservation sites.

(B) *Criteria.*

(1) The Commission shall recommend to the City Council areas, buildings, districts or objects to be designated heritage preservation sites.

(2) In considering the designation of heritage preservation sites, the Commission shall apply the following criteria:

(a) Its character, interest or value as part of the development heritage or cultural characteristics of the city, the state, or the United States;

(b) Its location as a site of a significant historic event;

(c) Its identification with a person or persons who significantly contributed to the city's culture and development;

(d) Its embodiment of distinguishing characteristics of an architectural style, period, form or treatment;

(e) Its identification as work of an architect or master builder whose individual work has influenced the city's development;

(f) Its embodiment of elements of architectural design, detail, materials or craftsmanship that represent a significant architectural innovation; and

(g) Its unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood, community or the city.

(C) *Planning Commission review.*

(1) The Commission shall advise the Planning Commission of the proposed designation of a heritage preservation site, including its boundaries and a program for its preservation.

(2) The Commission shall secure from the Planning Commission's recommendation with respect to the relationship of the proposed heritage preservation designation to the comprehensive plan, and its opinion as to the effect of the proposed designation upon the surrounding neighborhood and any other planning consideration that may be relevant to the proposed designation.

(a) The Planning Commission shall also recommend the approval, rejection or modification of the proposed designation.

(b) The recommendation shall become part of the official record concerning the proposed designation, and shall be submitted by the Commission to the City Council, along with its recommendation concerning the proposed designation.

(c) In consideration of the recommendations of the Planning Commission, the Commission may make such modifications, changes and alterations concerning the proposed designation as it deems necessary.

(D) *Communications with the state historical society.* In accordance with Minnesota statutes, a copy of the Commission's proposed designation of a heritage preservation site, including its boundaries and a program for its preservation, shall be sent to the state historical society.

(E) *Hearings.*

(1) Prior to recommending to the City Council any building, district or object for designation as a heritage preservation site, the Commission shall hold a public hearing and seek the recommendations of all concerned citizens.

(2) Prior to such hearing, the Commission shall:

(a) Cause to be published, in a newspaper of general circulation at least 30 days prior to the date of the hearing, a notice of the hearing; and

(b) Have notice sent to:

1. All owners of the property proposed to be designated a historic preservation site; and

2. All property owners within 300 feet of the boundary of the area to be designated a historic preservation site.

(F) *Findings and recommendations.*

(1) The Commission shall determine if the proposed heritage preservation site is eligible for heritage preservation, as determined by the criteria specified in division (B).

(2) If the Commission recommends to the City Council that the site be designated for heritage preservation, the Commission shall transmit its recommendation to the City Council, along with its proposed program for the preservation of the site.

(G) *Council designation hearings.*

(1) Upon the request of the Commission, the City Council may by ordinance designate a heritage preservation site.

(2) Prior to such designation, the City Council or one of its committees shall hold public hearings.

(a) Notice shall be published in a newspaper of general circulation at least 30 days prior to the date of the hearing.

(b) Notice of the hearing shall be sent to:

1. All owners of property that is proposed to be designated a heritage preservation site; and

2. All property owners within 300 feet of the boundary of the area to be designated a heritage preservation site.

(H) *Eminent domain.* After review and comment by the City Planning Commission, the Commission may recommend to the City Council that certain property eligible for designation as a heritage preservation site be acquired by gift, negotiation or eminent domain, as provided for in M.S. Ch. 117. (Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.068 ADDITIONAL POWERS AND DUTIES OF THE COMMISSION.

In addition to those specified elsewhere in this subchapter, the Commission shall have the following powers and duties:

(A) The Commission shall conduct a continuing survey of all areas, places, buildings, structures or objects in the city, which the Commission, on the basis of information available or presented to it, has reason to believe are significant to the city's culture, social, economic, political or architectural history.

(B) The Commission shall continually survey all areas to determine needed and desirable improvements of older buildings throughout the city, acting in a resource and advisory capacity to owners of historically significant sites regarding their preservation, restoration and rehabilitation.

(C) (1) The Commission shall work for the continuing education of citizens with respect to the civic and architectural heritage of their city.

(2) It shall keep current a public register of designated and proposed heritage preservation sites and areas, along with the plans and programs that pertain to them.

(D) (1) The Commission may recommend to the city the acceptance of gifts and contributions to be made to the city.

(2) The Commission may assist the city staff in the preparation of applications for grant funds to be made through the city for the purpose of heritage preservation.

(3) Any contributions or gifts will be expended in the manner provided through the city's fiscal policy.

(E) The Commission may on a continuing basis collect and review certain city planning and development records, documents, studies, models, maps, plans and drawings to be entered into the county museum historical archives as a permanent record of city history and development.

(F) The Commission shall make no application to the National Register or to the State of Minnesota for the designation of a historic site or district without the consent of the City Council. (Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.069 REVIEW OF PERMITS.

(A) *Site alteration permit.*

(1) The Commission shall review and recommend approval or disapproval of the issuance of a site alteration permit to do any of the following in a heritage preservation site in the city:

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(a) Remodel, alter or repair in any manner, including a paint color that will change the exterior appearance of a historic building or in a site;

(b) New construction;

(c) Signs;

(d) Moving of buildings;

(e) Demolition, in whole or in part. This does not apply to structures required to be demolished in accordance with M.S. Ch. 463.

(2) The application shall be accompanied by detailed plans, including a site plan, building elevations and design details and materials as necessary to evaluate the request.

(3) Besides the site alteration permit, the regular city permits shall be required.

(B) *City activity.* The Commission shall review and make recommendations to the City Council concerning city activity that could change the nature or appearance of a heritage preservation site.

(C) *Preservation program.*

(1) All decisions of the Commission with respect to this section shall be in accordance with the approved program for the rehabilitation of each heritage preservation site.

(2) The following guidelines shall be used to evaluate applications for site alteration permits:

(a) Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purposes.

(b) 1. The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed.

2. Whenever possible, the removal or alteration of any historic material or distinctive architectural features should be avoided.

(c) 1. All buildings, structures and sites shall be recognized as products of their own time.

2. Alterations that have no historical basis and seek to create an earlier appearance shall be discouraged.

(d) 1. Changes that may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment.

2. The changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(e) Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure or site shall be treated with sensitivity.

(f) Whenever possible, deteriorated architectural features shall be repaired rather than replaced.

1. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities.

2. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(g) 1. The surface cleaning of structures shall be undertaken with the gentlest means possible.

2. Sandblasting and other cleaning methods that will damage historic building materials shall not be undertaken.

(h) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.

(i) Whenever possible, new additions or alterations to structures shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.
(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.070 FINDINGS.

Before approving any permit application required under § 150.068, the Commission shall make findings based on the program for preservation and architectural control for the heritage preservation site in regard to the following:

(A) In the case of a proposed alteration or addition to an existing building, that such an alteration or addition will not materially impair the architectural or historic value of the building, and shall make written findings considering the existing structures and existing exterior appearance, building height, building width, depth or other dimensions, roof style, type of building materials, ornamentation, and paving setback.

(B) In the case of the proposed demolition of a building, prior to approval of the demolition, the Commission shall make written findings on the following:

(1) The architectural and historic merit of the building;

(2) The effect of the proposed demolition on surrounding buildings;

(3) In the case of a partial demolition, its effect of any new proposed construction on the remainder of the building and surrounding buildings;

(4) The economic value or usefulness of:

(a) The building as it now exists; or

(b) If altered or modified, any proposed structures designated to replace the present building or buildings.

(C) In the case of a proposed new building, that such building will not in itself, or by reason of its location on the site, materially impair the architectural or historic value of buildings either on adjacent sites or in the immediate vicinity of the historic preservation site.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.071 LIMITATIONS.

(A) If within 45 days of the filing of building permit application the Commission has neither approved nor denied the building permit application, the plans and permit application shall be deemed to have been approved by the Commission; and if all other requirements of the city have been met, the Division of Housing and Building Code Enforcement shall authorize a permit for the proposed work.

(B) No permit shall issue or work commence in the event the Commission disapproves the application in accordance with this subchapter.
(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.072 EMERGENCY REPAIR.

(A) In emergency situations where immediate repair is needed to protect the safety of the structure and its inhabitants, the Division of Housing and Building Code Enforcement may approve the repair without prior Commission action.

(B) In the case of a permit issued pursuant to this section, the Division of Housing and Building Code Enforcement shall immediately notify the Commission of its action, and specify the facts or conditions constituting the emergency situation.
(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.073 APPEAL TO THE CITY COUNCIL.

(A) The permit applicant or any party aggrieved by the decision of the Commission shall, within ten days of the date of the Commission's order and decision, have a right to appeal such order and decision to the City Council.

(B) (1) The appeal shall be deemed perfected, upon receipt by the City Clerk of two copies of a notice of appeal and a statement setting forth the grounds for the appeal.

(2) The City Clerk shall transmit one copy of the notice of appeal and statement to the City Council, and one copy to the Commission.

(C) (1) In any written order denying a permit application, the Commission shall advise the applicant of his or her right to appeal to the City Council.

(2) A paragraph to this effect shall be included in all such orders.
(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.074 REPOSITORY FOR DOCUMENTS.

The Office of the City Clerk is designated as the repository for at least one copy of all studies, reports, recommendations and programs required under this subchapter.
(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.075 RECORDING OF HERITAGE PRESERVATION SITES.

The Office of the City Clerk shall record with the County Recorder the legal description of all buildings, lands or areas designated as heritage preservation sites by the City Council, and shall transmit a copy of such legal descriptions to the Division of Housing and Building Code Enforcement.
(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.076 PENALTY.

(A) *Violation a misdemeanor.*

(1) An owner or occupant of any area, place, building, structure or other object within a duly designated heritage preservation site who violates the provisions of this subchapter shall be guilty of a misdemeanor.

(2) Any architect, builder, contractor, agent, person or corporation who assists in the commission of a violation of this subchapter shall be guilty of a misdemeanor.

(B) *Each day a separate violation.* For each such day an owner or occupant of any area, place, building, structure or other object within a duly designated heritage preservation site allows any work to be performed on any area, place, building, structure or other object in violation of this subchapter, it shall constitute a separate violation, and it shall be punishable as such.

(C) *Violation declared a nuisance.*

(1) A heritage preservation site on which there exists any remodeling, repairing, construction or a building moved in violation of this subchapter, is hereby declared a nuisance.

(2) The imposition of the penalties herein prescribed shall not prevent the city from instituting an appropriate action, or proceeding to prevent an unlawful remodeling, repair, construction, building, building moving or demolition, or to restrain, correct or abate a violation.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

SHORELAND MANAGEMENT

§ 150.090 GENERAL PROVISIONS.

(A) *Statutory authorization.* This chapter is adopted pursuant to the authorization and policies contained in M.S. Ch. 103F, and Minnesota zoning enabling legislation in M.S. Ch. 462, as they may be amended from time to time.

(B) *Policy.*

(1) 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.

(2) 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.

(C) *Title.* This subchapter shall be known and cited as the City of Ortonville Shoreland Management Subchapter. When referred to herein, it shall be known as this subchapter.

(D) *Jurisdiction.*

(1) Jurisdiction of this chapter shall apply to all areas of shoreland as defined in § 150.008, 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.

(2) The provisions of this chapter shall apply to the shorelands of the public water bodies as classified in § 150.091. 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 subchapter.

(E) *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 subchapter and other applicable regulations.

(F) *Interpretation.* In their interpretation and application, the provisions of this subchapter 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.

(G) *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 subchapter imposes greater restrictions, the provisions of this subchapter shall prevail. All other ordinances inconsistent with this subchapter are hereby repealed to the extent of the inconsistency only.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.091 CLASSIFICATION SYSTEM; LAND USE DISTRICTS.

(A) *Classification system.*

(1) (a) 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 Protected Waters Inventory Map for the city. The map is hereby made a part of this subchapter and shall be known as the County Protected Waters Map. The map, consisting of sheets and all notations, references and data shown thereon are hereby incorporated by reference into this subchapter and shall be as much a part of it as if all were fully described herein.

(b) 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.

(2) The shoreland area for the waterbodies listed below shall be as defined in § 150.008 and as shown on the official zoning map.

(a) *Lakes, protected waters.* General development lakes:

1. Rec. No.: 1160;
2. Rec. No.: 4;
3. Co. No.: 6;
4. Municipality: Ortonville;
5. Muni. Code: 6999;
6. Bdry: B;
7. Lake name: Big Stone;
8. Lake No.: 6152; and
9. Lake Class: GD.

(b) *Rivers and streams.* Agricultural rivers:

1. Class: A;
2. River: Minnesota;
3. From: outlet of Big Stone L., Sec. 9, T121N, R46W;
4. To: south section line, Sec. 16, T121N, R46W, city limits; and

5. All other non-classified water courses as shown on county protected waters inventory map and list shall be Class TR.

(B) *Criteria for designation.* The land use districts in § 150.091(C) 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:

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

- (a) Preservation of natural areas;
- (b) Present ownership and development of shoreland areas;
- (c) Shoreland soil types and their engineering capabilities;
- (d) Topographic characteristics;
- (e) Vegetative cover;
- (f) In-water physical characteristics, values and constraints;
- (g) Recreational use of the surface water;
- (h) Road and service center accessibility;
- (i) Socioeconomic development needs and plans as they involve water and related land resources;
- (j) The land requirements of industry which, by its nature, requires location in shoreland areas; and

(k) The necessity to preserve and restore certain areas having significant historical or ecological value.

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

- (a) Existing recreational use of the surface waters and likely increases in use associated with planned unit developments;
- (b) Physical and aesthetic impacts of increased density;
- (c) Suitability of lands for the planned unit development approach;
- (d) Level of current development in the area; and
- (e) Amounts and types of ownership of undeveloped lands.

(C) *Lakes, rivers and streams.*

(1) 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.

(2) 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.

(a) *Land use districts for lakes.*

- 1. General development lakes, GDL;
- 2. Permitted, P;
- 3. Conditional use permit required, C; and

4. Non-permitted, N.

1. Special Protection District Uses	GDL
a. Forest management	p
b. Sensitive resource management	p
c. Agricultural: cropland and pasture	p
d. Agricultural feedlots	c
e. Parks and historic sites	c
f. Extractive use	c
g. Single residential	c
h. Mining of metallic minerals	p
2. Residential district uses	GDL
a. Single residential	p
b. Semi-public	c
c. Parks and historic sites	c
d. Extractive use	c
e. Duplex, triplex, quad residential	p
f. Forest management	p
g. Mining of metallic minerals	p
3. High Density Residential District	GDL
a. Residential PUDs	c
b. Single residential	p
c. Surface water-oriented commercial	c
d. Semi-public	c
e. Parks and historic sites	c
f. Forest management	p

4. Water-Oriented Commercial District Uses	GDL
a. Surface water-oriented commercial	p
b. Commercial PUDs	c
c. Public, semi-public	c
d. Parks and historic sites	c
e. Forest management	p
5. General Use District Uses	GDL
a. Commercial	p
b. Commercial PUDs	c
c. Industrial	c
d. Public, semi-public	p
e. Extractive use	c
f. Parks and historic sites	c
g. Forest management	p
h. Mining of metallic minerals	p

(b) *Land use districts for rivers and streams.*

1. Agricultural, A;
2. Permitted, P;
3. Conditional use permit required, C; and
4. Non-permitted, N.

1. Special Protection District Uses	A
a. Forest management	p
b. Sensitive resource management	p
c. Agricultural: cropland and pasture	c
d. Agricultural feedlots	c
e. Parks and historic sites	c
f. Extractive use	c
g. Single residential	c
h. Mining of metallic minerals	c
2. Residential District Uses	A
a. Single residential	p
b. Semi-public	c
c. Parks and historic sites	c
d. Extractive use	c
e. Duplex, triplex, quad residential	c
f. Forest management	p
g. Mining of metallic minerals	p
3. High Density Residential District	A
a. Residential PUDs	c
b. Single residential	p
c. Surface water-oriented commercial	c
d. Semi-public	c
e. Parks and historic sites	c
f. Duplex, triplex, quad residential	p
g. Forest management	p

4. Water-Oriented Commercial District Uses	A
a. Surface water-oriented commercial	c
b. Commercial PUDs	c
c. Public, semi-public	p
d. Parks and historic sites	c
e. Forest management	p
5. General Use District Uses	A
a. Commercial	c
b. Commercial PUDs	c
c. Industrial	N
d. Public, semi-public	c
e. Extractive use	c
f. Parks and historic sites	c
g. Forest management	p
h. Mining of metallic minerals	p

(D) *Use and upgrading of inconsistent districts.*

(1) 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 division (C). Inconsistent land use district designations may continue until revisions are proposed to change either 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.

