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GENERAL PROVISIONS

§ 150.01 PLANNING COMMISSION.

(A) *Establishment of Commission.* A City Planning Commission is hereby established. The Commission shall be the city planning agency.

(B) *Composition.*

(1) (a) The City Planning Commission shall consist of five members who are residents of the city. Five members shall be appointed by the City Council and shall serve such terms as are further provided herein. Appointed members of the Commission may be removed by a four-fifths vote of the City Council. A member of the Commission shall take an oath to faithfully discharge the duties of the Commission.

(b) Two City Council members, selected by the Council, shall attend as representatives of the Council to the Commission and shall not be entitled to vote, shall not be counted as members of the Commission for purposes of determining whether or not a quorum of the Commission members are present at a meeting. Council representatives shall receive equal compensation as the members.

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(2) A member of the Commission shall serve a term of three years. A member of the Commission shall continue to serve in that capacity until a successor is appointed and qualified. A vacancy in the membership of the Commission shall be filled by appointment of the City Council for the duration remaining in that term. Council member's responsibility shall correspond to the tenure of their term of office as a Council member.

(3) A member of the Commission shall be entitled to compensation at the rate of \$25 per Planning Commission meeting (regular and special) actually attended.

(C) *Organization, meetings, and the like.*

(1) The Commission shall elect a Chairperson from among its appointed members for a term of one year; and the Commission may create and fill such other offices as it may determine.

(2) The Commission shall hold at least one regular meeting each month. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, and findings, which record shall be a public record. The Commission shall report to the City Council monthly of its work. Expenditures of the Commission shall be within amounts appropriated for the purpose by the City Council.

(D) *Adoption of the program of work.*

(1) Upon the appointment and organization of the Commission, it shall proceed with the preparation and adoption of resolution of a program of work, outlining activities proposed to be undertaken in the exercise of its powers, and the performance of its duties.

(2) Such a program will include:

- (a) An outline of data and information to be assembled as a basis of the city plan;
- (b) An outline of subjects to be covered by the city plan; and
- (c) An outline of types of procedure necessary to make the city plan effective.

(3) The Planning Commission may, by resolution, revise its program of work from time to time.

(E) *Preparation of comprehensive city plan.* It shall be the function and duty of the Planning Commission to prepare and adopt a comprehensive city plan for the physical, economic, and social development of the city, including, but not limited to, proposed public buildings, street arrangements and improvements, public utility services, parks, playgrounds, and other similar developments, the use of property, the density of population, and other matters relating to the development of the city. The comprehensive plan may also include a land use plan, a community facilities plan, a transportation plan, and recommendations for plan execution. The plan may be prepared in sections, each of which shall relate to a major subject of the plan or to a major geographical section of the city as outlined in the Commission's program of work,

(F) *Procedure for adoption of plan.*

(1) Before adopting the city plan, or any section of it or any substantial amendment thereof, the Commission shall hold at least one public hearing thereon, notice of the, time, place, and purpose of which shall be given by publication in the official city newspaper at least ten days before the day of the hearing. The adoption of the city plan or any section or amendment thereof shall be by resolution of the Commission, approved by a majority of all the members of the Commission. The Commission may, from time to time, amend or add to the city plan or section thereof as herein provided for the adoption of the original plan whenever changed conditions or further studies by the Commission indicate that such amendment or addition is necessary.

(2) An attested copy of the plan or of any section, amendment, or addition to the city plan adopted by the Planning Commission shall be certified to the City Council.

(G) *Procedure for plan effectuation.* Upon the adoption of the comprehensive city plan, or any section thereof, it shall be the duty of the Planning Commission to recommend to the City Council reasonable and practicable means for putting into effect such plan or section thereof in order that the same will serve as a pattern and guide for the orderly physical, economic, and social development of the city and as a basis for the efficient expenditure of the funds thereof relating to the subjects of the city plan. Such means shall consist of zoning regulations, regulations for the control of subdivision plats, an official map, coordination of the normal public improvements of the city, a long-term program of capital expenditures, and such other matters as will accomplish the purposes of this section.

(H) *Zoning ordinance.* At any time after the adoption of a land use plan for the municipality, the Planning Commission, for the purpose of carrying out the policies and goals of the land use plan, may, and upon instructions by the City Council, shall prepare a proposed ordinance and submit it to the governing body with its recommendations for adoption. No zoning ordinance or amendment thereto shall be adopted by the Council until a public hearing has been held thereon by the Planning Commission (the Council) after a notice similar to that required by division (F) above.

(I) *Official map.*

(1) After adoption of a major thoroughfare plan and a community facilities plan, the Planning Commission with the assistance of the City Engineer, may, and upon instructions by the City Council, shall prepare an official map of the platted and unplatted portions of the city and adjoining territory, or portions thereof, indicating upon such map the land that is needed for future street purposes and as sites for other necessary public facilities and services within the city.

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(2) After such map has been prepared, it shall be submitted to the Council, which shall thereupon consider such map and may adopt it or any part of it with such amendments as it deems advisable. Before such adoption by the Council, a public hearing shall be held upon the proposal at least ten days after a notice of the time, place and purpose thereof has been published in the official city newspaper. After such map has been adopted by the Council and filed with the Register of Deeds, whenever any street or highway is widened or improved or any new street is opened, or interests in land for other public purposes are acquired by the municipalities, it is not required in such proceedings to pay for any building or structure placed without a permit or in violation of condition of the permit within the limits of the mapped street or outside of any building line that may have been established upon the existing street or within any area thus identified for public purposes.

(J) *Plats.*

(1) Every proposed plat of land within the city or within two miles of the limits of the city and not within a town which itself required the approval of plats, shall be submitted to the City Council before being filed and no plat of land shall be filed unless and until the same shall first have been approved by the City Council.

(2) (a) Before approving a plat, the City Council shall submit the same to the Planning Commission for its recommendations, The Planning Commission, within 60 days after any such plat has been referred to it by the City Council, shall act on the same and shall make its recommendations with respect thereto.

(b) Such recommendations may consist of:

1. Recommendation that the City Council approve such plat;
2. Recommendation that the City Council disapprove such plat, in which case such recommendation shall include a statement of the specific reasons for such recommendation; or
3. Recommendation that the City Council approve such plat after specified changes or revisions are made therein, which recommendations may include the condition that a revised plat, containing such changes or revisions, be submitted to the Planning Commission, in which case such revised plat shall be so submitted to the Planning Commission for its further consideration and recommendations before action thereon by the City Council.

(K) *Procedure for amendments.* No change shall be made in the comprehensive city plan or any portion thereof or regulations governing the platting of land after such plans or regulations have been adopted by the City Council, until the proposed change has been referred to the Planning Commission for report thereon and an attested copy of such report has been filed with the Council; and no ordinance or resolution establishing any such plans or regulations shall be adopted by the City Council until such ordinance or resolution has been referred to the Planning Commission for a report thereon and an attested copy of such report has been filed with the Council. Failure of the Planning Commission to report within 40 days or such longer period as may be designated by the Council after such reference shall be deemed to be approval of the proposed change.

(L) *List of recommended public works.*

(1) *Generally.* Each officer, department, board, or commission of or in the city whose functions include recommending, preparing plans for, or constructing public works, shall, at least three months before the end of each fiscal year, submit to the Planning Commission a list of the proposed public works recommended by such officer, department, board, or commission for planning, initiation, or construction during the ensuing fiscal year. The Planning Commission shall request from the local school district a similar list of its proposed public works. The Planning Commission shall list and classify all such proposed public works and shall prepare a coordinated program of proposed public works for the ensuing fiscal year. Such program shall be recommended by the Commission to the Council and to such other officers, departments, boards, or public bodies as have jurisdiction over the recommending, planning, or constructing of such public works. A copy of such recommended program of public works shall be included in the annual report of the Planning Commission provided for in division (C) above.

(2) *Compliance with plan.* After a comprehensive municipal plan or section thereof has been recommended by the planning agency and a copy filed with the governing body, no publicly-owned interest in real property within the municipality shall be acquired or disposed of, nor shall any capital improvement be authorized by the municipality or special district or agency thereof or any other political subdivision having jurisdiction within the municipality until after the planning agency has reviewed the proposed acquisition, disposal, or capital improvement and reported in writing to the governing body or other special district or agency or political subdivision concerned, its findings as to compliance of the proposed acquisition, disposal, or improvement with the comprehensive municipal plan. Failure of the planning agency to report on the proposal within 45 days after such a reference, or such other period as may be designated by the governing body shall be deemed to have satisfied the requirements of this division (L). The governing body may, by resolution adopted by two-thirds vote, dispense with the requirements of this division (L), when in its judgment it finds that the proposed acquisition or disposal of real property or capital improvement has no relationship to the comprehensive municipal plan.

(Ord. 41, passed 5-17-1978; Ord. 139, passed 10-9-2014)

§ 150.02 MOVING OF A STRUCTURE.

(A) *Permit required.* No person shall move, haul, or transport, any house, building, derrick, or other structure of the height of 16 feet or more, of a width of 15 feet or more, which cannot be moved at a speed of four mph or more, or is overweight, upon, across, or over any street or alley without first obtaining a permit therefor as hereinafter provided.

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(B) *Manner of obtaining permits.* All application for permits to move houses, buildings, derricks, or other structures mentioned in division (A) above shall be made in writing to the city as specifying the date and hour said moving is to commence, and the street route over which said building or structure shall be moved. If it shall be necessary to cut down, move, raise, or in any other way interfere with any wires or poles, the application shall state the name of the owner of said wires and poles, the time and place when and where removal of said and/or cutting, raising, or other interference with said wires will be necessary.

(C) *Fee for permit.* Before a permit to move any house, building, derrick, or other structure is granted under the provisions hereof, the applicant for said permit shall pay to the city a fee as set forth by the city.

(D) *Surety bond required.* Every person at the time of making application for a permit as provided in division (B) above shall execute in favor of the city a good and sufficient surety bond to be approved by the Building Official, indemnifying the city against any loss by reason of damage to streets or other city property, and saving the city harmless from any damage to private property or damage suit resulting from the failure of such person to comply with the provisions hereof, or from their negligence.

(E) *Notice to owners of wires and poles.* The city shall, upon filing of such application, give not less than five days written notice to the person owning or operating such wires and poles or to their agents, of the time when, and the place where the removal of said poles, or the cutting, raising, or otherwise interfering with said wires shall be necessary.

(F) *Duty of owners of wires and poles.* Every person owning or operating said poles or wires after service of notice, as required in division (C) above, shall furnish competent workers or linemen to remove such poles, or raise or cut wires, as may be necessary to facilitate the moving of such house, building, derrick, or structure. The necessary expense which is incurred thereby shall be paid by the holder of the moving permit.

(G) *Duty of house movers.* No person engaged in moving any house, building, derrick, or other structure shall raise, cut, or in any way interfere with any such poles or wires unless the persons or authorities owning or having control of the same shall neglect or refuse to do so after having been notified as required in division (E) above. The person or persons engaged in such moving may employ competent and experienced workers or linemen to perform the necessary work, which shall be done in a careful and workmanlike manner, and the poles and wires shall be promptly replaced, and the damage thereto promptly repaired.

(H) *Duty of the city.* The city shall, from time to time, inspect the progress of the moving of any building, house, or other structure and see that said house, building, or other structure is being moved in accordance with the provisions of this section.

(I) *Lights to be displayed.* Any person moving any of the structures mentioned in division (A) above upon, across, or over any street, alley or other public place, shall display warning lights thereon in such a manner as to show the extreme height and width thereof from 30 minutes after sunset to 30 minutes before sunrise.

(Ord. 5-2, passed 4-2-1969)

STATE BUILDING CODE

§ 150.15 CODES ADOPTED BY REFERENCE.

The State Building Code, as adopted by the Commissioner of Labor and Industry pursuant to M.S. §§ 326B.101 to 326B.194, as they may be amended from time to time, including all of the amendments, rules, and regulations established, adopted, and published from time to time by the State Commissioner of Labor and Industry, through the Building Codes and Standards Division is hereby adopted and incorporated as part of this code of ordinances as fully as if set out at length herein, with the exception of the optional chapters. The State Building Code is hereby incorporated in this subchapter as if fully set out herein.

(Ord. 121, passed 10-22-2009)

§ 150.16 PERMITS AND FEES.

The issuance of permits and the collection of fees shall be as authorized in M.S. § 326B.121, subd. 1, as it may be amended from time to time. Permit fees shall be assessed for work governed by this Code in accordance with the fee schedule adopted by this subchapter. In addition, a surcharge fee shall be collected on all permits issued for work governed by this Code in accordance with M.S. § 326B.148, as it may be amended from time to time.

(Ord. 121, passed 10-22-2009)

§ 150.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any person who violates § 150.01(J) or who sells land or offers land for sale or contracts for the sale of land by reference to or by other use of any plat before such plat has been approved by the City Council in accordance with the provisions of this section, is guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with the law.

(Ord. 5-2, passed 4-2-1969; Ord. 41, passed 5-17-1978; Ord. 121, passed 10-22-2009)

CHAPTER 151: RENTAL PREMISES

Section

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- 151.02 Definitions
- 151.03 Conduct on rental premises

- 151.99 Penalty

§ 151.01 INTENT.

(A) (1) It is declared to be the purpose and intent of this chapter to protect and preserve this city's neighborhood and the public health, safety, welfare, and morals of those who live there.