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

(a) *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 divisions (B) and (C).

(b) *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 divisions (B) and (C).

(c) If the same river classification is contiguous for more than a five-mile segment, only the shoreland for a distance of 211 miles upstream and downstream, or to the class boundary if closer, need be evaluated and revised.

(3) When an interpretation question arises about whether a specific land use fits within a given use category, the interpretation shall be made by the Board of Adjustment. When a question arises as to whether or not a land use district's boundaries are properly delineated on the official zoning map, this decision shall be made by the Planning Commission.

(4) (a) 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 (D)(2) and (D)(3).

(b) 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 division (C).

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.092 GENERAL REGULATIONS.

(A) *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 subchapter for the lake and river/stream classifications are the following.

(1) *Sewered lakes*.

<i>Riparian Lots</i>		
<i>Residential lot</i>	<i>Area (square feet)</i>	<i>Width (feet)</i>
Single	15,000	75
Duplex	26,000	135
Triplex	38,000	190
Quad	49,000	255
<i>Non-Riparian Lots</i>		
<i>Residential lot</i>	<i>Area (square feet)</i>	<i>Width (feet)</i>
Single	10,000	75
Duplex	17,000	135
Triplex	25,000	190
Quad	32,500	245

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

(a) There are no minimum lot size requirements for rivers and streams.

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

<i>Residential Lot Type</i>	<i>Agriculture (feet)</i>	<i>Tributary (feet)</i>	
		<i>No Sewer</i>	<i>Sewer</i>
Single	150	100	75
Duplex	225	150	115
Triplex	300	200	150
Quad	375	250	190

(3) *Additional special provisions.*

(a) 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, as regulated by §§ 150.165 et seq. and § 150.095.

(b) 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.

(c) 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:

1. 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;

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

3. 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.

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

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

2. If docking, mooring or over-water storage of more than six watercraft is 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:

<i>Controlled Access Lot Frontage Requirements</i>	
<i>Ratio of lake size to shore length (acres/mile)</i>	<i>Increase in frontage (percent)</i>
Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	5

3. They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot; and

4. Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities include swimming, sunbathing or picnicking. The covenants must limit the total number of 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, low water conditions.

(B) *Placement, design and height standards.*

(1) *Placement of structures on lots.*

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

(b) 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.

(c) 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.

(d) Structures shall be located as follows:

1. 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.

<i>Classes</i>	<i>Structures</i>		<i>Sewage</i>
	<i>No Sewer</i>	<i>Sewer</i>	
Lakes - general	[0] 75	50	50
Rivers - agriculture, tributary	100	50	75

2. *Additional structure setbacks.*

The following additional structure setbacks apply, regardless of classification of the waterbody:

<i>Setback From</i>	<i>Setback (feet)</i>
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	50
Right-of-way line of township road, public street, alleys or streets not	20

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

4. *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.

(2) *Design criteria for structures.*

(a) *High-water elevations.* Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

1. For 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;

2. 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 Minn. Rules parts 6120.5000 to 6120.6200 governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and

3. 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.

(b) *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:

1. 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;

2. The setback of the structure or facility from the ordinary high-water level must be at least ten feet;

3. 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;

4. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;

5. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and

6. 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.

(c) *Stairways, lifts and landings.*

Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

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

2. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties and planned unit developments;

3. Canopies or roofs are not allowed on stairways, lifts or landings;

4. 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;

5. Stairways, lifts and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and

6. 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 divisions (B)(2)(c)4. and (B)(2)(c)5.

above are compiled with in addition to requirements of Minn. Rules Chapter 1340, as it may be amended from time to time.

(3) *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.

(4) *Steep slopes.*

(a) 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.

(b) 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.

(5) *Height of structures.* All structures in residential districts, except churches and non-residential agricultural structures, must not exceed 25 feet in height.

(C) *Shoreland alterations.*

(1) 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.

(2) *Vegetation alterations.*

(a) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by division (D) are exempt from the vegetation alteration standards that follow.

(b) Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in division (G) and (H) respectfully, is allowed subject to the following standards:

1. 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

2. 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:

a. The screening of structures, vehicles or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

b. Along rivers, existing shading of water surfaces is preserved; and

c. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased or pose safety hazards.

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

(a) 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.

(b) Public roads and parking areas are regulated by division (D).

(c) Notwithstanding divisions (C)(3)(a) and (C)(3)(b) above, a grading and filling permit will be required for:

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

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

(d) The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

1. Grading or filling in any Type 2, 3, 4, 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.

a. Sediment and pollutant trapping and retention;

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

c. Fish and wildlife habitat;

d. Recreational use;

e. Shoreline or bank stabilization; and

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

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

3. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;

4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;

5. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;

6. Fill or excavated material must not be placed in a manner that creates an unstable slope;

7. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30% or greater;

8. Fill or excavated material must not be placed in bluff impact zones;

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

10. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

11. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket is permitted if the finished slope does not exceed 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.

(e) 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.

(D) Roads, driveways and parking standards.

(1) 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.

(2) 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.

(3) 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 division (D)(2) must be met.

(E) *Stormwater management.* The following general and specific standards shall apply:

(1) *General standards.*

(a) 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.

(b) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

(c) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle 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.

(2) *Specific standards.*

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

(b) 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.

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

(F) *Commercial, industrial and public uses.*

(1) Surface water-oriented commercial uses and industrial, public or semi-public uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

(a) 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;

(b) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and

(c) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

1. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff;

2. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as 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

3. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

(2) 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.

(G) *Agriculture uses.*

(1) 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) for parcels with permitted agricultural land

uses is equal to a line parallel to and 50 feet from the ordinary high-water level 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.

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

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

(b) 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

(c) 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.

(H) *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 "Best Management Practices in Minnesota."

(I) *Extractive uses; 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.

(J) *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.

(K) *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.

(L) *Water supply and sewage treatment.*

(1) *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.

(2) *Sewage treatment.* Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

(a) Publicly owned sewer systems must be used where available;

(b) 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, Ch. 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;

(c) On-site sewage treatment systems must be set back from the ordinary high-water level in accordance with the setbacks contained in division (B).

(d) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in divisions (L)(2)(a) through (L)(2)(c) 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

(e) Evaluation criteria.

1. Depth to the highest known or calculated ground water table or bedrock;

2. Soil conditions, properties, and permeability;

3. Slope;

4. The existence of lowlands, local surface depressions and rock outcrops; and

5. Non-conforming sewage treatment systems shall be regulated and upgraded in accordance with § 150.093(D).

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.093 NON-CONFORMING USES.

(A) *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.

(B) *Construction on non-conforming lots of record.*

(1) 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 § 150.092 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.

(2) A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

(3) If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of § 150.092, 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 § 150.092 as much as possible.

(C) *Additions and expansions.*

(1) (a) All additions or expansions to the outside dimensions of an existing non-conforming structure must meet the setback, height and other requirements of § 150.092.

(b) Any deviation from these requirements must be authorized by a variance pursuant to § 150.096(B)(3).

(2) Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high-water level if all of the following criteria and standards are met:

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

(b) A thorough evaluation of the property and structure reveals no reasonable for a deck meeting or exceeding the existing ordinary high-water level setback of the structure;

(c) The deck encroachment toward the ordinary high-water level does not exceed 15% of the existing setback of the structure from the ordinary high-water level or does not encroach closer than 30 feet, whichever is more restrictive; and

(d) The deck is constructed primarily of wood, and is not roofed or screened.

(D) *Sewage treatment systems.*

(1) (a) A sewage treatment system not meeting the requirements of § 150.092(L)(2) 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.

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

(2) (a) The governing body of the city has, by formal resolution, notified the Commissioner of its program to identify non-conforming sewage treatment systems.

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

(c) Sewage systems installed according to all applicable local shoreland management standards adopted under M.S. § 6120, 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 Ch. 7080, as it may be

amended from time to time, for design of on-site sewage treatment systems, shall be considered non-conforming.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.094 SUBDIVISION AND PLATTING PROVISIONS.

(A) *Land suitability.* Each lot created through subdivision, including Planned Unit Developments, as regulated by §§ 150.165 et seq. and § 150.095 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.

(B) *Consistency with other controls.*

(1) *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 § 150.092(B) and § 150.092(L)(2) can be provided for every lot.

(2) Each lot shall meet the minimum lot size and dimensional requirements of § 150.092(A) including at least a minimum contiguous lawn area that is free of limiting factors sufficient for the

construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

(C) *Information requirements.*

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

(2) The information shall include at least the following:

(a) Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting characteristics;

(b) The surface water features required in M.S. § 505.02 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;

(c) 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;

(d) 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;

(e) Location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and

(f) A line or contour representing the ordinary high-water level, the toe and the top of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

(D) *Dedications*. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

(E) *Platting*. All subdivisions that create five or more lots or parcels that are 211 acres or less in size shall be processed as a plat in accordance with M.S. Ch. 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.

(F) *Controlled access on recreational lots*. Lots intended as controlled accesses to public waters or for recreational use areas for use by non-riparian lots within a subdivision must meet or exceed the sizing criteria in § 150.092(A).

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.095 PLANNED UNIT DEVELOPMENTS.

(A) *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 § 150.092(B) through § 150.092(D) and the official zoning map.

(B) *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 subchapter 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 division (E). Approval cannot occur until the environmental review process (EAW/EIS) is complete.

(C) *Application procedure*. The applicant for a PUD must submit the following documents prior to final action being taken on the application request:

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

(2) A property owners' association agreement (for residential PUDs) with mandatory membership, and all in accordance with the requirements of § 150.095(F):

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

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

(b) Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in division (F);

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

(5) 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.

(D) *Site evaluation.*

(1) 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 § 150.095(E).

(2) 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>Classes</i>	<i>Unsewered (feet)</i>	<i>Sewered (feet)</i>
General development lakes - first tier	200	200
General development lakes - second	267	200
All river classes	300	300

(3) (a) 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.

(b) This suitable area and the proposed project are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

(E) *Density evaluation.* The procedures for determining the density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any other tier closer.

(1) *Residential PUD base density evaluation.*

(a) 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.

(b) 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 §§ 150.165 et seq. and § 150.095.

(2) *Commercial PUD base density evaluation.*

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

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

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

(d) 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

(e) 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.

(f) Divide the total floor area by tier computed in divisions (E)(2)(b) above by the average inside living area size determined in division (E)(2)(a) above. This yields a base number of dwelling units and sites for each tier.

(g) Proposed locations and numbers of units or sites for the commercial planned unit development is then compared with the tier, density and suitability analyses herein and the design criteria in §§ 150.165 et seq. and § 150.095.

(3) *Density increase multipliers.*

(a) Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in § 150.092 are met or exceeded and the design criteria in § 150.095(F) are satisfied.

(b) The allowable density increases in division (E)(3)(c) 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.

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

<i>Tiers</i>	<i>Maximum Density Increase within Each Tier (percent)</i>
First	50
Second	100
Third	200
Fourth	200
Fifth	200

(F) *Maintenance and design criteria.*

(1) (a) *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.

(b) *Open space preservation.*

1. 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.

2. The instruments must include all of the following protections:

a. Commercial uses prohibited (for residential PUDs);

b. Vegetation and topographic alterations other than routine maintenance prohibited;

c. Construction of additional buildings or storage of vehicles and other materials prohibited; and

d. Uncontrolled beaching of watercraft prohibited.

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

1. Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;

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

3. Assessments must be adjustable to accommodate changing conditions; and

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

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

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

(b) Dwelling units or sites, road rights-of-way or land covered by road surfaces, parking areas or structures, except water-oriented accessory structures or facilities, are developed and shall not be included in the computation of minimum open space;

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

(d) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites and by the general public;

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

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

(g) The appearance of open space areas, including topography, vegetation and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance or other equally effective and permanent means;

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

(i) For residential PUDs, at least 50% of the shore impact zone area of existing developments or at least 70% of the shore impact zone

area of new developments must be preserved in its natural or existing state. For commercial PUDs, at least 50% of the shore impact zone must be preserved in its natural state.

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

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

1. 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

2. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.

(b) 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 § 150.092(C).

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

(a) Planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or

rules of the Minnesota State Department of Health and § 150.092(B) and § 150.092(L), 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;

(b) 1. 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;

2. Setbacks from the ordinary high-water level must be increased in accordance with § 150.092(C) for developments with density increases;

(c) 1. 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);

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

(d) 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;

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

(f) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in § 150.092(B) and are centralized.

(G) *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:

(1) 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;

(2) 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;

(3) 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:

(a) Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

(b) Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities viewed from the water; and

(c) 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) Existing dwelling unit or dwelling site densities that exceed standards in § 150.095(E) may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future; and

(e) 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. 17-05, passed 9-18-2017; Am. Ord. -, passed --)

§ 150.096 ADMINISTRATION AND ENFORCEMENT.

(A) *Enforcement.* The Zoning Administrator is responsible for the administration and enforcement of this subchapter. Any violation of the provisions of this subchapter 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 subchapter can occur regardless of whether or not a permit is required for a regulated activity pursuant to § 150.096(G).

(B) *Permits; applications and fees.*

(1) (a) 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 § 150.092(C)(2)(a).

(b) Application for a permit shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information so that the Zoning Administrator can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

(2) A permit authorizing an addition to an existing structure shall stipulate that an identified non-conforming sewage treatment system, as defined by § 150.093(D)(1), shall be reconstructed or replaced in accordance with the provisions of this subchapter. Division 150.093(D)(1) states that "a sewage treatment system not meeting the requirements of § 150.092(L)(2) 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 non-conforming if the only deficiency is the sewage treatment systems improper setback from the ordinary high-water level.

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

(b) 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.

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

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

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

(b) 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.

(c) 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.

(C) *Certificate of zoning compliance.* The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in § 150.096(B). This certificate will specify that the use of land conforms to the requirements of this subchapter. Any use, arrangement or construction at variance with that authorized by permit shall be deemed a violation of this subchapter and shall be punishable as provided in § 150.096(A).

(D) *Amendments.*

(1) *Purpose.* Amendments to this subchapter shall be made following the procedures in § 150.268.

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

(3) *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.

(4) *Fees.*

(a) 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.

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

(5) *Planning Commission review.*

(a) 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.

(b) 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.

(6) *Notice and hearing.*

(a) 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.

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

(c) 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.

(7) *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.

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

(b) 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.

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

(8) *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.

(9) *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.

(E) *Conditional uses.*

(1) 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 § 150.268.

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

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

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

(b) 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;

(c) 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;

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

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

(f) 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.

(3) *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:

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

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

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

(d) The types, uses and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercrafts.

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

(a) Increased setbacks from the ordinary high-water level;

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

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

(F) *Variances.* Variances may be granted as provided in § 150.269.

(G) *Violations.*

(1) Any person, firm or corporation who violates any of the provisions of this subchapter, or who fails to comply with any of the provisions of this chapter, shall be subject to the penalty of § 10.99. Each day that a violation continues shall constitute a separate offense.

(2) In the event of a violation or a threatened violation of the subchapter, 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.

(3) 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 subchapter.

(H) *Notifications.*

(1) (a) 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.

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

(2) 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. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

FLOOD HAZARD PREVENTION

§ 150.110 GENERAL PROVISIONS.

(A) *Statutory authorization.* The legislature of the State of Minnesota has, in M.S. Ch. 103F and Ch. 462 for municipalities delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

(B) *Findings of fact.*

(1) 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.

(2) *Methods used to analyze flood hazards.*

This subchapter is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

(3) *National flood insurance program compliance.* This chapter is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 C.F.R. Parts 59 through 78, as amended, so as to maintain the community's eligibility in the national flood insurance program.

(C) *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 § 150.110(B)(1) by provisions contained herein.

(D) *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 floodplain districts.

(E) *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 subchapter. 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, and 27011C0366C 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.

(F) *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 floodplain that result from designation of a floodway.

(G) *Interpretation.*

(1) In their interpretation and application, the provisions of this subchapter 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.

(2) 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.

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

(I) *Warning and disclaimer of liability.* This chapter does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This subchapter 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 subchapter or any administrative decision lawfully made thereunder.

(J) *Annexations.* The flood insurance rate map panels adopted by reference into § 150.110(E) 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. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.111 ESTABLISHMENT OF ZONING DISTRICTS.

(A) *Districts.*

(1) *Floodway District.* The Floodway District shall include those areas designated as floodway on the flood insurance rate map adopted in § 150.110(E).

(2) *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 § 150.110(E) as being within Zones AE, AO, or AH but being located outside of the floodway.

(3) *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 § 150.110(E).

(B) *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 subchapter and other applicable regulations which apply to uses within the jurisdiction of this subchapter. Within the Floodway, Flood Fringe and General Flood Plain Districts, all uses not listed as permitted uses or conditional uses in § 150.112(A) through § 150.112(C), § 150.113(A) through § 150.113(E), § 150.114(A) and § 150.114(B) respectively, shall be prohibited. In addition, a caution is provided here that:

(1) New manufactured homes, replacement manufactured homes and certain recreational vehicles are subject to the general provisions of this subchapter and specifically § 150.117.

(2) Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing non-conforming structures and non-conforming uses of structures or land are regulated by the general provisions of this subchapter and specifically § 150.118(E).

(3) As-built elevations for elevated or floodproofed structures must be certified by ground surveys and floodproofing 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 § 150.118(A) through § 150.118(D).
(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.112 FLOODWAY DISTRICT (FD).

(A) *Permitted uses.*

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

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

(3) 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.

(4) Residential lawns, gardens, parking areas, and play areas.

(B) *Standards for floodway permitted uses.*

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

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

(3) 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.

(C) *Conditional uses.*

(1) Structures accessory to the uses listed in division (A) and the uses listed in divisions (C)(2) through (C)(7).

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

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

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

(5) Placement of fill or construction of fences.

(6) 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 § 150.117(C).

(7) 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 ten-year frequency flood event.

(D) *Standards for floodway conditional uses.*

(1) *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.

(2) All floodway conditional uses shall be subject to the procedures and standards contained in § 150.118(D).

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

(4) *Fill.*

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

(b) 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.

(c) As an alternative, and consistent with division (D)(4)(b) 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.

(5) *Accessory structures.*

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

(b) 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:

1. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and

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

(c) 1. Accessory structures shall be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the state building code. As an alternative, an accessory structure may be floodproofed to the FP-3 or FP-4 floodproofing 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.

2. All floodproofed 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 floodproofed; 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.

(6) *Storage of materials and equipment.*

(a) 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.

(b) 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.

(7) 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. Ch. 103G, community wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.

(8) 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. 17-05, passed 9-18-2017; Am. Ord. -, passed --)

§ 150.113 FLOOD FRINGE DISTRICT (FF).

(A) *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 division (A) and the "standards for all flood fringe uses" listed in division (E).

(B) *Standards for flood fringe permitted uses.*

(1) 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.

(2) 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 floodproofed in accordance with division (D)(3).

(3) 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.

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

(5) The provisions of division (E) shall apply.

(C) *Conditional uses.* Any structure that is not elevated on fill or floodproofed in accordance with division (B)(1) and (B)(2) and or any use of land that does not comply with the standards in division (B)(3) and (B)(4) 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 division (D) and (E) and § 150.118(D).

(D) *Standards for flood fringe conditional uses.*

(1) 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:

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

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

(c) 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:

1. *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.

2. *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:

a. A minimum area of automatic openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a

registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

b. 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.

(2) Basements, as defined by § 150.008 shall be subject to the following:

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

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

(3) All areas of non-residential structures including basements to be placed below the regulatory flood protection elevation shall be floodproofed in accordance with the structurally dry floodproofing classifications in the state building code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing 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 floodproofed to the FP-3 or FP-4 classification shall not be permitted.

(4) 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 floodplain if adequate flood warning time exists.

(5) *Storage of materials and equipment.*

(a) 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.

(b) 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.

(6) The provisions of § 150.113(E) shall also apply. For penalty, see § 150.118(G).

(E) *Standards for all flood fringe uses.*

(1) 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.

(2) *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.

(3) *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 floodplain areas.

(4) 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.

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

(6) Standards for recreational vehicles are contained in § 150.117(C).

(7) 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.

(8) For penalty, see § 150.118(G).
(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.114 GENERAL FLOOD PLAIN DISTRICT.

(A) Permissible uses.

(1) The uses listed in § 150.112(A) shall be permitted uses.

(2) All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to § 150.114(B) and § 150.112(A) through § 150.112(D) shall apply if the proposed use is in the Floodway District and § 150.113 shall apply if the proposed use is in the Flood Fringe District.

(B) Procedures for floodway and flood fringe determinations.

(1) 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.

(a) 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.

(b) 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.

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

(d) 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.

(2) 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 Minn. Regulations 1983, Parts 6120.5000 through 6120.6200 and 44 C.F.R. 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:

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

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

(c) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half foot. A lesser stage increase than one-half foot 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.

(3) 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 §§ 150.112 and 150.113.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.115 SUBDIVISIONS.

(A) *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 floodplain 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 subchapter 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 floodplain, 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. For penalty, see § 150.118(G).

(B) *Requirements for floodway/flood fringe determinations.* In the General Flood Plain District, applicants shall provide the information required in § 150.114(B) to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

(C) *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. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.116 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES.

(A) *Public utilities.* All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain shall be floodproofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation. For penalty, see § 150.118(G).

(B) *Public transportation facilities.* Railroad tracks, roads, and bridges to be located within the floodplain shall comply with §§ 150.112 and 150.113. 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. For penalty, see § 150.118(G).

(C) *On-site sewage treatment and water supply systems.* Where public utilities are not provided:

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

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

(3) 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. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.117 MANUFACTURED HOMES; TRAVEL TRAILERS AND TRAVEL VEHICLES.

(A) *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 § 150.115.

(B) *Replacement manufactured homes; existing parks.*

(1) The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with § 150.113. If vehicular road access for preexisting manufactured home parks is not provided in accordance with § 150.113(E) then replacement

manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the governing body.

(2) 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.

(C) *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 subchapter and as specifically spelled out in divisions (C) and (D) of this section.

(1) *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:

(a) Have current licenses required for highway use.

(b) 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.

(c) The recreational vehicle and associated use must be permissible in any preexisting, underlying zoning use district.

(2) *Areas exempted for placement of recreational vehicles.*

(a) Individual lots or parcels of record.

(b) Existing commercial recreational vehicle parks or campgrounds.

(c) Existing condominium type associations.

(3) 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/floodproofing requirements and the use of land restrictions specified in §§ 150.112 and 150.113. 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.

(4) 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:

(a) 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 § 150.113(E). No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100-year or regional flood.

(b) All new or replacement recreational vehicles not meeting the criteria of division (C)(1) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of § 150.118(D). 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 § 150.116(C).

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.118 ADMINISTRATION AND ENFORCEMENT.

(A) *Zoning Administrator.* A Zoning Administrator or other official designated by the governing body shall administer and enforce this subchapter. 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 § 150.118(G).

(B) *Permits, certification requirements and record keeping.*

(1) *Permit required.* A permit issued by the Zoning Administrator in conformity with the provisions of this subchapter 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 non-conforming 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 floodplain.

(2) *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.

(3) *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.

(4) *Certificate of zoning compliance for a new, altered, or non-conforming 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 subchapter.

(5) *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 subchapter, and punishable as provided by § 150.118(G).

(6) *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 subchapter. Floodproofing measures shall be certified by a registered professional engineer or registered architect.

(7) *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 floodplain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are floodproofed.

(8) *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. Ch. 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).

(a) 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.

(C) *Appeals and variances; duties of the Board of Adjustment.*

(1) The Board of Adjustments as designated by § 150.269 shall act as the Board of Adjustments herein.

(2) *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.

(3) *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 subchapter.

(a) *Variances.* The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this subchapter 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 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.

(4) *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-day notice of the hearing.

(5) *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 subchapter, 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 division (D)(6). which are in conformity with the purposes of this subchapter. 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 division (G). A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten days of such action.

(6) *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.

(7) *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. Penalty, see division (G).

(D) *Conditional uses; standards and evaluation process.* The Board of Adjustments shall hear and decide applications for conditional uses permissible under this subchapter. 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 this section.

(1) *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-day notice of the hearing.

(2) *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 subchapter. 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 subchapter punishable under division (G). 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.

(3) Procedures to be followed by the City Council in passing on conditional use permit applications within all floodplain districts.

(a) 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:

1. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures, and the relationship of the above to the location of the stream channel; and

2. Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

(b) 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.

(c) 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.

(4) 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:

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

(b) 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;

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

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

(e) The importance of the services provided by the proposed facility;

(f) The requirements of the facility for a waterfront location;

(g) The availability of alternative locations not subject to flooding for the proposed use;

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

(i) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;

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

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

(l) Such other factors which are relevant to the purposes of this subchapter.

(5) *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.

(6) *Conditions attached to conditional use permits.* Upon consideration of the factors listed above and the purpose of this subchapter, 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:

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

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

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

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

(e) Floodproofing measures, in accordance with the state building code and this subchapter. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area. For penalty, see § 150.118(G).

(E) *Non-conforming uses.* A structure or the use of a structure or premises which was lawful before the passage or amendment of this subchapter but which is not in conformity with the provisions of this subchapter may be continued subject to the following conditions. Historic structures, as defined in § 150.008, shall be subject to the provisions of this section.

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

(2) Any structural alteration or addition to a non-conforming structure or non-conforming 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 floodproofing techniques (i.e., FP-1 through FP-4 floodproofing classifications) allowable in the state building code, except as further restricted in divisions (C) and (G) of this section.

(3) The cost of all structural alterations or additions to any non-conforming 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 §§ 150.112 and 150.113, for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

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

(5) If any non-conforming use or structure is substantially damaged, as defined in § 150.008, it shall not be reconstructed except in conformity with the provisions of this subchapter. The applicable provisions for establishing new uses or new structures in §§ 150.112, 150.113, or 150.114 will apply

depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

(6) If a substantial improvement occurs, as defined in § 150.008. 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 non-conforming building, then the building addition and the existing non-conforming building must meet the requirements of §§ 150.112 and 150.113 for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. For penalty, see § 150.118(G).

(F) *Amendments.*

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

(2) All amendments to this subchapter, 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 ten days' written notice of all hearings to consider an amendment to this subchapter and said notice shall include a draft of the subchapter amendment or technical study under consideration.

(G) *Penalty.*

(1) Violation of the provisions of this subchapter 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.

(2) 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:

(a) In responding to a suspected subchapter 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 subchapter violations to the extent possible so as not to jeopardize its eligibility in the national flood insurance program.

(b) When a subchapter 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.

(c) The Zoning Administrator shall notify the suspected party of the requirements of this subchapter 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.

(d) 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 subchapter 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 subchapter.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

SUBDIVISIONS

§ 150.135 GENERAL PROVISIONS.

(A) *Title.* This subchapter may be cited as Ortonville Subdivision Regulations.

(B) *Purpose.* The purpose of this subchapter 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.

(C) *Jurisdiction.* This subchapter controls the subdivision of land as defined herein within the corporate limits of the city; but the Council may, by resolution, extend the 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 Lac qui Parle and Big Stone counties.

(D) *Variances.*

(1) (a) Variations from the provisions of this subchapter may be recommended by the Planning Commission acting as the Board of Adjustment for the city as provided in § 150.269 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.

(b) In recommending a variance, the following factors shall be considered by the Planning Commission:

1. The location of the proposed subdivision, proposed land use, and existing use of land in the vicinity;
2. The number of persons who will reside or work in the proposed subdivision and the probable effect thereof upon traffic conditions;
3. The effect of the variance upon the general intent and spirit of the ordinance and the public welfare and interests of the city.

(2) (a) 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.

(b) 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.

(c) No variance shall be recommended unless the Commission finds from evidence submitted by the applicant that:

1. Special circumstances or conditions affecting the subdivision are such that strict application of the provisions of the subchapter would deprive the applicant of the reasonable use of his or her land;

2. The variance is necessary for the preservation and enjoyment of a substantial property right;

3. 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

4. An unusual hardship on the land exists.

(3) In granting a variance, the Commission may attach thereto conditions as it deems necessary to carry out the objectives and purposes of this subchapter. If the Commission refuses to recommend a variance, the sub-divider may at once, without preparing a final subdivision plat, petition the City Council for a review of the decision of the Planning Commission.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.136 MINOR SUBDIVISIONS.

(A) *Minor subdivisions.*

(1) *Qualified minor subdivisions.*

(a) *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.

(b) *Exemption from platting requirement.* Minor subdivisions shall be exempt from the requirements of this chapter requiring platting upon approval by the City Council.

(c) *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 sub-divider must follow the normal platting procedures.

(d) *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 eight and one-half inches by 11 inches 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.

(2) *Administrative minor subdivisions.*

(a) *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:

1. The conveyance is by metes and bounds description.

a. The conveyance is for a purpose other than to create a building site; and

b. The conveyance does not require the creation or altering of any public road right-of-way.

2. 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.

3. The conveyance is, in the opinion of the Zoning Administrator, solely for the purpose of correcting a boundary line.

(b) *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 non-conforming 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.

(c) *Procedure.* An administrative minor subdivision shall be considered by the following procedure:

1. 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:

a. Legal description of each parcel;

b. Parcel area;

c. Site improvements, including structures; and

d. Distances from structures and property lines.

2. The applicant shall submit a declaration of restriction as provided herein. The declaration shall be executed by all required parties to affect the purposes and intent of this subdivision.

3. The Zoning Administrator shall review the application for compliance with this subchapter.

4. The Zoning Administrator shall notify the applicant whether the subdivision is approved or denied. If denied, written reasons shall be provided.

5. 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. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.137 PLATTING PROCEDURES.

(A) Preliminary subdivision plat.

(1) 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:

(a) 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 un-platted lands surrounding it;

(b) Names and addresses of the land owner, mortgagees of record, sub-divider, surveyors and, if there is one, the site planner;

(c) Notations stating the name of the proposed subdivision, approximate total acreage, map scale, north point, datum, benchmarks and date of preliminary subdivision plat preparation;

(d) 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;

(e) 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;

(f) Existing zoning district boundary lines and zoning classifications, if any;

(g) 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;

(h) 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;

(i) Proposed minimum building setback lines with the dimensions thereof;

(j) Location and size of all proposed parks, playgrounds, school sites and other land to be dedicated or reserved for public uses; and

(k) A map indicating natural storm drainage by use of arrows or notes.

(2) If required by the City Engineer or the Planning Commission, the following additional data shall also be furnished by the sub-divider:

(a) 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;

(b) 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;

(c) 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;

(d) 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

(e) Preliminary drafts of protective covenants, if any, whereby the sub-divider proposes to regulate or restrict the use of land within and preserve the physical and economic integrity of the subdivision.

(3) 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.

(4) 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 sub-divider not less than ten days before the date thereof. The Planning Commission may:

(a) Recommend approval of the preliminary plat;

(b) Recommend disapproval of the preliminary subdivision plat, in which case the specific reasons for disapproval shall be included in the recommendation; or

(c) 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.

(5) 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 sub-divider 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 sub-divider no later than ten days after adoption of the same.

(6) 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.