(2) The City Council has determined that:

(a) There are persons residing in rental property in the city engaging in disorderly conduct which results in a hostile environment for other citizens living close to the rental property; and

(b) There is currently no procedure by which the city can charge rental property owners or managers with a criminal offense as a result of disorderly conduct occurring on his or her rental property.

(B) Accordingly, it is the intent of this chapter to address the serious problem posed by the occurrence of disorderly conduct and to the health and safety of all portions of the city.

(Ord. 95, passed 8-22-2002)

§ 151.02 DEFINITIONS.

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

DISORDERLY or ***DISORDERLY USE***. Actions, conduct, or use of property involving unlawful sexual intercourse; prostitution; lewd, lascivious, or indecent acts; gambling; or the unlawful sale of intoxicating liquor or non-intoxicating malt liquor.

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OWNER. The individual or corporation or other legal entity which has an ownership interest in the rental property and offers the property for rent to the public.

RENTAL PREMISES. Property which is rented to tenants for residential purposes and shall refer to all units in a multi-unit complex. The term **RENTAL PREMISES** shall not include rented lots in manufactured home parks.

(Ord. 95, passed 8-22-2002)

§ 151.03 CONDUCT ON RENTAL PREMISES.

(A) Any owner and/or manager of rental premises shall be responsible to take appropriate action against persons occupying specific units in the rental premises who context themselves in such a manner as to cause the premises to be disorderly in violation of the statutes or ordinances listed in division (B) below. Those persons occupying the premises shall include the tenant as defined by M.S. § 504B.001, subd. 12, as it may be amended from time to time, and those persons on the rental premises whose presence the tenant has invited or to which the tenant has acquiesced. Violations of this section apply to individual units within buildings or complexes containing multiple units.

(B) The following ordinances and statutes are applicable to this section:

(1) M.S. §§ 609.321 through 609.324, as they may be amended from time to time, which prohibit prostitution;

(2) M.S. §§ 617.23 through 617.299, as they may be amended from time to time, which prohibit obscenity;

(3) Chapter 92, Nuisances, of this code of ordinances, prohibiting loud parties or gatherings or other unnecessary loud noises;

(4) M.S. §§ 609.75 and 609.76, as they may be amended from time to time, which prohibit gambling;

(5) M.S. §§ 152.01 through 152.025 and § 152.027, subs. 1 and 2, as they may be amended from time to time, which prohibit the unlawful sale or possession of controlled substances;

(6) M.S. § 340A.401, as it may be amended from time to time, which prohibits the unlawful sale of alcoholic beverages;

(7) M.S. §§ 97B.021, 97B.045, 609.66, 609.67, and 624.712 through 634.716, as they may be amended from time to time, which prohibit the unlawful possession, transportation, sale, or use of specified weapons; or

(8) M.S. § 609.72, as it may be amended from time to time, which prohibits disorderly conduct.

(C) The County Sheriff's Department shall be charged with the responsibility of enforcing division

(B) above.

(D) Upon determination by the Sheriff's Department that the rental premises were involved in a disorderly use, the Sheriff's Department shall notify the owner and/or manager of the rental premises in person or by regular mail of such violation and shall direct the owner and/or manager to take appropriate action to prevent further violations. The warning shall be effective if mailed to the owner and/or manager at the person's last known address.

(E) It shall be a defense to charge under divisions (E) or (F) above if the owner and/or manager of the rental premises has taken appropriate action to terminate the tenancy of those persons involved in the disorderly use of the rental premises prior to the issuance of the citation.

(F) All written leases for rental premises in the city executed after the effective date of this chapter shall contain a clause providing that conduct which would be a violation of division (B) above shall constitute both a material breach of the lease and grounds for termination of such lease.

(G) Any owner or manager of rental premises and any owner or manager of a manufactured home park located within the city may request that the Sheriff's Department conduct a criminal history background investigation of a prospective tenant. The Sheriff's Department shall conduct criminal/background investigations on prospective tenants in rental premises and mobile home parks in the city upon request by the owner or manager of the premises. No investigation shall be conducted using the State Criminal Justice Data Communication Network (CJDN) and no information obtained from CJDN shall be disseminated unless the landlord presents an informed consent/waiver form approved or provided by the Sheriff's Department and signed by the prospective tenant. The informed consent/waiver form must meet the requirements of M.S. § 13.05, subd. 4(d), it may be amended from time to time. The applicant shall pay an investigation fee as established by the Law Enforcement Records Division.

(Ord. 95, passed 8-22-2002)

§ 151.99 PENALTY.

(A) (1) If another instance of disorderly use of the rental premises occurs within 12 months of an incident for which a warning was given pursuant to § 151.03(D), the Sheriff's Department shall charge the owner and the manager of the rental premises with violation of this chapter. The first violation of this chapter by an owner and/or manager of rental premises shall be a petty misdemeanor.

(2) If another instance of disorderly use of the rental premises occurs within 12 months of a previous conviction for a violation of this chapter, it shall constitute a misdemeanor.

(B) The failure to include the provisions of § 151.03(F) in a lease for rental premises shall be a petty misdemeanor.

(Ord. 95, passed 8-22-2002)

CHAPTER 152: SUBDIVISIONS

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GENERAL PROVISIONS**§ 152.001 TITLE.**

These regulations shall hereafter be known, cited, and referred to as the “Subdivision Regulations of the City of Eyota”.

(Ord. 154, passed 5-25-2017)

§ 152.002 POLICY.

(A) It is hereby declared to be the policy of the city to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the city pursuant to the official Comprehensive Plan of the municipality for the orderly, planned, efficient, and economical development of the city.

(B) Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to public health or peril from fire, flood, or other menace to property owners or the land resource, and land shall not be subdivided until available public facilities and improvements exist and proper provision has been made for drainage, water supply, sewerage, and capital improvements such as parks, recreation facilities, transportation facilities, and improvements.

(C) The existing and proposed public improvements shall conform to and be properly related to the proposals shown in the Comprehensive Plan of the city, and it is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in the Building Code, zoning ordinance, and Comprehensive Plan of the city.
(Ord. 154, passed 5-25-2017)

§ 152.003 PURPOSES.

The subdivision chapter sets forth the minimum requirements deemed necessary to ensure and protect the health, safety, and welfare of the public. More specifically, the provisions of this chapter are designed:

(A) To guide the future growth and development of the municipality, in accordance with the Comprehensive Plan;

(B) To provide for adequate light, air, and privacy, to secure safety from fire, flood, and other danger, and to prevent overcrowding of the land and undue congestion of population;

(C) To protect the character and the social and economic stability of all parts of the city and to encourage the orderly and beneficial development of all parts of the city;

(D) To protect and conserve the value of land throughout the city and the value of buildings and improvement upon the land, and to minimize the conflicts among the uses of land and buildings;

(E) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities;

(F) To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the municipality, having particular regard to the avoidance of congestion in the streets and highways, and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines;

(G) To establish reasonable standards of design and procedures for subdivisions and re-subdivisions, in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumentalizing of subdivided land;

(H) To ensure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision;

(I) To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the watertable; and to encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability, and beauty of the community and the value of the land;

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(J) To preserve the natural beauty and topography of the municipality and to ensure appropriate development with regard to these natural features; and

(K) To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of land as established in the zoning ordinance of the city.