(B) *Final plat.*

(1) 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 sub-divider, 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:

(a) 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;

(b) Names and addresses of the land owner, mortgagees of record, sub-divider and land surveyor;

(c) Name of subdivision, map scale, date and north point. The map scale shall be 100 feet to one inch;

(d) 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;

(e) 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;

(f) All blocks and lots numbered clearly and progressively;

(g) Location of all rivers, streams, creeks, lakes, ponds and swamps;

(h) Names, locations and widths of all streets, roads, alleys and public grounds, and locations and widths of all easements to be dedicated or reserved;

(i) Building setback lines with accurate dimensions;

(j) 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;

(k) 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

corrected placed as shown, and that the outside boundary lines have been correctly designated. If no wetlands or public highways are designated on the plat, the certificate shall so state; and

(l) The name and adjacent boundaries of any adjoining platted land, shown by dotted boundary lines.

(2) If required by the Planning Commission or the City Council, the following additional information shall also be furnished by the sub-divider:

(a) Certification that all taxes and special assessments due on the property have been paid in full;

(b) Copies of any protective covenants affecting the subdivision or any part thereof;

(c) A complete set of street profiles showing grade lines as established or constructed;

(d) Names of record owners of adjoining un-platted lands;

(e) 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;

(f) A certificate, abstract or other evidence of title to the land included in the subdivision; and

(g) 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.

(3) 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.

(4) 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 sub-divider. 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.

(5) 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. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.138 MINIMUM DESIGN STANDARDS.

(A) Required improvements.

(1) As a condition precedent to the approval of any final subdivision plat, the sub-divider shall:

(a) 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;

(b) Surface all streets with bituminous surfacing;

(c) Construct curb, gutter and sidewalks, except where a waiver is recommended by the City Engineer and granted by the City Council;

(d) 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;

(e) 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;

(f) 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

(g) Furnish and grade all necessary slope easements at no cost to the city.

(2) 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 State Department of Health.

(3) 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 sub-divider 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 one and one-half times the total estimated cost of all improvements as certified by the City Engineer and approved by the Council.

(B) *Design guides; conformity.*

(1) In approving preliminary subdivision plans and final subdivision plat, the design standards set forth in this subchapter shall be used as guides by the Planning Commission and the City Council.

(2) 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.

(C) *Streets.*

(1) 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.

(2) If the arrangement of streets is not shown in the city's comprehensive plan, the street arrangement in the subdivision shall either:

(a) Provide for the continuation or appropriate projection of existing streets into the adjacent areas; or

(b) Conform to a specific plan for the area approved or adopted by the Planning Commission.

(3) 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.

(4) 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.

(5) Reserve strips controlling street access are prohibited except where control thereof is given to the city under conditions approved by the City Council.

(6) Street jogs with centerline offsets of less than 125 feet shall be avoided.

(7) A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets.

(8) 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 ensure 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.

(9) 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.

(10) 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

(11) (a) 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.

(b) Whenever a half street is adjacent to the tract to be subdivided, the other half shall be platted within the tract.

(12) 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.

(13) (a) Proposed streets in alignment with existing named streets shall bear the names of the existing streets.

(b) No name for a proposed street shall duplicate an existing street name except as herein provided.

(14) Street grades shall not exceed the following, with due allowance for reasonable vertical curves:

<i>Street Type</i>	<i>Grade</i>
Arterial	5%
Collector	6%
Minor	10%
Marginal access	10%

(D) *Alleys.*

(1) 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.

(2) The minimum width of alleys shall be 20 feet, and dead-end alleys shall be avoided whenever possible.

(E) *Intersections.* Curb lines at street intersections shall be rounded at a radius of not less than ten degrees.

(F) *Easements.*

(1) 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 10 feet, and alleys shall have continuity of alignment from block to block.

(2) 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.

(G) *Blocks.* In residential areas, blocks shall not be less than 600 nor more than 1,320 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.

(H) *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.

(I) *Lots.*

(1) 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.

(2) Setback or building lines shall not be less than the setbacks required by § 150.181.

(3) Depth and width of lots platted for commercial or industrial use shall be adequate for off-street service and parking facilities.

(4) Corner lots for residential use shall be platted at least fifteen (15) feet wider than the minimum lot requirement in the zoning chapter.

(J) *Dedications and reservations.*

(1) 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 sub-divider 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 sub-divider to dedicate or reserve more than 10% of the gross area of the subdivision for park and playground purposes.

(2) In lieu of the dedication or reservation specified in division (A) above, the sub-divider 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. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

PLANNED UNIT DEVELOPMENT (PUD)

§ 150.165 PURPOSE.

To help encourage a more credible approach to the use of land, departures from this chapter may be granted by the City Council in Planned Unit Development Districts. A planned unit development is allowable as a conditional use in all zoning districts. Permission to develop specific parcels of land under the provisions which follow shall be binding on all construction. Any significant change in the development plan after approval by the City Council shall be resubmitted for consideration. The land use,

minimum lot area, yard, height and accessory used determined by the planned unit development requirements shall prevail over conflicting requirements listed elsewhere within this chapter. To encourage innovations which produce efficient, high quality development in harmony with surrounding areas, the following regulations are set forth.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.166 REQUIREMENTS.

(A) The development shall be planned so that it is consistent with the comprehensive plan.

(B) The tract of land shall be under unified control at the time of application and scheduled to be developed as one unit. In addition, the development plan must include provisions for the preservation of natural amenities.

(C) The planned unit development proposal appears to harmonize with both existing and proposed development in the area surrounding the project site and is in harmony with development plans provided in the city's comprehensive land use plan.

(D) The proposed planned unit development is comprised of at least one acre of contiguous land.

(E) Permitted uses may include:

(1) Permitted, accessory and conditional uses allowed within the traditional zoning district where the proposed PUD is to be located;

(2) A combination of dwelling units of single-family, two-family, town houses, condominiums and apartments;

(3) Any non-residential use to the extent such non-residential use is designed and intended to serve the residents of the PUD.

(F) A minimum of 20% of the gross land area for private or public open-air recreational use protected by covenants running with the land or by conveyances or dedicated as the Planning Commission may specify shall be an integral part of the plan. The open space areas shall not include land devoted to streets, parking and private yards.

(G) Spacing between main buildings and dedicated streets shall be at least equivalent to the spacing requirements of buildings similarly developed under the terms of this subchapter on separate parcels.

(H) If a PUD involves the subdivision of land, then the subdivision review shall be carried out simultaneously with the review of a PUD under this section of this subchapter.

(I) A certified check or money order to cover the costs incurred in checking and processing the plans in an amount affixed by the City Council. (Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.167 PROCEDURE FOR PROCESSING A PUD.

(A) *Pre-application conference.* Before submitting an application for a PUD, an applicant may confer with the planning staff to obtain information and guidance, before incurring substantial expense in the preparation of plans, surveys and other data.

(B) *Outline development plan.* An applicant shall apply to the Planning Commission for approval of a development concept of the PUD with a map and text as specified including enough information to demonstrate its relationship to adjoining uses.

(1) Maps which are part of the outline development plan may be in schematic form and shall contain the following:

(a) The existing topography of the land;

(b) A composite of all-natural amenities of the site including, steep slopes, drainage ways plus marshes, ponds and lakes;

(c) The size of site and proposed use of the land to be developed together with an identification of off-site land use;

(d) The density of land use to be allocated to the several parts of the development;

(e) The approximate location of thoroughfares; and

(f) The location of common open space including public schools, parks and playgrounds or private natural preserves.

(2) The written statement shall include the following:

(a) A statement of the ownership of all land involved in the PUD together with a summary of previous work experience;

(b) An explanation of the general character of the planned development;

(c) A general indication of the expected time schedule of development;

(d) A statement of ultimate ownership and maintenance of parts of development including streets, structures and open space;

(e) A statement describing how all necessary governmental services will be provided to the development; and

(f) The total anticipated population to occupy the PUD with breakdowns indicating the number of school age children, adults and families.

(C) *Outline development plan approval.*

(1) Within 60 days after the filing of an outline development plan, the Planning Commission shall forward the plan to the City Council with a written staff report recommending that the plan be disapproved, approved or approved with modifications, and giving reasons for these recommendations.

(2) Within 45 days after the receipt of the application by the City Council, a public hearing shall be held by the City Council on the application. The City Council may continue the hearing or refer the matter back to the Planning Commission for further study; provided, however, that the public hearing or hearings shall be concluded within 45 days after the date of the public hearing, unless the applicant shall consent in writing to an extension of the time. Upon conclusion of all hearings the City Council shall, within 30 days, make and file findings and cause a copy thereof to be mailed to the applicant.

(3) If the outline development plan is approved or approved with modifications, the City Council shall amend the zoning map to show the planned unit development and its identification number. PUD numbers shall be designated in sequential order, for example, PUD-1, PUD-2, and the like. If the outline development plan is approved with modifications, the City Council shall not amend the zoning map until the applicant has filed with the City Council written consent to the plan as modified. Refusal of any modification shall constitute denial of the plans by the City Council. Failure of the landowner to notify the City Council of his or her acceptance or refusal of the modification to the plan constitutes acceptance of these conditions. No building permits may be issued on land within the PUD until final plans for the development have been approved by the City Council under the procedures provided in the following provisions.

(D) *Preliminary development plan approval.*

(1) Following the approval of an outline development plan, an applicant may file a preliminary development plan with the Planning Commission. The Planning Commission shall give notice and provide an opportunity to be heard to each of the following:

(a) Any person who is on record as having appeared at the hearing on the outline development plan;

(b) Any other person who has indicated to the Planning Commission in writing that he or she wishes to be notified; and

(c) Any property owner within 350 feet of the property designated in the outline development plan. The list of names and addresses of the property owners within 350 feet shall be provided by the applicant.

(2) In the event the plan as submitted for preliminary approval is not in substantial compliance with the outline development plan, the Planning Commission shall notify the applicant within 45 days of the date of application, setting forth the ways in which the plan is not in compliance.

(a) The applicant may treat the notification as denial of preliminary approval;

(b) The applicant may refile his or her plan so that it does substantially comply with the outline development plan; and

(c) The applicant may file a written request with the Planning Commission, that it hold a public hearing on his or her request for preliminary approval. Any hearing shall be held within 30 days after the request for the hearing. Within 45 days of the hearing, the Planning Commission shall either grant or deny preliminary approval to the plan.

(3) The findings necessary for approval of both the preliminary and final development plans shall be based on the following and described in what respect the plan would or would not be in the public interest:

(a) The plan does not conflict with the comprehensive plan;

(b) The plan is designed to form a desirable and unified development within its own boundaries;

(c) The proposed uses will not be detrimental to present and future land use in the surrounding area;

(d) Any exceptions to the standard requirements of the zoning and subdivision chapters are justified by the design of the development; and

(e) The plan will not create an excessive burden on parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the PUD.

(E) *Final development plan approval.*

(1) Within six weeks following approval of the preliminary development plan, the applicant shall file with the City Council a final development plan containing in final form all of the information required in the preliminary development plan. In its discretion and for good cause, the Council may extend for six months the period for the filing of the final development plan.

(2) The Council shall review and approve the final development plan if it is in substantial compliance with the preliminary development plan. Following this, the applicant shall record the final development plan in the manner provided for recording subdivision plats. If the final development

plan is not in substantial compliance, the applicant shall be requested to repeat the procedures outlined for the preliminary development plan.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.168 AMENDMENTS AND CONTROL.

(A) (1) Amendments may be made in the approved final plan when they are shown to be required by changes in conditions that have occurred since the final plan was approved or by changes in the development policy of the city.

(a) Minor changes in the location, siting and height of buildings and structures may be authorized by the Zoning Administrator if requested, and if caused by unforeseen circumstances.

(b) All other changes in use, rearrangement of lots, blocks and open space, must be authorized by the City Council under procedures outlined for amendment of this subchapter.

(2) Completion of the PUD shall be certified by the Planning Commission on the final development plan. Thereafter, the use of land and the construction, modification or alteration of any buildings shall be governed by the approved final development plan. Changes may be authorized only under the procedures provided below:

(a) Minor extensions, alterations or modifications of existing structures may be authorized by the Zoning Administrator if they are consistent with the intent and purpose of the final plan and do not increase the size of any building or structure by more than 10% than originally proposed in the preliminary development plan; and

(b) Changes in the use of common open space of the replacement of any building substantially destroyed which exceeds the intent and

purposes of the final development plan may be authorized only by amendment to the final development plan.

(3) All of the provisions of the subchapter applicable to the original district within which the planned unit development district is established shall apply to the amended PUD District except as otherwise provided in approval of the PUD agreement and final development plan. The effective date of the PUD shall be after:

(a) Approval of the PUD zoning amendment; and

(b) Publication of the ordinance approving the PUD.

(4) If substantial development has not occurred within one year after approval of the PUD zoning district, the City Council may instruct the Planning Commission to initiate rezoning to the original zoning district. It shall not be necessary for the City Council to find that the rezoning was in error. Within the PUD agreement, the city may authorize the scheduling of periodic reviews, to occur upon the determination of the Zoning Administrator that a need for review exists, to ascertain that actual development on the site meets the conditions of the approved PUD.

(B) Phasing and guarantee of performance.

(1) The Planning Commission shall compare the actual development accomplished in the various PUD zones with the approved development schedule.

(2) Upon recommendation of the Planning Commission and for good cause shown by the property owner, the City Council may extend the limits of the development schedule.

(3) The construction and provision of all of the common open space and public and recreational facilities, which are shown on the final development

plan, must proceed at the same rate as the construction of dwelling units, if any. The Zoning Administrator shall review all of the building permits issued for the PUD and examine the construction that has taken place on the site. If they find that the rate of construction of dwelling units is greater than the rate at which common open spaces and public and recreational facilities have been constructed and provided, they shall forward this information to the City Council for action.

(4) A performance bond or letter of credit may be required to guarantee performance by the developer. The amount of this bond or letter of credit and the specific elements of the development program that it is intended to guarantee will be stipulated in the PUD agreement.

(C) Control of PUD following completion.

(1) Following PUD completion, the use of the land and the construction, modification or alteration of any buildings or structures within the planned development shall be governed by the final development plan.

(2) Following PUD completion, no changes shall be made in the approved final development plan except upon application as provided below.

(a) Any minor extensions, alterations or modifications of existing buildings or structures may be authorized by the staff development review committee if they are consistent with the purposes and intent of the final plan.

(b) Any building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan unless an amendment to the final development plan is approved.

(c) Changes in the use of the common open spaces may be authorized by an amendment to the final development plan after a public hearing by the Planning Commission and recommendation to the City Council.

(d) Any other changes in the final development plan must be authorized by an amendment of the final development plan.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

GENERAL DEVELOPMENT STANDARDS

§ 150.180 GENERAL DEVELOPMENT STANDARDS.

The purpose of this subchapter is to establish general development standards to assure compatible land uses, to prevent blight and deterioration, and to enhance the health, safety and general welfare of the city.

(A) Dwelling unit restrictions.

(1) No stand-alone cellar, stand-alone basement, garage, tent/camper or accessory building shall at any time be used as an independent residence or dwelling unit, temporarily or permanently, except allowed as a conditional use as set forth and regulated by § 150.268.

(2) Basements may be used as living quarters or rooms as a portion of residential dwellings.

(3) Tents, play houses or similar structures may be used for play or recreational purposes.

(4) Existing cellars or basements used as an independent dwelling unit shall have the status of a non-conforming use, subject to the provisions of §§ 150.250 et seq.

(5) Any new development that covers or replaces surface vegetation with an impervious surface of more than one acre or more must specify controls to minimize off-site storm water runoff, maximize overland flow and flow distances over surfaces covered with vegetation, increase on-site infiltration, replicate pre-development hydrologic conditions as nearly as possible, minimize off-site discharge of pollutants to ground and surface water, encourage filtration functions and reduce a mosquito breeding habitat. Sidewalks, paths, trails and roads are exempt.

(B) Building restrictions.

(1) Any person desiring to improve property shall submit to the Zoning Administrator information on the location, and dimensions of existing and proposed buildings, location of easements crossing the property encroachments, and any other information which may be necessary to ensure conformance to city ordinances.

(2) All buildings shall be so placed so that they will not obstruct future streets which may be constructed by the city in conformity with existing streets and according to the system and standards employed by the city.

(3) Only one principal use shall be permitted on a lot.

(4) Except in the case of planned unit developments, as regulated by §§ 150.165 et seq. and § 150.095, not more than one principal building shall be located in a lot. The words "principal building" shall be given their common, ordinary meaning; in case of doubt or on any question or interpretation, the decision of the Zoning Administrator shall be final, subject to the right of appeal to the Planning Commission and City Council.

(5) Manufactured homes, buildings, tents or other structures temporarily maintained by an individual or company on the premises associated with the work project and used exclusively to house labor or other personnel occupied in a work project shall be exempt from the requirements of this subchapter.

(6) The manufactured homes, buildings, tents or other structures shall be removed within 30 days from the completion of the work project.

(C) *Land reclamation.*

(1) Under this subchapter, land reclamation is the reclaiming of land by depositing of materials so as to elevate the grade.

(2) All land reclamation shall be controlled under the provisions of the state uniform building code and this subchapter and shall meet the following minimum standards.

(a) The smallest amount of bare ground is exposed for as short a time as feasible.

(b) Temporary ground cover is used and permanent ground cover, such as sod, is planted.

(c) Methods to prevent erosion and trap sediment are employed.

(d) Fill is stabilized to accepted engineering standards.

(e) Final slopes for cut slopes should be a maximum of one to one, or 100%; fill slope three to one, or 30%; and grade or construction slope five to one, or 20%.

(D) *Mining.*

(1) The extraction of sand, gravel or other material from the land in the total amount of 400 cubic yards or more and removal thereof from the site

without processing shall be defined as mining. The conduct of mining shall be permitted only upon issuance of a conditional use permit.

(2) The permit shall include, as a condition thereof, a plan for a finished grade which will not adversely affect the surrounding land or the development of the site on which the mining is being conducted, and the route of trucks moving to and from the site.

(E) *Fencing, screening, and landscaping.*

(1) No fence shall exceed four feet in the front yard or eight feet in the rear yard in height as measured from the average point between the highest and lowest grade.

(2) No fence, screen or structure which obstructs view shall be located within 25 feet of any corner formed by the intersection of street or railroad rights-of-way, as measured from the intersecting property lines.

(3) Except as provided in division (E)(2) above, fences, hedges or shrubs, less than four feet in height may be located on any part of the lot.

(4) Except as provided in division (E)(2) above, fences shall be set back at least one foot from the lot lines or upon mutual consent of the abutting property owner(s) may be placed along the lot line.

(5) In all zoning districts, all usable open space as defined by this subchapter shall be planted and maintained in grass, sodding, shrubs or other suitable vegetation or treatment.

(6) All screening required by the provisions of this chapter shall consist of either:

(a) A greenbelt plating strip consisting of vegetative cover of sufficient width and density to provide an effective screen; or

(b) A fence constructed of masonry, brick, wood or steel which is compatible with surrounding structures and buildings.

(F) *Nuisances and blight; vision obstructions.*

(1) Public nuisances and blight affecting health, morals and decency, peace and safety are regulated in the city's municipal ordinances, as appropriate.

(2) Notwithstanding any part of this subchapter or any permit or variance granted, no structure, vehicle, vegetation, fence, sign, building or any obstacle, or any portion thereof shall be placed or retained in a manner to constitute a traffic hazard or obstruct the vision clearance of corners, curb cuts or railroad crossings.

(G) *Junk yards.*

(1) Junk yards, salvage yards, automobile reduction yards, automobile recycling facilities or automobile recycling centers shall be a conditional use only within the I-1 and I-2 districts and in no case shall they be located so as to be plainly visible from a major road.

(2) Junk yards shall be effectively screened on all sides so that the storage and operation is not visible from adjacent properties or streets.

(H) *Performance standards.*

(1) All uses shall comply with all federal, state and local pollution and nuisance laws and regulations, including but not limited to glare, smoke, dust, odors, and noise.

(2) The burden of proof for compliance of appropriate performance standards shall lie with the applicant.

(I) *Lighting.* Any lighting used to illuminate an off-street parking area, sign or structure shall be arranged as to deflect light away from any adjoining residential properties or uses from the public streets.

(J) *Public water alterations.*

(1) Any alteration which will change or diminish the course, current or cross section of a public water shall be approved by the Commissioner of the Minnesota Department of Natural Resources in accordance with the procedures of M.S. § 105.42, as amended.

(2) This alteration includes construction of channels and ditches; lagoons; dredging of lake or stream bottoms for removal of muck, silt or weeds; and filling in the lake or stream bed.

(K) *Storage of solid heating fuel.* Stored, uncontained solid heating fuels, such as coal, firewood, shall be screened from view of adjacent residential land uses. Screening shall be in compliance with the provisions set forth in § 150.251(E). (Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.181 YARD, AREA, AND BUILDING DESIGN STANDARDS AND SHORT-TERM RENTAL MANDATES.

The purpose of this section is to determine minimum yard, area and building size requirements to be provided for each zoning district.

(A) *Reduction requirements.* No lot, yard or other open space shall be reduced in area or dimension so as to make the lot, yard or open space less than the minimum required by this subchapter, and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced.

(B) *Yard requirements.*

(1) *Minimum requirements.* The minimum yard setback distances from the appropriate lot line are set forth within the district provisions of this subchapter.

(2) *Front yard setbacks.* Where existing structures within a block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is only one adjacent structure, the front yard minimum setback shall be the average of the required setback and the setback of the adjacent structure. In no case shall the required front yard setback exceed the minimum requirement for the applicable zone.

(3) *Corner lots.* Where a lot is located at the intersection of two or more streets, the width of the yard along the side street shall not be less than 25 feet.

(4) *Through lots.* On a lot fronting on two parallel streets, both street lines shall be front lot lines for applying the yard regulations of this subchapter.

(5) *Rear yard with alley adjoining.* In computing the depth of a rear yard for any building where the rear line of the lot adjoins an alley, one-half the width of the alley, may be included as rear yard depth, in any residential district, the rear yard depth actually on the lot shall be not less than ten feet in any dwelling district.

(6) *Earth sheltered buildings.* Computations for yard requirements shall be based upon measurements from the exposed exterior surface of the building.

(7) *Exceptions.* The following shall not be considered as encroachment into yard requirements:

(a) Architectural projects extending not more than three feet into a yard area, except those indicated below;

(b) In rear yards, recreational and laundry drying equipment, trellises, balconies, breeze ways, open porches, detached outdoor living rooms, garages and air conditioning or heating equipment; and

(c) Terraces, steps, stoops or similar features provided, in each they do not exceed above the height of the principal structure or extend to a distance less than two feet from any lot line.

(C) *Lot area requirements.*

(1) *Minimum requirements.* The minimum lot area requirements are set forth within the district provisions of this subchapter.

(2) *Lot area with alley adjoining.* In computing required lot area, one-half of the width, but not exceeding ten feet of any alley or portion thereof abutting any lot line may be included as part of the lot area for the computation.

(3) *Lot area exception.* A lot of record existing upon the effective date of this subchapter which does not meet the area or width requirements of this subchapter may be utilized provided the measure of the area or width are within 60% of the requirements of this subchapter and that due to ownership patterns, the combining of adjacent lots to meet the requirements of this subchapter is not possible.

(D) *Building size and architectural requirements.*

(1) *Design standards.* The architectural appearance and function of any building and site shall not be so dissimilar to the existing buildings or areas as to constitute a blighting influence. Earth-sheltered

buildings are allowed if in compliance with all other zoning provisions promulgated pursuant to M.S. § 462.357, as it may be amended from time to time. The following building size and architectural standards shall apply to all districts unless otherwise specified.

(2) *Height exceptions.* The building height limits established shall not apply to belfries, cupolas, domes, spires, monuments, airway beacons, radio towers, flag poles, chimneys or flues; nor to elevators, water tanks, poles, towers and other structures for essential services; nor to similar structures for essential services; nor to similar structures extending above the roof of any building and not occupying more than 25% of the area of the roof.

(3) *Architectural requirements.* The following architectural requirements shall apply to all dwellings in the Agriculture Open Space (AO) and all residential districts, except the R-4 manufactured home park district unless otherwise specified:

(a) Dwellings shall exceed 18 feet in width and shall be over 30 feet in length;

(b) Dwellings shall be placed on a permanent foundation forming a complete enclosure under exterior walls;

(c) The exterior walls of all single-family residences shall be similar in appearance to normal wood or masonry residential construction.

(d) In the R-2 and R-3 districts, only asphalt shingles, asphalt roofing materials, cedar shakes, cedar shingles, color metal roofs (excluding galvanized), copper roofs and rubber roofs shall be permitted as roof coverings.

(e) The following metals are prohibited as facade materials in all buildings

constructed and improvements or repairs made after the date of enactment in Districts R-2, R-3 and any single-family or multi-family residence and their accessory buildings in any other district.

1. 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.

2. Any metal that is not a high quality commercial thickness/weight (for example, the minimum for architectural steel panels is 0.024 thickness, architectural aluminum panels is 0.032 thickness and architectural copper panels in 16-ounce sheets, and the equivalent in other metals).

3. Any metal that had not been treated with a factory applied color coating system against any applicable degradation listed above.

4. 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 12 inches. Metal may be used for trim or accent up to 15% of any facade.

5. Purlins will not be more than 16 inches apart if using 24 gauge material.

(E) *Accessory structures, uses, and equipment.*

(1) *General statements.* An accessory building shall be considered an integral part of the principal building if it is connected to the principal building by a covered passageway.

(2) *Location.* No accessory structures shall be located in the front yard.

(3) *Setbacks.* Accessory structures shall:

(a) Be located five feet or more from all lot lines of adjoining lots, except as otherwise permitted within this subchapter; and

(b) Not be located within a utility easement.

(4) *Size.* Size regulations are as follows:

(a) For garages, see applicable district for size limitation;

(b) For metal sheds, see applicable district for size limitation.

(5) *Design standards for accessory buildings.* The architectural design and appearance of all accessory buildings and structures shall comply with the following standards:

(a) The exterior finish of all garage accessory buildings in the R-2, R-3 and R-4 districts shall match as close as possible the exterior finish and design of the dwelling unit on the lot. For example, lap siding on the dwelling unit shall make lap siding on the accessory building mandatory, board and batten siding shall make board and batten siding on the accessory building mandatory. Boxed eaves and rakes on accessory buildings shall be required where they occur on the dwelling unit. If requested by the owner, and approved by the planning and zoning administrator, the building can exceed the 16 feet in height to conform in architecture, roof pitch and appearance of that residence not to exceed residence's overall height. Upon application to the Board of Adjustment and Appeals, applicants with dwellings having a brick, stucco or stone exterior may be granted a variance from the exterior finish requirements of this section upon a finding that the proposed exterior design and finish would sufficiently match the principal building and would be compatible with other properties in the neighborhood, and the spirit and intent of this section;

(b) The roofing and siding material used on all non-garage accessory buildings of 121 to 240 square feet in the R-2, R-3 and R-4 districts shall match as close as possible the roofing and siding material type and color of the dwelling unit on the lot. For example, lap siding on the dwelling unit shall make lap siding on the accessory building mandatory, board and batten siding shall make board and batten siding on the accessory building mandatory, and asphalt shingles on the dwelling unit shall make asphalt shingles mandatory on the accessory building. Upon application to the Board of Adjustment and Appeals, applicants with dwellings having a brick, stucco, stone, or steel exterior may be granted a variance from the exterior finish requirements of this section upon a finding that the proposed exterior design and finish would sufficiently match the principal building and would be compatible with other properties in the neighborhood, and the spirit and intent of this section;

(c) Accessory buildings shall be designed to support a 26-pound per square foot live roof load; and

(d) Metal lawn or storage sheds 120 square feet or less in floor area shall be exempt from these standards.

(6) *Storage of solid heating fuel.* Stored, uncontained solid heating fuels, such as coal, firewood, shall be screened from view of adjacent residential land uses. Screening shall be in compliance with the provisions set forth in § 150.251(E).

(F) *Residential large lot regulations.* The large lot residential regulations are established to provide for new dwelling units in the developing areas of the city, free from other uses and structures at a density which will encourage the provision of centralized sewer or water services.

(1) Permitted uses:

- (a) Historic sites;
 - (b) Permitted home occupations (as regulated by § 150.181(G));
 - (c) Public recreation, including parks, playgrounds and gardens;
 - (d) Single-family dwelling units/residential structures;
 - (e) Large lot dwelling units;
 - (f) Accessory dwelling units; and
 - (g) Short-term rentals.
- (2) Prohibited uses:
- (a) Any commercial use;
 - (b) Any industrial use;
 - (c) Bed and breakfast establishments;
 - (d) Private garages on existing lots which contain no principal structure.
 - (e) Carports and membrane/tent structures are prohibited as an integral part of the principal building.
- (3) Conditional uses:
- (a) Apartments within existing single-family dwellings/structures;
 - (b) Condominiums, townhouses and other multi-family dwellings exceeding two or more units per structure;
 - (c) Golf courses;
 - (d) Home occupations that require a permit; and
 - (e) Places of worship and other religious facilities.
- (4) Interim uses: Mining, sand and gravel operations, subject to the regulations outlined in § 150.180(D)
- (5) Accessory uses: Any private incidental structure or buildings necessary to the conduct of a permitted use. The maximum number of accessory structures on large lots shall be four. Additional accessory structures may be applied for through the conditional use permit process. The following are permitted accessory uses, so long as they do not encroach into the front yard setbacks outlined in division (C) of this section and do not exceed the maximum number of structures as specified in each category below and do not exceed a total of four.
- (a) Decks and patios, maximum number: two;
 - (b) Essential services, including necessary equipment and structures, maximum number: one;
 - (c) Gazebos, screen porches and other similar structures, maximum number: two;
 - (d) Non-commercial greenhouses, maximum number: one;
 - (e) Pet shelters, pens, runs, cages, houses and kennels for non-commercial use and accessory to the principal structure and residential use, maximum number: one;
 - (f) Swimming pools, tennis courts, basketball courts and other recreational facilities that are operated for the enjoyment and convenience of the

residents of the principal use and their guests, maximum number: two; and

(g) Tool houses, sheds and similar buildings for storage of domestic supplies and non-commercial recreational equipment, maximum number: two.

(6) *Performance standards.*

(a) Setback requirements:

1. Front yard: For the principal structure and all other accessory structures, there shall be a front yard of not less than 25 feet;

2. Double frontage lot: Where a lot is located at the intersection of two or more roadways, there shall be a front yard setback of not less than 30 feet on each roadway side of each corner lot.

3. Side yard: For the principal structure and all accessory structures, there shall be two side yards with a width of not less than ten feet.

4. Rear yard: For the principal structure and all accessory structures, there shall be a rear yard of not less than 25 feet.

5. Lot width and depth: The minimum lot width shall be 100 feet. The minimum lot depth shall be 120 feet. Exceptions to these minimums, such as cul-de-sac lots, require a conditional use permit.

6. Lot area: The minimum lot area shall be 12,000 square feet.

7. Accessory buildings may not cover more than 10% of the total area of the lot.

8. In accordance with § 150.181(F)(5), accessory uses, regardless of the size of a lot, the total size of all accessory units shall not exceed 2,400 square feet.

(b) *Height requirements.*

1. The maximum height of all principal buildings shall be 45 feet.

2. The maximum height of all accessory buildings and structures shall be 26 feet to the peak with a maximum sidewall height of 16 feet.

(c) *Parking Requirements.* Specific parking requirements and regulations related to large lots include:

1. All lots shall front on, and have ingress and egress by means of a public right-of-way.

2. There shall be a minimum of two off-street parking spots per dwelling unit. This may include enclosed space, such as a garage, and/or outdoor driveway space.

3. There shall be no regular or permanent parking on lawns.

(d) *Property standards.*

1. There must be an open space or yard of at least 50% of the area of the lot. Therefore, all buildings and structures, principal and accessory, on any lot, shall not cover more than 50% of the area of the lot.