(Ord. 154, passed 5-25-2017)

§ 152.004 JURISDICTION.

(A) These subdivision regulations shall apply to all subdivisions of land, as defined herein, located within the corporate limits of the city.

(B) No land shall be subdivided within the corporate limits of the city until:

(1) The subdivider or his or her agent shall submit a concept plan and a preliminary and final plat of the parcel to the Planning Commission through its City Clerk;

(2) Obtain approval of the concept plan by the Planning Commission and preliminary and final approval of the plat by the Planning Commission and City Council; and

(3) The approved plat is filed with the County Recorder with a copy required by the City Clerk-Treasurer.

(C) No building permit shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of these subdivision regulations, and no excavation of land or construction of any public or private improvement shall take place or be commenced except in conformity with the regulations.

(Ord. 154, passed 5-25-2017)

§ 152.005 LEGAL AUTHORITY.

This chapter is enacted pursuant to M.S. § 462.358, as it may be amended from time to time.
(Ord. 154, passed 5-25-2017)

§ 152.006 CONDITIONS.

Regulations of the subdivision of land and the attachment of reasonable conditions to land subdivision are an exercise of valid police power delegated by the state to the city. The developer has the duty of compliance with reasonable conditions laid down by the City Council for design, dedication, improvement, and restrictive use of the land so as to conform to the physical and economical developments of the municipality and to the safety and general welfare of the future plot owners in the subdivision and of the community at large.

(Ord. 154, passed 5-25-2017)

§ 152.007 INTERPRETATION, CONFLICT, AND SEPARABILITY.

(A) *Generally.* In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

(B) *Conflict with public and private provisions.*

(1) This chapter is not intended to abrogate any easement, covenant, or any other private agreement of restriction; provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or private agreement or restriction, the requirements of these regulations shall govern.

(2) Where the provisions of an easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of this chapter, or the determination of the Planning Commission or the City Council in approving a subdivision in enforcing this chapter, and such private provisions are not inconsistent with this chapter or determinations thereunder, then such private provisions shall be operative and supplemental to this chapter and determination made thereunder.

(C) *Separability.* If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provisions, or application directly involved in all controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application.

(Ord. 154, passed 5-25-2017)

§ 152.008 PRESERVATION AND APPEALS.

Upon the adoption of these regulations according to law, any previous subdivision regulations of the city, as amended, are hereby repealed, except as to such sections expressly retained herein.

(Ord. 154, passed 5-25-2017)

§ 152.009 AMENDMENTS.

The Planning Commission may, of its own motion or upon petition or at the direction of the City Council, cause to be prepared amendments supplementing or changing regulations herein established. Before any proposed amendment can be acted on, a public hearing shall be held by the Planning Commission with notice given in the official newspaper at least ten days prior to the hearing. Upon receiving the recommendation of the Planning Commission, the City Council shall study the Planning Commission's recommendation and approve or disapprove the amendments. If action is not taken within 60 days of the public hearing, another hearing shall be held with the same procedures.

(Ord. 154, passed 5-25-2017)

§ 152.010 RE-SUBDIVISION OF LAND; PROCEDURE.

For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, or area reserved thereon for public use, or any lot line, or if it affects any map or plan legally reached prior to the adoption of any regulations controlling subdivisions, such parcel shall be approved by the City Council by the same procedure, rules, and regulations as for a subdivision.

(Ord. 154, passed 5-25-2017)

§ 152.011 VARIANCES.

(A) *General.* The City Council, on request of the applicant, may grant a variance from strict compliance with the subdivision regulations contained in this chapter when it finds that all of the following conditions exist:

(1) The application of the subdivision regulations to the land will create an unusual and practical difficulty not experienced by other property of similar intended use and condition;

(2) The authorizing the variance will not be a substantial detriment to the community health, safety, or general welfare and will not materially impair the purposes of the subdivision regulations or the public interest;

(3) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a practical difficulty to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out;

(4) The intended use and conditions of the property forming the basis for granting a variance are unique and not of so general or recurrent a nature as to cause the formulation and adoption of a general subdivision regulation for similar uses and conditions; and

(5) The variances will not in any manner vary the provisions or the zoning ordinance.

(B) *Conditions.* In approving variances, the City Council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.

(C) *Procedures.* A petition for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the Planning Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

(D) *Waiving preliminary plat.* The requirement that there be a preliminary plat may be waived by the City Council if the subdivision does not involve the construction of any public right-of-way, public utilities, or a grading plan.

(Ord. 154, passed 5-25-2017)

§ 152.012 ENFORCEMENT AND VIOLATION.*(A) General.*

(1) It shall be the duty of the Mayor or City Clerk-Treasurer and City Engineer to enforce these regulations and upon recommendation from the Planning Commission or City Council to bring to the attention of the City Attorney any violations or lack of compliance herewith.

(2) No owner or agent of the owner of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a plat of such subdivision has been approved by the Planning Commission and City Council in accordance with the provisions of these regulations and filed with the County Recorder.

(B) Civil enforcement. Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these regulations to prevent unlawful constructions, to recover damages, to restrain, correct, or abate a violation, to prevent illegal occupancy of a building structure or premises; and these remedies shall be in addition to the penalties described above.

(Ord. 154, passed 5-25-2017) Penalty, see § 152.999

§ 152.013 CONVEYANCE BY METES AND BOUNDS; CONVEYANCE CONDITIONS.

No conveyance involving a portion of a platted lot or involving non-platted land, the conveyance of which is regulated by M.S. § 462.358, subd. 4b, as it shall be amended from time to time, shall be made unless approval is first obtained as follows.

(A) Portion of platted lot. On application of the owner, the City Council may approve a conveyance of a portion of a platted lot under the following circumstances if, in each instance, the new and residual parcels of land which would result from the conveyance meet the frontage and area requirements of the zoning ordinance:

(1) When it is desired to detach a portion of a platted lot and add it to an adjoining platted lot; and

(2) When it is desired to divide one or two platted lots into not more than three parcels and the dedication of public utility easements and street rights-of-way is not involved.

(B) Non-platted land. On application of the owner, filed with the City Clerk, the City Council, by resolution, may approve a conveyance by metes and bounds if it is determined that the following conditions exist:

(1) The restriction against such conveyance will create an unnecessary hardship;

(2) Such conveyance will not interfere with the purposes of the subdivision regulations;

(3) The dedication of public utility easements or street rights-of-way is not involved;

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(4) Such conveyance involves the division of a parcel into not more than three separate parcels; and

(5) The new and residual parcels of land which would result from the conveyance meet the frontage and area requirements of the zoning ordinance.