2. No fence shall exceed four feet in front or eight feet in rear in height as measured from the average point between the highest and lowest grade.

3. A large lot must be one parcel as recognized by the Big Stone County Assessor's Office.

(7) *Signage.*

(a) *Signs prohibited.* The following signs are prohibited on residential large lots:

1. Billboards;
2. Inflatable devices;
3. Poster signs/handbills on public or private property without the permission of the owner;
4. Revolving and flashing signs;
5. Roof signs;
6. Searchlights or similar devices;
7. Signs placed or painted on any tree or rock in its natural setting; and
8. Trailers used for advertisement.

(b) *Signs permitted.* The following signs are permitted without a permit on residential large lots:

1. Construction signs provided they are removed after the completion of the construction project;
2. Directional and private traffic control signs;
3. Flags, not exceeding 60 square feet in total area;
4. Holiday signs;
5. In-home business advertisement;

6. Political and campaign signs of all sizes, provided they are removed within ten days following the election;

7. Poster signs/handbills on private property with permission of the owner;

8. Private property/no trespassing signs;

9. Real estate signs;

10. Residential nameplate signs of not more than two square feet, one per dwelling unit except for corner lots which may have one nameplate sign facing each street;

11. Temporary garage/rummage sale, estate sale, or other sale signs, provided they are removed after the sale;

12. Temporary special event signs and portable signs and banners for commercial, community and nonprofit sponsored events, provided they are for no more than 14 consecutive days; and

13. Subdivision plat signs.

(G) *Home occupations (home businesses).* Home occupation uses may be allowed in any Residential District or the Open Space District, so long as it does not adversely affect the character of the uses permitted in the zoning district in which the property is located or violate any state statute or any other city ordinance or policy. Home occupations are subject to the following requirements.

(1) *Permitted home occupations.* Permitted home occupations are where no customers visit the premises. The following criteria must be met for a permitted home occupation:

(a) Not more than 50% of the square footage of the structure shall be used for a home occupation;

(b) Occupations as architects, artists, writers, clergymen, lawyers, teachers, dressmaking, and similar domestic crafts, taxi service, clock and watch repair shall be permitted;

(c) The home occupation must be incidental to and secondary to the use of the dwelling for dwelling purposes and shall not change the essential residential character of the principal use;

(d) The home occupation must be conducted entirely within a dwelling or accessory structure, except daycare facilities;

(e) The use must be conducted by a member of the family residing on the premises;

(f) The home occupation shall not utilize mechanical, electrical, or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisances outside the dwelling unit or accessory structure;

(g) No home occupation may generate more vehicle daily trips by customers, delivery persons, or employees in greater volumes than would normally be expected for the zoning district in which it is located;

(h) Not more than one non-illuminated wall or free-standing sign measuring six square feet in area is permitted on the lot in which the home occupation is being conducted;

(i) Other than members of the household residing on the premises, there shall be no more than two other persons as employees of the home occupation; and

(j) A person having a home occupation shall provide proof of meeting the aforementioned requirements of this section if complaints are received by the City Council.

(2) *Conditional use home occupations.* Conditional use home occupations are that of a business profession that would generate traffic or customers visiting the premises. Conditional use home occupation daycare facilities are subject to state regulations and are exempt from this provision. The following criteria must be met for a conditional use home occupation:

(a) Not more than 50% of the square footage of the structure shall be used for a home occupation;

(b) Offices, clinics, barber shops, beauty parlors, dress shops, millinery shops, tea rooms, tourist homes, music and dance schools, or similar uses, shall require conditional use permits;

(c) Other than members of the household residing on the premises, there shall be no more than two other persons as employees of the home occupation;

(d) The home occupation shall not utilize mechanical, electrical, or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisances outside the dwelling unit or accessory structure;

(e) A person having a home occupation shall provide proof of meeting the aforementioned requirements of this section if complaints are received by the City Council; and

(f) A sign on the premises shall consist of not more than one single-faced, non-illuminated wall sign installed flush to the structure with a maximum area of six square feet.

(3) *Conditional use permit.* In acting upon an application for a conditional use permit for a home occupation, the city shall consider:

(a) The effect of the proposed use upon the health, safety and general welfare of the city and on surrounding properties including but not limited to the factors of noise, glare, odor, electrical interference, vibration, dust and other nuisances; fire and safety hazards; existing and anticipated traffic conditions; and parking facilities on adjacent streets and land.

(b) The impact on governmental facilities and services, including roads, sanitary sewer, water and police and fire.

(c) The conditional use permit is valid for one year from date of issuance unless otherwise specified in the resolution for approval and thereafter shall be automatically renewed each year unless objections or complaints are received from neighboring property owners, the City Council or city staff and a request for review is made.

(4) *Procedures and permits.*

(a) A conditional use permit will become void if the home occupation is discontinued or abandoned for a period of one year.

(b) Home occupation permits shall not run with the land and shall not be transferable or handed down from generation to generation.

(5) *Prohibited home occupations.* All home occupations that are not permitted or conditionally permitted, are prohibited. Examples of prohibited home occupations are motorized vehicle repair, salvage yards, animal hospitals, and small engine repair.

(6) When deemed appropriate, the City Clerk may bring the home occupation to the attention of the City Council at which time the City Council may hold such public hearings, request such information, or require such conditions as deemed necessary to bring the home occupation in compliance with the performance criteria.

(H) *Accessory dwelling units.* Internal, attached, and detached accessory dwelling units shall be allowed accessory to a principal residential structure, subject to the following:

(1) The principal residential structure shall be a permitted or conditional single-family or two-family dwelling, accessory dwelling units shall be prohibited accessory to all other uses;

(2) No more than one accessory dwelling unit shall be allowed on a zoning lot;

(3) The creation of an accessory dwelling unit shall not create a separate tax parcel;

(4) Balconies shall not face an interior side yard;

(5) Rooftop decks shall not be allowed; and

(6) An owner of the property must occupy at least one dwelling unit on the zoning lot as their primary place of residence.

(a) If an owner is unable or unwilling to fulfill the requirements of this section, the owner shall remove those features of the accessory dwelling unit that make it a dwelling unit. Failure to do so will constitute a violation of this section.

(b) Prior to issuance of a permit establishing an accessory dwelling unit, the owner(s) shall file with the Big Stone County Recorder a covenant by the owner(s) to the city stating that the owner(s) agree to restrict use of the principal and accessory dwelling units in compliance with the requirements of this section and notify all prospective purchasers of those requirements.

(c) The covenant shall run with the land and be binding upon the property owner, their heirs and assigns, and upon any parties subsequently acquiring any right, title, or interest in the property.

The covenant shall be in a form prescribed by the Zoning Administrator that includes the legal description of the zoning lot. The property owner(s) shall return the original covenant with recording stamp to the Zoning Administrator before the building permit for the accessory dwelling unit is issued.

(d) At the request of a property owner and upon an inspection finding that an accessory dwelling unit has been removed from the owner's property, the Zoning Administrator shall record a release of any previously recorded covenant for that accessory dwelling unit.

(7) Accessory dwelling units that are internal to a principal residential structure shall also comply with the following requirements:

(a) Internal accessory dwelling units are limited to 800 square feet. The gross floor area of an internal accessory dwelling unit may exceed 800 square feet only if the portion of the structure in which the accessory dwelling unit is located was in existence as of January 1, 2015. In no case shall the floor area of the internal accessory dwelling unit exceed the floor area of the first floor of the primary structure.

(b) The entire internal accessory dwelling unit shall be located on one level.

(c) The creation of the accessory dwelling unit shall not result in additional entrances facing the public street on the primary structure.

(d) Any stairways leading to the accessory dwelling unit shall be enclosed.

(8) Accessory dwelling units that are attached to a principal residential structure shall also comply with the following requirements:

(a) The maximum floor area for an attached accessory dwelling unit shall be 800 square feet.

(b) The creation of the accessory dwelling unit shall not result in additional entrances facing the public street on the primary structure.

(c) Any stairways leading to an upper story of an accessory dwelling unit shall be enclosed.

(d) The primary exterior materials of an attached accessory dwelling unit shall match the primary exterior materials of the principal structure.

(9) Detached accessory dwelling units shall also comply with the following requirements:

(a) A detached accessory dwelling unit shall not exceed the height of the principal residential structure or 20 feet, whichever is less. In no case shall the highest point of the roof of the detached accessory dwelling unit exceed the highest point of the roof of the principal residential structure.

(b) The floor area of a detached accessory dwelling unit shall not exceed 1,000 square feet, including any areas designed or intended to be used for the parking of vehicles and any half story floor area. When a lot includes a detached accessory dwelling unit, the combined floor area of the footprint of the detached accessory dwelling unit, and all other accessory structures and uses designed or intended to be used for the parking of vehicles, shall not exceed 676 square feet or 10% of the lot area, whichever is greater, not to exceed 1,000 square feet.

(c) The minimum interior side yard requirement for a detached accessory dwelling unit shall not be less than three feet.

(d) The minimum rear yard requirement for a detached accessory dwelling unit may be reduced to five feet, except where vehicle access doors face the rear lot line, in which case the minimum rear yard requirement shall be five feet.

(e) A detached accessory dwelling unit on a reverse corner lot shall be no closer to the side lot line adjacent to the street than a distance equal to two thirds of the depth of the required front yard specified in the yard requirements table of the district of the adjacent property to the rear. Further, a detached accessory dwelling unit shall not be located within five feet of a rear lot line that coincides with the side lot line of a property in a residence or office residence district.

(f) The distance between the detached accessory dwelling unit and the habitable portion of the principal residential structure shall be a minimum of 20 feet.

(g) The primary exterior materials of the detached accessory structure shall be durable, including but not limited to masonry, brick, stone, wood, cement based siding, or glass.

(h) Not less than 10% of the total area of the facade of a detached accessory dwelling unit facing an alley or public street shall be windows.

(i) Exterior stairways shall be allowed, provided that the finish of the railing matches the finish or trim of the detached accessory dwelling unit. Raw or unfinished lumber shall not be permitted on an exterior stairway.

(10) The Zoning Administrator shall conduct the administrative review of all applications for an accessory dwelling unit. All findings and decisions of the Zoning Administrator shall be final, subject to appeal to the Planning Commission, as specified in §§ 150.265 et seq. Administration and Enforcement.

(I) *Short-term rental mandates.*

(1) Owners wishing to rent out property for vacation rental purposes must obtain an inspection and permit from County Health as per M.S. Ch. 157. The number of permissible occupants, defined as

overnight guest, shall be limited as outlined in M.S. Ch. 4624.09. Permits are valid for one calendar year.

(2) Property owners are required to register homes with city. A designated contact person(s) name(s) that live(s) within twenty miles of the property must be on file at city office. Owners must post all applicable city ordinances inside the rental unit, including max number of people, trash storage, emergency contact info, parking restrictions.

(3) Owners must have commercial insurance with commercial liability insurance on file with city office and pay all applicable federal, state and local taxes.

(4) License and/or use permit shall expire upon change of ownership of property.

(5) Any violation of city ordinances reported to local authorities will require a written corrective action report by property owner and given to City Administrator. Local authority must provide to City Administrator/Planning Commission a summary of report and if any action taken on their part.

(6) Reportable violations are to be defined as those that violate city ordinances as it pertains to the property owner and his permitted use of property. Complaints against individual guests or occupants are to be treated as such and not held as a violation against property owner, i.e. trespassing on neighbor's property. With this being said, if it were to happen that occupants continued to violate rights of others around the rental property, then the city would have the obligation to take action. In extreme cases, this might mean rescinding the permit of the owner.

(7) Property owners who fail to register their property under these rules will be charged with a misdemeanor and fined per the judicial process.

(J) *Maximum combined non-permeable surface area for residential development.*

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	R-2		R-3	
	<i>Lot square footage</i>	<i>Maximum combined non-permeable surface</i>	<i>Lot square footage</i>	<i>Maximum combined non-permeable surface</i>
Platted before 2016	Less than 6,000 sq. ft.	Variance may be granted if all setbacks are met and no more than 25% of the lot is non- permeable	Less than 6,000 sq. ft.	Variance may be granted if all setbacks are met and no more than 25% of the lot is non- permeable
	6,000 to 9,000 sq. ft.	Lessor of 50% or 3,000 sq. ft.	6,000 to 10,000 sq. ft.	No more than the lessor of 35% or 3,500 sq. ft.
	Greater than 9,000 sq. ft.	No more than the greater of 3,000 sq. ft. or 25%	Greater than 10,000 sq. ft.	No more than the greater of 3,500 sq. ft. or 25%
Platted after 2016	R-2		R-3	
	<i>Lot square footage</i>	<i>Maximum combined non-permeable surface</i>	<i>Lot square footage</i>	<i>Maximum combined non-permeable surface</i>
	9,000 sq. ft. to 12,000 sq. ft.	No more than the lessor of 3,000 sq. ft. or 25%	9,000 sq. ft. to 12,000 sq. ft.	No more than the lessor of 3,000 sq. ft. or 25%
	10,000 sq. ft. and greater	No more than 25%	10,000 sq. ft. and greater	No more than 25%

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -; Am. Ord. -, passed - -)

§ 150.182 OFF-STREET PARKING AND LOADING.

(A) Purpose and scope.

(1) It is the purpose of this subchapter to provide for the regulation of and design standards for off-street parking facilities within the city, to minimize congestion on the public rights-of-way, and to maximize the safety and general welfare of the public.

(2) No provision of any section of this subchapter shall be less restrictive than those outlined in this subchapter. The off-street parking requirements and off-street loading requirements of this section shall apply within all zoning districts.

(B) Calculating space.

(1) Where calculations result in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.

(2) The term floor area for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the building structure or use times the number of floors, minus 10%.

(3) Should a building or structure contain two or more types of uses, each should be calculated separately for determining the total off-street parking spaces required.

(4) The parking requirements for a use not specifically mentioned herein shall be the same as required for a use of similar nature as determined by the Planning Commission.

(5) In places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each 18 inches of width should be

counted as one seat for the purpose of determining requirements for off-street parking facilities under this section.

(C) Site plan; criteria.

(1) Except for single-family dwellings, all applications for a building or an occupancy permit shall be accompanied by a site plan drawn to scale and dimensioned indicating the location of all off-street parking and loading spaces in compliance with the requirements of this subchapter. The plan shall be reviewed by the Planning Commission and approved by the City Council, in accordance to the criteria developed in division (B) below. The site plan should include at least the following:

- (a) Zoning, setbacks and statement of use;
 - (b) North point and scale;
 - (c) All adjacent streets and alleys;
 - (d) Sidewalks, curbs, gutters and street trees;
 - (e) Entire ownership of lot or parcel being developed;
 - (f) Completely dimensioned parking layouts;
 - (g) All parking spaces clearly marked;
 - (h) Owner's name and current address;
- and
- (i) The type and thickness of the paving.

(2) Upon review by the Planning Commission and approval by the City Council, the plan for off-street parking shall meet the following site design standards:

(a) All areas devoted for parking space and driveways shall be surfaced with materials suitable to control dust and drainage as determined by the Planning Commission and City Council. All parking areas shall be designed to control surface runoff to adjacent properties either with curbing or grading techniques;

(b) Any lighting used to illuminate off-street parking areas shall be directed away from abutting property and public right-of-way;

(c) No sign shall be so located as to restrict the sight, orderly operation and traffic movement within any parking area;

(d) All parking lots shall be screened and landscaped from abutting residential and institutional uses or districts by a wall, fence or densely planted compact hedge or tree cover not less than five feet nor more than eight feet in height;

(e) The parking area shall meet the minimum design standards, and number of stalls required within this section; and

(f) The parking area shall meet the minimum setback requirements set forth in the zoning district, except when the parking area abuts an adjacent lot located in a residential district, wherein the parking areas shall be setback five feet from the adjacent lot line.