(C) *Applications.* All applications under this section shall be filed with the City Clerk-and shall have attached thereto a plat (certificate) of survey, legal description, and a map of the land to be conveyed.

(Ord. 154, passed 5-25-2017)

DEFINITIONS

§ 152.025 USAGE.

(A) For the purpose of these regulations, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this section.

(B) Unless the context clearly indicates to the contrary, words used in the plural number include the singular; the word “herein” means “in these regulations”; the word “regulations” means “these regulations”.

(C) A “person” includes a corporation, a partnership, and an incorporated association of persons such as a club; “shall” is always mandatory, a “building” includes a “structure”; a “building” or “structure” includes any part thereof; “used” or “occupied” as applied to any land or building shall be construed to include the words “intended”, “arranged”, or “designed to be used or occupied”.

(Ord. 154, passed 5-25-2017)

§ 152.026 WORDS AND TERMS DEFINED.

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

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

BLOCK. Any combination of land ownership bounded by streets, roads, or highways, or a combination thereof, or by a combination of streets, roads, or highways and public parks, cemeteries, railroad rights-of-way, streams, lakes, or similar human-made or natural physical barriers.

BOND. Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the governing body. All **BONDS** shall be

approved by the governing body wherever a **BOND** is required by these regulations.

BUILDABLE AREA. That part of the lot not included within the open areas required by the zoning ordinance, official map, or other official control.

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

CITY ATTORNEY. The licensed attorney designated by the governing body to furnish legal assistance for the administration of these regulations.

CITY CLERK-TREASURER. The officer as appointed by the governing body to administer these regulations and to assist administratively other boards and commissions.

CITY ENGINEER. Licensed engineer designated by the governing body to furnish engineering assistance for the administration of these regulations.

COMPREHENSIVE PLAN. A plan prepared by the city, including a compilation of policy statements, goals, standards, and maps indicating the general locations recommended for the various functional classes of land use and for the general physical development of the community.

CONCEPT PLAN. A sketch prior to the preparation of the preliminary plat. The **CONCEPT PLAN** is submitted to the City Clerk-Treasurer by the subdivider as part of the pre-plat investigation. The **PLAN** shall show property boundaries, existing zoning, general layout of streets, reservations of land, drainage, sewerage, availability of services, general topographic, other natural features, and on-site and surrounding land uses.

CONSTRUCTION PLAN. The maps and drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the City Council as a condition of the approval of the plat.

CROSS WALKWAY. A right-of-way or easement dedicated to public use, which cuts across or into a block to facilitate pedestrian access to adjacent streets and properties.

CUL-DE-SAC (COURT). A short street having one end open to traffic and being permanently terminated by a circular turn-around for vehicles.

EASEMENT. A grant by the property owner for the use of a designated portion of land by the public, individuals, groups, or corporations for specific purposes.

FINAL PLAT. All required maps, information, and documents as set forth in the subdivision regulations and as required by the Planning Commission and the City Council.

FLEXIBLE ZONING. Zoning which permits uses of land and density of buildings and structures different from those which are allowed as of right within the zoning district in which the land is situated whether residential or nonresidential. **FLEXIBLE ZONING APPLICATIONS** may include, but not be limited to, conditional use permits, planned unit development, average density, or density zoning projects.

FRONTAGE. That side of a lot abutting on a public street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

GOVERNING BODY. The body of the local government having the power to adopt ordinances, i.e., the City Council.

GRADE. The slope of a road, street, or other public way, specified in percentage (%) terms.

IMPROVEMENTS. See **LOT IMPROVEMENTS** or **PUBLIC IMPROVEMENTS**.

LOT. A portion of a subdivision or other parcel of land intended as a unit for transfer of ownership or for development.

LOT, CORNER. A lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 105 degrees.

LOT IMPROVEMENT. Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment. Certain **LOT IMPROVEMENTS** shall be properly bonded as provided in these regulations.

MONUMENT. Concrete and/or metal markers utilized to establish survey points and lot boundaries.

NONRESIDENTIAL SUBDIVISION. A subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of these regulations.

OFFICIAL MAP. The map adopted by the City Council showing the streets, highways, blocks, and lots laid out resulting from the approval of subdivision plats and the subsequent filing of the approved plats.

ORDINANCE. Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.

OWNER. Any person, group of persons, firm or firms, corporation, or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

PARK AND RECREATION IMPROVEMENT FUND. A special fund established by the governing body to retain monies contributed by developers in accordance with the "required deposit" provisions of these regulations within reasonable proximity of the land to be subdivided so as to be of local use to the future residents of the subdivision.

PARKS, PLAYGROUNDS, TRAILS, AND PUBLIC OPEN SPACE. Dedicated city-owned lands for current or future recreational and conservation purposes.

PLANNING COMMISSION. A governmental agency appointed by the governing body according to M.S. §§ 462.351 through 462.363, as they may be amended from time to time.

PRELIMINARY PLAT. All required maps, information, and documents as set forth in these regulations and as required by the Planning Commission and City Council for approval.

PRE-PLAT INVESTIGATION. The submittal of a concept plan to the City Clerk-Treasurer to enable the subdivider to save time and expense in understanding the objectives of local, county, state, and federal regulations.

PUBLIC IMPROVEMENT. Any drainage ditch, roadway, parkway, sidewalk, pedestrian-way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established. All such improvements shall be properly bonded.

RE-SUBDIVISION. A change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot line or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivision.

RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. The usage of the term **RIGHT-OF-WAY** for land-platting purposes shall mean that every **RIGHT-OF-WAY** hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. **RIGHTS-OF-WAY** intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency shall be so dedicated to public use by the maker of the plat on which such **RIGHT-OF-WAY** is established.

RIGHT-OF-WAY WIDTH. The distance between property lines measured at right angles to the centerline of the street.

SCREENING.

(1) Either:

(a) A strip of at least ten feet wide, densely planted (or having equivalent natural growth) with shrubs or trees at least four feet height at the time of planting, of a type that will form a year-round dense screen at least six feet high; or

(b) An opaque wall or barrier or uniformly painted or stained fence at least six feet height.

(2) Either division (1)(a) or (1)(b) above shall be maintained in good condition at all times and may have no signs affixed to it. Where required in the district regulation, a **SCREEN** shall be

installed along or within the lines of a plot as a protection to adjoining or nearby properties.

SETBACK. The distance between a building and the street line nearest thereto.

SHADE TREE. A tree in a public place, street, special easement, or right-of-way adjoining a street as provided in these regulations.

STREETS.

(1) **ALLEY.** A public right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

(2) **ARTERIAL.** A two- to four-lane street which provides service for municipal or inter-urban trips at a somewhat lower level of travel mobility than a four lane divided or limited access highway. The at-grade intersections should be fully or partially regulated by traffic-control devices to ensure safe and efficient conditions for the arterial traffic. Direct private access onto the street shall be permitted but regulated. Under certain circumstances, a frontage road may be needed. Additional right-of-way would be required for the frontage road.

(3) **COLLECTOR.** A street that serves local traffic and provides for direct private access to abutting land uses. This system channels the local traffic to and from the arterial and local systems and is capable of serving a minimum amount of through traffic.

(4) **FRONTAGE ROAD.** Adjacent to a major thoroughfare. Its primary function is to preserve the safety and capacity of the thoroughfare by controlling access to the major street while still providing direct private access to the adjoining properties. The roadway of the **FRONTAGE ROAD** abuts the thoroughfare's right-of-way.

(5) **LOCAL.** Offers the lowest level of mobility because service to through traffic is deliberately discouraged. Direct private access to abutting land uses is provided.

SUBDIVIDER. Any person who:

(1) Having an interest in land, causes it, directly or indirectly, to be divided into a subdivision; or

(2) Directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises for sale, lease, or development any interest, lot, parcel, site, unit, or plat on a subdivision; or

(3) Engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel site, unit, or plat in a subdivision; and

(4) Is directly or indirectly controlled by, or under direct, or indirect common control with any of the foregoing.

SUBDIVISION. Any land, vacant or improved, which is divided or proposed to be divided into

three or more lots, parcels, sites, units, plots, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions, including re-subdivision. **SUBDIVISION** includes the division or development of residential and nonresidential zoned land, whether by deed, devise, intestacy, lease, map, plat, or other recorded instrument.

SUBDIVISION AGENT. Any person who represents, or acts for or on behalf of, a subdivider or developer, in selling, leasing, or developing, or offering to sell, lease, or develop any interest, lot, parcel, unit, site or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal service.

TEMPORARY IMPROVEMENT. Improvements built and maintained by a subdivider during construction of the subdivision and prior to issuance of certificates of occupancy.
(Ord. 154, passed 5-25-2017)

PROCEDURES FOR SUBMISSION OF PLATS

§ 152.040 GENERAL PROCEDURES.

(A) *Generally.* Upon city approval of the concept plan at the pre-plat investigation, the subdivider may prepare a preliminary plat, which shall conform to the requirements of this chapter, zoning ordinance, and Comprehensive Plan of the city. The application shall be filed at least 30 days prior to the meeting of the Planning Commission at which action is desired. Once a complete submittal is received, the 60-day statutory period for formal approval or disapproval of the plat shall commence.

(B) *Coordination of flexible zoning application with subdivision approval.*

(1) *Generally.* It is the intent of these regulations that subdivision review be carried out simultaneously with the review of flexible zoning applications under the zoning ordinance. The plans required for flexible zoning applications shall be submitted in a form to satisfy the requirements of the subdivision regulations.

(2) *General requirement.* Whenever the zoning ordinance authorizes flexible zoning applications, subdivision approval of the flexible zoning application shall be required by the City Council in addition to all other procedures and approvals required in the zoning ordinance.

(3) *Procedure to be followed.*

(a) *Pre-plat investigation and preliminary plat approval required.* Whenever a flexible zoning application is submitted which involves a subdivision of land as set forth in division (B)(1) above, such application shall be submitted to the Planning Commission which is authorized to accept such application under the zoning ordinance. The Planning Commission shall also make such reviews of use, density, and bulk standards as are required under the zoning ordinance and flexible zoning regulation. A public hearing shall be held during the preliminary plat step as set forth in § 152.042(B).

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(b) *Referral back for zoning approval.* The Planning Commission shall thereupon refer the concept plan and preliminary plat with its decision of approval, conditional approval, or disapproval, together with such recommendations and reviews of use, density, and bulk standards as it was required to make under the flexible zoning regulation of the zoning ordinance, to the City Council. Application shall then be made to the City Council for final plat approval or disapproval. No building permits shall be issued for the project until the zoning application has been finally approved and final subdivision plat approval has been given and the subdivision plat is recorded with the County Recorder.

(4) *Re-subdivisions of flexible zoning development.*

(a) A flexible zoning development or land use plan may be subdivided or re-subdivided for purposes of sale or lease after the project plan has been finally approved and development completed or partially completed.

(b) If the subdivision or re-subdivision of a flexible zoning development will create a new plot line, the applicant shall make application to the Planning Commission for the approval of the subdivision or re-subdivision. The Planning Commission shall approve the subdivision only if simultaneously an amended zoning application is approved for the flexible development plan by the Planning Commission and then the City Council for all provisions governing use, density, and bulk standards.

(Ord. 154, passed 5-25-2017)

§ 152.041 PRE-PLAT INVESTIGATION.

(A) Prior to the preparation of a preliminary plat, the subdivider shall meet with the City Clerk, City Engineer, and other appropriate regulatory agencies to review applicable ordinances, regulations, and plans in the area to be subdivided. At this time or at subsequent informal meetings, the subdivider shall submit a concept plan of the proposed subdivision showing the proposed lot and roadway layout, and if available, the proposed connections to community facilities, surrounding neighborhood information, existing natural resources, and topography of the site. The concept plan will be reviewed by city staff and consultants and provide an advisory review without incurring major costs prior to submission of a preliminary plat. An electronic copy of the concept plan shall be submitted for review and distribution by the city.

(B) The required information for the concept plan shall include a scale and north arrow; topographic data and other natural features; subdivision name and name of the subdivider; approximate length of exterior boundaries, layout, and approximate dimensions of lots and blocks, identification of existing streets, public uses, and zoning of the site and surrounding area; existing land uses on the site and adjacent lands; and availability of services, including sewer and water.

(Ord. 154, passed 5-25-2017)

§ 152.042 PRELIMINARY PLAT.

(A) *Application procedure.*

(1) Upon approval by the city of the concept plan at the pre-plat investigation, the subdivider may prepare a preliminary plat, which shall conform to the requirements of this chapter and the zoning ordinance of the city, together with preliminary construction plans and other supplemental material as may be specified by the Planning Commission and its reviewing agencies.

(2) An application, along with five copies of the preliminary plat and one electronic copy, shall be filed at least 30 days prior to the meeting of the Planning Commission, at which action is desired. The City Clerk-Treasurer shall send copies of the preliminary plat to each of the following agencies for their comments or recommendations.