(D) *Reduction and use of space.* Off-street parking and loading facilities provided to comply with the provisions of this subchapter shall not subsequently be reduced below the requirements of this subchapter. No change of use or occupancy of land, or of use or occupancy of any building shall be made until there is furnished sufficient parking and loading spaces as required by this subchapter. In such case where reconstruction enlarges bulk or floor area or other measurable unit prescribed in this subchapter,

parking and loading facilities shall be provided for that measurable unit beyond the original type use of structure.

(E) *Commercial vehicles and equipment.* No commercial vehicles or equipment, exceeding 9,000 pounds gross weight, shall be parked, stored or otherwise continued in a residential district.

(F) *Parking and storage of certain vehicles.* Automotive vehicles or trailers of any kind or type without current legal license plates, for sale or rent, or those inoperable shall not be parked or stored on any residentially zoned property other than in a completely enclosed building.

(G) *Maintenance.* It shall be the joint responsibility of the lessee and/or owner of the principal use or building to maintain in a neat and adequate manner the parking area, striping, landscaping and screening.

(H) *Stall, aisle, and driveway design.*

(1) Except in the case of single-family and two-family dwellings, and townhouses, parking areas shall be designed so that circulation between parking aisles or driveways occurs within the designated parking lot and does not depend upon a public street or alley, and design does not require backing into the public street.

(2) Except in the case of single-family and two-family dwellings, and townhouses, parking areas shall comply with the following standards:

(a) No curb cut access shall be located less than 40 feet from the intersection of two or more street rights-of-way for residential uses, and 60 feet for commercial and industrial areas; and

(b) This distance shall be measured from the intersection of lot lines.

(3) Curb cut openings shall be a minimum of five feet from the side property line.

(4) All property shall be entitled to at least one curb cut. Single-family uses shall be limited to one curb cut access per property.

(5) All parking spaces shall be served by access aisle or driveway connections to a public right-of-way.

(I) *Parking area standards.* Except in the case of a single-family and two-family dwelling and townhouse, parking areas shall comply with the following standards.

<i>Angle of Parking</i>	<i>Stall Width (feet)</i>	<i>Stall Depth (feet)</i>	<i>Minimum Driveway Width</i>
Zero degrees, along curb	10	10*	12
30 degrees	10	19	11
45 degrees	10	21	13
60 degrees	10	22	18
90 degrees	10	19	24
Note To Table:			
* Parallel parking: 22 feet in length.			

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(J) *Parking and loading spaces.* The following minimum number of off-street parking and loading spaces shall be provided and maintained.

<i>Use</i>	<i>Parking Spaces</i>	<i>Loading and Unloading Spaces</i>
Single-family	2 spaces per dwelling	N/a
Two-family	2 spaces per dwelling unit	N/a
Elderly housing	½ space per dwelling unit	N/a
Multiple-family	½ space per dwelling unit	N/a
Auditorium, stadium, gymnasium, community centers and religious institution (private or public)	1 space for each 4 permanent seats in the largest place of assembly, plus 1 space for each 250 sq. ft. of gross office area	1 space for each structure over 100,000 sq. ft. of gross floor area
Hospitals, rest homes, nursing homes, etc.	1 space for each 4 beds, plus 1 space per 2 employees on major shift	1 space for 100,000 sq. ft. of gross floor area
Schools	As recommended by the Minnesota Department of Education	N/a
<i>Commercial Uses</i>		
Commercial uses, except as below	5 spaces per 1,000 sq. ft. of retail or sales floor area	1 space for the first 10,000 sq. ft. of gross floor area and 1 space for each 50,000 sq. ft. of gross floor area
Automobile car wash	5 spaces, plus 5 for each wash line	N/a
Animal hospitals and kennels	6 spaces, plus 1 space for each 200 sq. ft. of gross floor area over 10,000 sq. ft.	N/a

<i>Use</i>	<i>Parking Spaces</i>	<i>Loading and Unloading Spaces</i>
<i>Commercial Uses</i>		
Automobile service stations	3 spaces for each service stall, plus 1 space for each attendant on the major shift	N/a
Bowling alleys	5 spaces for each lane or alley	1 space for each structure over 20,000 sq. ft. in gross floor area
Commercial uses with 50% or more of floor area devoted to storage, warehouse and/or industry	1 space per 200 sq. ft. of gross floor area devoted to sales or service, plus 1 space per 500 sq. ft. of storage area	Same as commercial use requirements for that portion used for commercial purposes; additional space for storage required
Drive-in restaurants	5 spaces for each 100 sq. ft. of business area	N/a
Furniture, automobile, marine and appliance stores	1 space for each 400 sq. ft. of floor area; the first 25,000 sq. ft. and 1 space for each 600 sq. ft. thereafter	1 space, plus additional space for 25,000 sq. ft. of gross floor area
Miniature golf courses, archery ranges, golf, driving ranges	10 spaces respectively	N/a
Motels and hotels	1 space for each dwelling unit	N/a
Short-Term Rental	½ space per each permitted occupant	N/a
Office building, professional offices, banks	1 space for each 250 sq. ft. of gross floor area	1 space for buildings between 30,000 sq. ft. and 100,000 sq. ft. of gross floor area and 1 space for each additional 100,000 sq. ft. of gross floor area

Ortonville - Land Usage

<i>Use</i>	<i>Parking Spaces</i>	<i>Loading and Unloading Spaces</i>
<i>Commercial Uses</i>		
Restaurants and other food dispensing establishments, except drive-in restaurants	1 space for each 4 seats, plus 1 space for each 2 employees	1 space for each structure over 10,000 sq. ft. of gross floor area
Skating rink or dance hall	1 space for each 200 sq. ft. of gross floor area	N/a
Theater	1 space per 4 seats	N/a
Undertaking establishments	1 space per 50 sq. ft. of gross floor area	N/a
Manufacturing, assembling, processing, research, experimental or testing stations	1 space for each employee on the major shift or 1 space for each 400 sq. ft. whichever is greater	1 space for structure over 10,000 sq. ft. gross floor area and 2 spaces for each structure over 100,000 sq. ft. of gross floor area
Warehousing and wholesale business establishments	1 space for each employee on the major shift, plus 1 space for each company vehicle	1 space for each structure over 10,000 sq. ft. over 10,000 sq. ft. of gross floor area and 2 spaces for each structure over 100,000 sq. ft. of gross floor area

(K) *Joint parking facilities.*

(1) Provisions of joint parking areas for several uses within the same block or same vicinity is permissible provided that the number of stalls required shall be the sum of the individual requirements by the City Council following review of the Planning Commission.

(2) The City Council may, upon receiving a recommendation from the Planning Commission, approve a conditional use permit for one or more businesses to provide the required off-street parking facilities by joint use of one or more sites where the total number of spaces provided are less than the sum of the total required for each business, if the following conditions are satisfactorily met:

(a) The building or use for which the application is being made to utilize the off-street parking facilities provided by another building or use shall be located within 300 feet of the parking facilities;

(b) The applicant shall show that there is no substantial conflict in the operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed; and

(c) The provisions of this subchapter are considered and satisfactorily met.

(L) *Off-street loading facilities.* Loading space required under this section shall be at least 50 feet long and ten feet wide. The regulations of this section are not applicable in the B-1 district. Every lot used for commercial or industrial purposes and

having a building or buildings with a total floor area of at least 10,000 square feet and every lot used for office or research purposes on which there is a building or buildings having a gross floor area between 30,000 and 100,000 square feet, shall be provided with an off-street loading space. One additional loading space for every 100,000 square feet of gross floor area shall be required for lots used for commercial or industrial purposes where the floor area of all buildings exceeds 100,000 square feet. For those uses identified in § 150.181(J) the requirements set forth in that subdivision shall apply.

(M) *Central loading.* Central loading facilities may be substituted for loading berths on the individual zoning lots provided the following conditions are fulfilled:

(1) Each zoning lot served shall have direct access to the central loading area without crossing streets or alleys at grade;

(2) Total berths provided shall meet the requirements based on the sum of the several types of uses served. Total area of uses may be summed before computing number of loading berths;

(3) No zoning lot served shall be more than 500 feet removed from the central loading zone area; and

(4) The tunnel or ramp connecting the central loading area with the zoning lot served shall not be less than seven feet in width and have a clearance of not less than seven feet.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

BUILDING REGULATIONS

§ 150.200 STATE BUILDING CODE ADOPTED.

A section adopting the Minnesota State Building Code. This section provides for the application, administration, and enforcement of the Minnesota State Building Code by regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all buildings and/or structures in this municipality; provides for the issuance of permits and collection of fees thereof; provides penalties for violation thereof; repeals all ordinances and parts of ordinances that conflict therewith. This chapter shall perpetually include the most current edition of the Minnesota State Building Code with the exception of the optional appendix chapters. Optional appendix chapters shall not apply unless specifically adopted.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.201 CODES ADOPTED BY REFERENCE.

The Minnesota State Building Code, as adopted by the Commissioner of Labor and Industry pursuant to M.S. Ch. 326B including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the building codes and standards unit, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this chapter. The Minnesota State Building Code is hereby incorporated in this chapter as if fully set out herein. (Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.202 APPLICATION, ADMINISTRATION AND ENFORCEMENT.

The application, administration, and enforcement of the code shall be in accordance with Minnesota State Building Code. The code shall be enforced within the extraterritorial limits permitted by M.S. § 326B.121, subd. 2(d), when so established by this chapter. The code enforcement agency of this municipality is called the City of Ortonville Building Inspector. This code shall be enforced by the Minnesota Certified Building Official designated by this municipality to administer the code in accordance with M.S. § 326B.133, subd. 1.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.203 PERMITS AND FEES.

The issuance of permits and the collection of fees shall be as authorized in Minn. Rules Ch. 1300. Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by the city.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.204 VIOLATION PENALTIES.

A violation of the code is a misdemeanor.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.205 BUILDING CODE OPTIONAL CHAPTERS.

(A) *Minnesota State Building Code*. Chapter 1300 allows the municipality to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code.

(B) The following optional provisions identified in the most current edition of the State Building Code are hereby adopted and incorporated as part of the building code for this municipality.

(1) Minnesota Administrative Rules Chapter 1306, Special Fire Protection Systems with optional 8 (Group M, S, or F occupancies with 2,000 or more gross square feet) or Sa (Group M, S, or F occupancies with 5,000 or more gross square feet);

(2) Minnesota Administrative Rules Chapter 1335, floodproofing regulations part 1335.0600 to 1335.1200.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

SIGN REGULATIONS

§ 150.220 PURPOSE.

This subchapter 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 subchapter 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. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.221 PERMITTED NON-LICENSED 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 premises of the institution.

(J) *No trespassing or no dumping signs.* No trespassing or no dumping signs not exceeding one and one-half 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 two and one-half 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-premises 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 subchapter.

(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. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.222 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 stop or danger;

(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-premises 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 subchapter, 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. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.223 TRAFFIC HAZARDS.

No sign permitted by this subchapter 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 stop, caution, warning, and the like, unless the sign is intended to direct traffic on the premises.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.224 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. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.225 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. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.226 PROJECTING SIGNS.

A projecting sign shall be at least seven feet above the sidewalk and three feet away from the curb line.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.227 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. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.228 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 I-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.

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

(d) *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 § 150.229.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.229 PERMITTED LICENSED SIGNS.

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

(A) Within the AO, R-2, R-3 and R-4 districts, permitted signs are those allowed under § 150.221 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 § 150.221;

(2) Three types of on-premises 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. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.230 ADMINISTRATION; REVIEW.

(A) (1) In instances where an applicant requests a sign in excess of the sign area or sign number requirements of this subchapter, 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 subchapter 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. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

NON-CONFORMING USES AND STRUCTURE

§ 150.250 PURPOSE.

It is the purpose of this chapter to provide for the regulation of non-conforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which non-conforming buildings, structures, and uses will be operated and maintained. Sections 150.020 et seq. establish separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that non-conforming buildings, structures and uses not be permitted to continue without restriction. Furthermore, it is the intent of this subchapter that all non-conforming uses shall be eventually brought into conformity.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.251 CONTINUANCE AND MAINTENANCE.

(A) Any structure or use lawfully existing upon the effective date of this subchapter shall not be enlarged, but may be continued at the size and in the manner of operation existing upon the date except as hereinafter specified or, subsequently amended.

(B) Nothing in this subchapter shall prevent the placing of a structure in safe condition when the structure is declared unsafe by the Zoning Administrator providing the necessary repairs shall not constitute more than 50% of fair market value of the structure. The value shall be determined by the County Assessor.

(C) No non-conforming building, structure or use shall be moved to another lot or to any other part of the parcel, land upon which the same was constructed or was conducted at the time of this subchapter adoption unless the movement shall bring the non-conformance into compliance with the requirements of this subchapter.

(D) When any lawful non-conforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.

(E) A lawful non-conforming use of a structure or parcel of land may be changed to lessen the nonconformity of use. Once a non-conforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the nonconformity.

(F) Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance or improvement, but not including expansion, unless:

(1) The nonconformity or occupancy is discontinued for a period of more than one year, or;

(2) Any non-conforming use is destroyed by fire or other peril to the extent of greater than 50% of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.

(G) Whenever a lawful non-conforming use of a structure or land is discontinued for a period of six months, following written notice from an authorized agent of the city, any future use of the structure or land shall be made to conform to the provisions of this subchapter.

(H) Normal maintenance of a building or other lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not physically extend or intensify the non-conforming use.

(I) Alterations may be made to a building or other lawful non-conforming residential units as a conditional use when the alterations will improve the livability thereof, provided they will not increase the number of dwelling units or size or volume of the building or increase the nonconformity.

(J) Any proposed structure which will, under this subchapter, become non-conforming but for which a building permit has been lawfully granted prior to the effective date of this subchapter, may be completed in accordance with the approved plans provided construction is started within 60 days of the effective date of this subchapter. The structure and use shall thereafter be a legally non-conforming structure and use.

(K) With respect to residential property in zones B-1, B-2 and B-3:

(1) The owners of residential properties in zones B-1, B-2 and B-3 may sell the property and the new owner may utilize the property for either commercial or residential use. However, once property is utilized for commercial use, residential use shall not be allowed.

(2) Division (G) of this section does not apply to residential property on zones B-1, B-2 and B-3. All other provisions of this subchapter shall continue to apply to zones B-1, B-2 and B-3. (Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

ADMINISTRATION AND ENFORCEMENT

§ 150.265 ZONING ADMINISTRATOR.

(A) This chapter shall be administered and enforced by the Zoning Administrator who shall be appointed by the City Council.

(B) The Zoning Administrator shall enforce the provisions of this chapter and shall perform the following duties:

(1) Determine that all building permits comply with the terms of this chapter;

(2) Issue certificates of occupancy for any use, structure or building after determination of above;

(3) Maintain permanent and current records of this chapter, including but not limited to all maps, amendments, conditional uses, variances, appeals and applications thereto;

(4) Receive, file and forward all applications for appeal, variances, conditional uses and other matters to the designated official bodies;

(5) Institute in the name of the city, any appropriate actions or proceedings against a violator as provided by law;

(6) Waive requirements for technical information when deemed appropriate or request additional information when deemed appropriate; and inform the applicant of all ordinances, regulations and procedures governing to applicants' requests within five business days.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.266 BUILDING PERMITS.

(A) *Scope.* From and after the effective date of this chapter, it shall be unlawful to proceed with the construction, alteration, repair, enlargement, demolition or removal of any building or structure, or part thereof, without first obtaining a building permit.

(B) *Application.*

(1) Request for a building permit shall be filed with the Building Official on an official application form. Each application for a permit shall be accompanied by a site and floor plans drawn to scale showing the dimensions of the lot to be upon.

(2) The size and location of all principal and accessory buildings and parking areas, and additional information deemed necessary for the proper review and enforcement of this chapter and any other applicable building codes. The fee for a building permit shall be based upon the UBC fee schedule and must be approved by the City Council.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.267 FEES.

(A) To defray the administrative costs associated with the processing of applications for building and related permits, for conditional use permits, variance requests, amendments, appeals and subdivision plat approval, fees shall be paid by all applicants in accordance with a fee schedule adopted by resolution of the City Council. A schedule of fees has been adopted by the Ortonville City Council. The schedule of fees shall be posted at the Ortonville City Hall and may be altered or amended only by Resolution of the Ortonville City Council.