<i>County Agencies</i>	<i>Other Agencies</i>
Public Works Department	City Engineer
Surveyor	Natural gas company
Highway Engineer	Electric power company
Planning Department	Telephone companies
	Dover, Eyota, St. Charles Area Sanitary District
	Cable companies

(3) Other agencies to which the City Clerk-Treasurer may send copies of the preliminary plat for their comments or recommendations at the request of the Planning Commission include:

<i>County Agencies</i>	<i>Other Agencies</i>
Consolidated Planning Department	Dover-Eyota School District
Soil and Water Conservation District (local SCS office)	Minnesota Department of Transportation
	Minnesota Department of Natural Resources (for plats involving any floodplain lands)

(B) *Public hearing on preliminary plats.* The Planning Commission shall hold a public hearing on the preliminary plat. Notice of public hearing shall be given at least ten days before the date of such hearing by publication in the official newspaper and by written notice mailed to the applicant and the owners of record listed in the office of the City Clerk-Treasurer of all land within 350 feet of the outer boundary of the preliminary plat. The failure to give mailed notice to individual property owners or defects in the notice shall not affect the validity of the proceedings or of any action taken by the Planning Commission or the City Council.

(C) *Planning Commission recommendation.* After considering the comments and suggestions received at the public hearing, the Planning Commission shall recommend in writing to the City Council within 45 days stating its reason therefore either that the preliminary plat be granted approval, grant approval subject to certain conditions, or that the preliminary plat be disapproved. A copy of the recommendation shall be forwarded to the City Council and the applicant.

(D) *City Council action - preliminary plat.*

(1) The City Council shall consider the preliminary plat at its next meeting following receipt of the Planning Commission recommendation. The City Council shall take under advisement, and then approve the preliminary plat, approve it subject to certain conditions, or disapprove the plat. The applicant shall be informed by the city of the City Council's action, stating the conditions of approval or reasons for disapproval and shall endorse the date of the approval or disapproval on the preliminary plat. The City Clerk-Treasurer shall send the applicant one copy of the preliminary plat marked with the City Council action and any required revisions.

(2) Approval of a preliminary plat shall not constitute approval of the final plat. Unless earlier rescinded by the City Council, approval of a preliminary plat is limited to a period of one year, after which time the applicant is required to resubmit a preliminary plat; otherwise, conditional approval of the preliminary plat will become null and void. Upon application filed with the City Clerk, the City Council may continue the approval for an additional period of time. The application shall be filed at least 20 days prior to expiration of the approval of the preliminary plat.

(Ord. 154, passed 5-25-2017)

§ 152.043 FINAL PLAT.

(A) *Application procedure.* Following approval of a preliminary plat, the applicant may prepare a final plat and shall file an application with the City Clerk-Treasurer for approval of the final plat. The application shall be filed at least 15 days prior to the meeting of the City Council at which action is desired. The City Clerk-Treasurer shall send a copy of the application, final plat, and construction plans to the City Engineer to be checked for compliance with the City Council comments and recommendations on the preliminary plat and subdivision requirements for the final plat. No final plat shall be considered unless it is filed with the City Clerk-Treasurer within the effective period of the approval of the preliminary plat. A final plat shall conform to the requirements of this chapter and all conditions set forth in the approval of the preliminary plat.

(B) *City Council action.* The City Council shall, by resolution adopted within 60 days after receiving the application, to approve or deny the final plat. The reasons for disapproval shall be recorded in the minutes of the City Council and reported to the applicant by the City Clerk-Treasurer or City Administrator. Approval of the final plat shall not be given by the City Council until the City Council also approves the construction plans. No final plat shall be approved by the City Council unless the final plat is in a form acceptable for recording in the office of the County Recorder and until there is deposited with the county the amount of the filing fee to be charged for such recording. No final plat shall be approved by the City Council unless and until a performance bond, if required, in a form satisfactory to the City Council and City Attorney, is provided by the applicant to the City Council.

(C) *Recording final plat.* The final plat of record, prepared in accordance with this chapter, shall be filed by the subdivider with the County Recorder. The subdivider shall furnish a signed official copy to the County Recorder at the time of recording. One electronic PDF copy, three reproducible Mylar copies shall be furnished, one each, to the County Surveyor, County Assessor, and City Clerk-Treasurer.

(Ord. 154, passed 5-25-2017)

SPECIFICATIONS FOR DOCUMENTS

§ 152.055 PRELIMINARY PLAT.

The preliminary plat shall be prepared and signed by a state licensed land surveyor or engineer and be drawn on suitable tracing paper or other material of suitable quality with black waterproof ink or pencil at a scale not greater than 100 feet equals one inch. Five copies of the preliminary plat which shall measure 34 inches in length and 22 inches in width with a border line of two inches provided on the left side of the 30-inch length and a border on one-half inch provided on the other three sides and an electronic copy (PDF) of the plat and plans shall be provided to the City Clerk-Treasurer with other required documents. All revision dates must be shown.

(Ord. 154, passed 5-25-2017)

§ 152.056 FINAL PLAT.

The final subdivision plat shall be presented in black waterproof ink on reproducible Mylar at the same scale and contain the same information, except for any changes or additions required by resolution of the Planning Commission and City Council, as shown on the preliminary plat or as listed below in § 152.057. The preliminary plat may be used as the final subdivision plat if it meets these requirements and is revised in accordance with the Planning Commission and City Council resolutions. When more than one sheet is required for any plat, each sheet shall be numbered consecutively and shall contain a notation of the total number of sheets, i.e., 2 of 3. The final plat shall be prepared and signed by a state licensed land surveyor.

(Ord. 154, passed 5-25-2017)

§ 152.057 FORM OF PLATS.

Preliminary and final plats shall be prepared in accordance with the provisions of this subchapter and the laws of the state and shall contain the following information:

<i>Preliminary Plat</i>	<i>Final Plat</i>
(All measurements and information shall be accurate.)	
Identification: date, scale, north point, proposed name of the subdivision; the name shall not duplicate or closely approximate the name of any other subdivision in the county; all intended street names according to the city's street naming and numbering system, and the county's addressing system	Identification: same
Legal description: legal description of the land to be subdivided	Legal description: same