(B) Fees shall be payable at the time applications are filed with the Zoning Administrator and are not refundable unless application is withdrawn prior to referral to the Planning Commission. There shall be no fee in the case of applications filed in the public interest by members of the Council or Planning Commission.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.268 AMENDMENTS; CONDITIONAL USE PERMITS.

(A) *Procedure.*

(1) Requests for amendments or conditional use permits, as provided within this chapter, shall be filed with the Zoning Administrator on an official application form. The application shall also be accompanied by complimentary copies of detailed written and graphic materials fully explaining the proposed change, development or use. The Zoning Administrator shall refer the application, along with all related information, to the City Planning Commission for consideration and a report.

(2) (a) The Zoning Administrator on behalf of the Planning Commission, shall set a date for a public hearing for amendments and conditional

use permits. Notice of the time, place and purpose of the hearing shall be published in the official newspaper.

(b) Notice shall be mailed not less than ten days to all property owners of record according to the county assessment records, within 350 feet of the property to which the request relates. The applicant shall be required to provide a list of property owners and addresses within 350 feet of affected property. A copy of the notice and a list of the property owners and addresses to which the notices were sent shall be attested to by the Zoning Administrator and made part of the official record. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona-fide attempt to comply with this subdivision has been made.

(3) The Planning Commission shall consider the request and hold a public hearing. The Zoning Administrator shall refer the application, along with all related information to the Planning Commission for consideration. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed amendment or conditional use.

(4) The Planning Commission shall consider possible adverse effects of the proposed amendment or conditional use. Its judgment shall be based upon, but not limited to the following general factors:

- (a) Relationship to the city's growth management system;
- (b) The geographical area involved;
- (c) Whether the use will tend to or actually depreciate the area in which it is proposed;
- (d) The character of surrounding area;
- (e) The demonstrated need for the use;

(f) The public need for additional land space for the requested use in the location requested;

(g) Compatibility of adjacent land uses;

(h) The possible presence and effects of noise, odors or other nuisances; and

(i) Availability in the present or near future of necessary utilities and public services.

(5) The Planning Commission and city staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, the information to be declared necessary to establish performance conditions in relation to all pertinent sections of this chapter.

(6) The Planning Commission shall make a finding of fact and recommend actions or conditions relating to the request to the City Council.

(a) In considering conditional use requests, the Planning Commission shall evaluate the use, utilizing from the divisions below, those which are specific to the designated uses as indicated in division (A)(6)(b) below.

1. The land area and setback requirements of the property containing a use or activity shall be the minimum established.

2. When abutting a residential use in a residential district, the property shall be screened and landscaped in compliance with § 150.180(E).

3. Where applicable, all city, state and federal laws, regulations and ordinances shall be complied with and all necessary permits secured.

4. All signs shall be in compliance with §§ 150.220 et seq. and shall not adversely impact adjoining or surrounding residential uses.

5. Adequate off-street parking and loading shall be provided in accordance with this section. The parking and loading shall be screened and landscaped from abutting residential uses in compliance with § 150.180(E).

6. The proposed water, sewer and other utilities shall be capable of accommodating the proposed use.

7. The street serving the use or activity is of sufficient design to accommodate the proposed use or activity, and the use or activity shall not generate additional extra traffic to create a nuisance or hazard to existing traffic or to surrounding land uses.

8. All access roads, driveways, parking areas and outside storage, service or sales areas shall be surfaced or grassed to control dust and drainage.

9. All open and outdoor storage, sales and service areas shall be screened from view from the public streets and from abutting residential uses or districts.

10. All lighting shall be designed as to have no direct source of light visible from adjacent residential areas or from the public streets.

11. The use or activity shall be properly drained to control surface water runoff.

12. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence.

13. Where structures combine residential and non-residential uses, the uses shall be separated and provided with individual outside access, and the uses shall not conflict in any manner.

(b) The conditional use application shall comply with the minimum specific requirements pertaining to each conditional use as stated below.

1. Apartments, boarding or lodging houses and multiple-family residences: 1, 3, 5, 6, 8, 10, 11, 12 and 13.

2. Commercial recreation, commercial drive-in establishments and automobile service stations: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12.

3. Parking facilities: 2, 3, 4, 5, 7, 8, 10 and 11.

4. Public, quasi-public buildings and uses and cemeteries: 1, 5, 6, 7, 8, 10 and 12.

5. Mining: 3, plus provisions in § 150.180(D).

(c) All conditions pertaining to a specific site are subject to change when the Planning Commission or City Council, upon investigation, finds that the community safety, health, welfare and public betterment can be served as well or better by modifying the conditions.

(7) Upon receiving the report and recommendation of the Planning Commission, or until 60 days after the first Planning Commission meeting, at which the request was considered, the City Council shall place the report and recommendation on the agenda for the next regular meeting. Reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.

(8) Upon receiving the report and recommendation of the Planning Commission, the City Council shall either:

(a) Approve or disapprove the request as recommended by the Planning Commission, based upon whether the application meets the requirements stated in the chapter;

(b) Approve or disapprove the recommendation of the Planning Commission with modifications, alterations or differing conditions; modifications, alterations or differing conditions shall be in writing and made part of the Council's records;

(c) Refer the recommendation back to the Planning Commission for future consideration. This procedure shall be followed only one time on a singular action. Approval of a request shall require passage by two-thirds vote of the full City Council. The Zoning Administrator or City Clerk/Treasurer shall notify the applicant of the Council's action. In order to comply with the provisions of M.S. § 15.99, as it may be amended from time to time, the City Council shall either approve or deny an application within 60 days after the completed application is filed, unless the Council determines within that 60-day period that an additional 60 days is necessary and informs the applicant of its decision to and the reasons for extending the first 60-day period by an additional 60 days. The failure of a vote to approve an application shall not be deemed to be a denial of the application. A motion to deny the application must be adopted; or

(d) The recommendation of the Planning Commission shall be advisory to the City Council. The decision of the City Council shall be final subject to judicial review.

(B) *Lapse of conditional use permit by non-use.* Whenever within one year after granting a conditional use permit, the work as permitted by the permit shall not have been completed, then the permit shall become null and void unless a petition for extension of

time in which to complete the work has been granted by the City Council. The extension shall be requested in writing and filed with the Zoning Administrator or City Clerk/Administrator at least 30 days before the expiration of the original conditional use permit. There shall be no charge for the filing of the petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the conditional use permit. The petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision and shall be requested only one time on a singular action.

(C) *Amendments.* The City Council or Planning Commission may, upon their own motion, initiate a request to amend the text or the district boundaries of this chapter. Any person owning real estate within the city may initiate a request to amend the district boundaries or text of this chapter so as to affect the real estate. All amendment requests must first be reviewed by the Planning Commission.

(1) An amendment to this chapter may be one of the following:

(a) A change in a district's boundary or rezoning;

(b) A change in district's regulation; or

(c) A change in any other provision of this chapter.

(D) The City Council, by a majority vote, except in the case of the adoption or amendment of any portion of this code which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial, then by a two-thirds vote of its members, after the hearing, adopt a new zoning ordinance without the written consent whenever the Planning Commission shall have made a survey of the whole area of the city or of an area of not less than 40 acres, within which the new

ordinance or the amendments or alterations of the existing ordinance would take effect when adopted, and shall have considered whether the number of real estate properties affected by the changes and alterations renders the obtaining of the written consent impractical, and the Planning Commission shall report in writing as to whether in its opinion the proposals of the City Council in any case are reasonable related to the overall needs of the community, to existing land use, or to a plan for future land use, and shall conduct a public hearing on the proposed ordinance, changes or alterations.

(E) *Initiation of proceedings.* Proceedings for amending this chapter shall be initiated by at least one of the following methods:

(1) Required exhibits for rezoning initiated by property owners:

(a) Proof ownership or intent to own property;

(b) Registered land survey; and

(c) A list of names and addresses of property owners within 350 feet of affected property.

(2) By petition of the owner or owners of property which is proposed to be rezoned;

(3) By recommendation of the Planning Commission; and/or

(4) By action of the City Council.

(F) *Performance bond.* The Planning Commission and City Council shall have the authority to require a performance bond or other security when it is deemed necessary and appropriate.

(1) Except in the case of non-income producing residential property, upon approval of a conditional use permit the city may be provided with a surety bond, cash escrow, certificate of deposit,

securities or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. The security shall guarantee conformance and compliance with the conditions of the conditional use permit and the ordinances of the city.

(2) The security may be in the amount of the City Council's estimated costs of labor and materials for the proposed improvements of development. The project can be handled in stages upon the discretion of the City Council.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.269 VARIANCES AND APPEALS.

(A) *Board of Adjustment and Appeals.* A Board of Adjustment and Appeals is hereby created which shall be the Planning Commission appointed by the Mayor with the approval of the City Council. Each member shall serve for a term of three years and until his or her successor is appointed and qualified, but of the members first appointed pursuant to this chapter; two shall serve for terms of one year, two for term of two years, and one for a term of three years. Vacancies shall be filled by the Mayor with approval of the City Council for the unexpired portion of the term. Any appointed member may be removed by the Mayor with the approval of the City Council for cause. The Board of Adjustment and Appeals shall have the following powers:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter; and

(2) To hear requests for variances from the literal provisions of this chapter in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual

property under consideration. Undue hardship shall be defined as provided in M.S. § 462.357, subd. 6(1), as it may be amended from time to time.

(B) *Procedures on variances.*

(1) The applicant for a variance shall complete and submit to the Zoning Administrator for a variance, together with a fee established by the City Council. In addition to the fee, the applicant shall sign an agreement, on forms provided by the city to pay the cost of all engineering, planning, legal and inspection expenses incurred by the city in processing the application. The application shall contain the names and mailing addresses of all property owners within 350 feet of the subject property.

(2) The Zoning Administrator shall determine that all information required by division (A)(1) above has been provided, before writing the finding of fact and presenting the application to the Board of Adjustment and Appeals.

(3) The Board of Adjustment and Appeals shall hold a public hearing on the proposed variance. Notice of the time, place and subject matter of the proposed variance shall be published in the official newspaper. Property owners within 350 feet of the subject property shall receive a copy of the notice by mail. The notices shall be published and mailed ten days before the public hearing. Failure to receive a notice shall not invalidate the proceedings.

(4) On behalf of the Board of Adjustment and Appeals, the Zoning Administrator shall make written finding of fact and recommendations on the proposed variance to the Planning Commission, the Board of Adjustment and Appeals, and to the City Council.

(5) The City Council shall approve or deny the proposed variance following referral by the Board of Adjustment and Appeals. In order to comply with the provisions of M.S. § 15.99, as it may be amended from time to time, the City Council shall either

approve or deny an application within 60 days after the completed application is filed, unless the Council determines within that 60-day period that an additional 60 days is necessary and informs the applicant of its decision to and the reasons for extending the first 60-day period by an additional 60 days. The failure of a vote to approve an application shall not be deemed to be a denial of the application. A motion to deny the application must be adopted.

(6) The Planning Commission shall make a finding of fact and recommend the actions or conditions relating to the request to the Board of Adjustment and Appeals. The findings shall be entered in and made a part of the written record of the Board of Adjustment and Appeals.

(7) Upon receiving the report and recommendation of the Board of Adjustment and Appeals, the City Council shall either:

(a) Approve or disapprove the request as recommended by Board of Adjustment and Appeals;

(b) Approve or disapprove the recommendation of the Board of Adjustment and Appeals with modifications, alterations or differing conditions; modifications, alterations or differing conditions shall be in writing and made part of the Council's records;

(c) Refer the recommendation back to the Board of Adjustment and Appeals for further consideration; followed only one time on a singular action; and/or

(d) Approval of variances or appeals shall require passage by two-thirds vote of the full City Council. The Zoning Administrator shall notify the applicant of the Council's action.

(8) The decisions of the Board of Adjustment and Appeals shall be advisory to the City Council. The decisions of the City Council shall be final subject to judicial review.

(C) *Standards for granting variances.* A variance may be granted only in the event that the applicant demonstrates by factual presentation that all of the following circumstances exist:

(1) The literal interpretation of the provisions of this chapter would cause undue hardship, as defined by M.S. § 462.357, subd. 6(1), as it may be amended from time to time, deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter and leave the applicant with no reasonable use of the land, provided that the hardship shall not have been created by the applicant;

(2) The conditions causing the hardship are unique and are not shared by neighboring property in the same zoning district. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zoning district and result from lot size or shape, topography or other circumstances over which the owners of the property since enactment of this chapter had no control;

(3) The variance would be in keeping with the spirit and intent of the chapter, would be consistent with the comprehensive plan, and would not essentially alter the character of the neighborhood, or adversely affect the environmental equality of the area; and

(4) The variance would not allow any use that is not permitted under the chapter for a property in the zoning district where the affected applicant's land is located.

(D) *Conditions and restrictions.* In granting a variance the Board of Adjustment and Appeals may recommend and the City Council may impose

additional conditions and restrictions which are reasonably necessary to ensure compliance with all provisions of this chapter, and with the language and intent of the comprehensive plan, and to protect adjacent properties.

(E) *Finding of fact.* In considering all requests for a variance or appeal, the City Council shall make a finding of fact as appropriate that the proposed action will not:

(1) Impair an adequate supply of light and air to adjacent property;

(2) Unreasonably increase the congestion in the public right-of-way;

(3) Increase the danger of fire or endanger the public safety;

(4) Unreasonably diminish or impair established property values within the neighborhood;

(5) Cause an unreasonable strain upon existing municipal facilities and services;

(6) Be contrary in any way to the spirit and intent of this chapter; and

(7) Have a negative direct and indirect fiscal impact upon the city, county or school district, unless the proposed use is determined to be in the public interest.

(F) *Appeals procedures.* Any person wishing to appeal an order, requirement, decision or determination made by an administrative officer in enforcement of this chapter shall complete and submit to the Zoning Administrator for Appeal within 30 days after the date of the order or decision in question. The application for appeal shall contain a complete statement of the order, requirement, decision or determination, the name of the administrative officer involved, and a concise statement of the alleged error committed.

(1) The Zoning Administrator shall determine that the application contains all information required by this section, before presenting the application to the Board of Adjustment and Appeals.

(2) The Board of Adjustment and Appeals shall review the application and make written findings of fact to the City Council.

(3) The City Council shall grant or deny the appeal request after receiving the recommendation of the Board of Appeals.

(G) *Lapse of variance or appeal.* Whenever within one year after granting a variance or appeal the work as permitted by the variance or appeal shall not have been completed, then the variance or appeal shall become null and void unless a petition for extension of time in which to complete the work has been granted by the City Council. The extension shall be requested in writing and filed with the Zoning Administrator at least 30 days before the expiration of the original variance or appeal. There shall be no charge for the filing of the petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance or appeal. The petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision, and shall be requested only one time on a singular action.

(H) *Performance bond.* The Planning Commission shall have the authority to require a performance bond or other securities when it is deemed necessary and appropriate.

(1) Except in the case of non-income producing residential property, upon approval of a variance or appeal the city may be provided with a surety bond, cash escrow certificate of deposit, securities or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. The security shall

guarantee conformance and compliance with the conditions of the variance or appeal and the ordinances of the city.

(2) The security may be in the amount of the City Council's estimate costs of labor and materials for the proposed improvements or development.

(3) The city may hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the variance or appeal and ordinances of the city has been issued by the City Zoning Administrator.

(4) Failure to comply with the conditions or the variance or appeal and/or ordinances of the city should result in forfeiture of the security.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

§ 150.270 ENVIRONMENTAL REVIEW PROGRAM.

The purpose of the environmental review program section is to provide for the preparation and review of environmental assessment worksheets (EAW), environmental impact statements (EIS), and other environmental documents required under M.S. § 1160.04(2) and § 1160.01(1974), as amended, to implement the environmental review program in accordance with 6 MCAR 3.021 to 3.047.

(Ord. 17-05, passed 9-18-2017; Am. Ord. -, passed - -)