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<i>Preliminary Plat</i>	<i>Final Plat</i>
(All measurements and information shall be accurate.)	
Principals: name of the owners of record and licensed land surveyor	Principal: same
Boundaries: length and bearings of the exterior boundaries of the land being subdivided	Boundaries: same
Lots and blocks: layout and exact dimensions of lots and blocks; lots shall be numbered progressively through each plat; outlots shall be lettered in alphabetical order; see M.S. Ch. 505	Lots and blocks: same
Monuments and lot corners: the exact location of all permanent monuments and lot corners; each lot corner shall be set with a permanent monument	Monuments and lot corners: the exact location and material of all permanent lot corners and monuments
Existing streets and public uses: layout, width, and identification of existing public streets, easements, drainage ditches, parks, and other public uses within and adjacent to the proposed subdivision and right-of-way width	Existing streets and public uses: same except omit drainage ditches and public uses adjacent to the proposed subdivision
Existing utilities: location of existing sanitary and storm sewer lines, water mains, and culverts within and adjacent to the proposed subdivision with pipe sizes, cross-sectional areas, grades, and capacities indicated	Existing utilities: omit
Other existing features: location of existing buildings and structures, railroad right-of-way, municipal lines, township lines, rivers, and streams and their known high and normal water elevations; water elevation references shall be to the National Geodetic Vertical Datum of 1988; flood hazard areas shall be clearly labeled	Other existing features: same except buildings and structures shall be omitted
Zoning: zoning classification of lands to be subdivided and all adjacent lands; indication of the use of any lot other than single-family residential and all uses other than residential proposed by the subdivider	Zoning: omit
Topography: contours with intervals of two feet referenced to National Geodetic Vertical Datum of 1988	Topography: contours with intervals of two feet referred to U.S. Geological Survey Datum shall be included on a separate sheet accompanying the final plat
Proposed features: location, width, bearings, angle of intersection, and identification of proposed streets, easements, drainage ditches, parks, and other property to be dedicated to the public or reserved by covenants for the common use of property owners within the subdivision. location of proposed sewer lines, water mains, fire hydrants, culverts, stormwater drains and drainage facilities with pipe size, cross-sectional area, grades, and capacities indicated, as well as gas mains and telephone and power lines; right-of-way width should be shown	Proposed features: same except omit location of proposed sewer lines, water mains, culverts and drainage facilities with pipe size, cross-sectional area, grades and capacities indicated as well as gas mains and telephone and power lines and streets
Radii and tangents: radii of all curves and lengths of all tangents; see M.S. Ch. 505	Radii and tangents: same

<i>Preliminary Plat</i>	<i>Final Plat</i>
(All measurements and information shall be accurate.)	
Restrictive deed covenants: within identified floodplain areas, restrictive deed covenants requiring the floodplain areas to be developed in a manner that meets the minimum requirements as administered by the Minnesota Department of Natural Resources, establishing finished elevations of buildings, structures and private streets and roads, and requiring that additions or modifications to the facilities shall comply with applicable ordinances and regulations, if any	Restrictive deed covenants: same but to be filed as separate documents except floodplain data may be shown on the final plat
For flexible zoning proposals, a statement as to how land will be transferred; and protective covenants and homeowner’s association by-laws	Flexible zoning proposals: same, but submitted as separate documents
All information required on concept plan should also be shown on the preliminary plat, and the following notation shall also be shown:	Omit where this does not conflict with other requirements under final plat with the exception of (i) through (iii)
(i) Explanation of drainage easements, if any	
(ii) Explanation of easements, if any	
(iii) Explanation of reservations, if any	
Surface and subsurface material: profiles of surficial soil and geologic material and location of different soils and geologic units, particularly when potential problem areas are identified in the SCS publication, <i>Soil Survey of Olmsted County, Minnesota</i>	Surface and subsurface material: omit
Dedication: omit	Dedication: a statement of dedication signed, acknowledged and witnessed as required by law for recording conveyances. KNOW ALL MEN BY THESE PRESENTS: That ... and ..., owners and proprietors of the following described property situated in the County of..., State of Minnesota to wit: (Legal description of property) Have caused the same to be surveyed and platted as (Name of Plat) and do hereby donate and dedicate to the public for public use forever the thoroughfares, walks public grounds, (parks) and also dedicating the easements as shown on this plat for drainage and utility purposes only (and restricted access if appropriate). In witness whereof said ... have hereunto set our hands this ... day of..., 20___.

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<i>Preliminary Plat</i>	<i>Final Plat</i>
(All measurements and information shall be accurate.)	
Certificates: omit	Certificates: (i) Surveyor: a certificate of surveyor that the plat was made in accordance with this chapter and the laws of Minnesota. That the plat is a correct representation of the survey, that all distances are correctly shown on the plat, that all monuments have been correctly placed in ground as shown, and that the outside boundary lines are correctly designated on the plat; (ii) Owner: A certificate of the owners. This certificate shall be signed, acknowledged, and witnessed as required by law for recording conveyances; (iii) Taxes: a certificate by the County Auditor that all prior taxes have been paid; (iv) City Clerk-Treasurer and Mayor: a certificate by the City Clerk-Treasurer and Mayor that the plat has been approved by the Common Council; and (v) County Surveyor: a certificate that the plat has been checked for mathematical closures and compliance with applicable state platting laws. See M.S. Ch. 505, for required information.
Information: the lack of information under any item specified herein, or improper information supplied by the applicant, shall be cause of disapproval of a preliminary plat	Information: same

(Ord. 154, passed 5-25-2017)

§ 152.058 CONSTRUCTION PLANS; GENERAL.

(A) Construction plans shall be prepared for all required improvements. Plans shall be drawn at a scale of no more than one inch equals 50 feet and submitted to the City Clerk-Treasurer along with all other required information and application forms.

(B) The following shall be shown:

(1) Profiles showing existing and proposed elevations along centerlines of all roads. Where a proposed road intersects an existing road or roads, the elevation along the centerline of the existing road or roads within 100 feet of the intersection shall be shown. Radii of all curves, lengths of tangents, and central angles on all streets;

(2) Plans and profiles showing the proposed locations and typical cross-section of street pavements including curbs and gutters, sidewalks drainage easements, servitudes, rights-of-way, manholes and catch basins; soil and rock profiles and watertable; the locations of street trees, and street lighting standards; the location, size, and invert elevations of existing and proposed sanitary sewers, stormwater drains and fire hydrants, showing connection to any existing or proposed utility systems; and exact location and size of all water, gas, or other underground utilities or structures;

(3) Location, size, elevation, and other appropriate description of any existing facilities or utilities, including, but not limited to, existing streets, sewers, drains, and other pertinent features such as swamps, railroads, buildings, features noted in the Land Use Plan, at the point of connection to proposed facilities and utilities within the subdivision. The water elevations of adjoining streams at the date of the survey, and the approximate high and normal water elevations of such streams. All elevations shall be referred to the National Geodetic Vertical Datum of 1988. If the subdivision borders a river or stream, the exact location shall be accurately shown;

(4) Topography at the same scale as the sketch plat with a contour interval of two feet, referred at National Geodetic Vertical Datum of 1988. All datum provided shall be the latest applicable National Geodetic Vertical Datum of 1988 and should be so noted on the plat;

(5) All specifications and references required by the city's construction standards and specifications, including a site-grading plan for the entire subdivision;

(6) Title, name, address, and signature of professional engineer and surveyor, and date, including revision dates; and

(7) In addition, under a flexible zoning application the exact sizes and location of existing and proposed buildings; the existing and proposed uses of structures and open areas; landscaping plan; grading plan, construction schedule, time table or phasing plan; exterior view of buildings; floor plans of buildings; location and design of outdoor advertising devices, playground equipment, mailboxes, air conditions, trash receptacles, and the like.

(Ord. 154, passed 5-25-2017)

REQUIREMENTS FOR IMPROVEMENTS, RESTRICTIONS, AND DESIGN

§ 152.070 GENERAL IMPROVEMENTS.

(A) *Conformance to applicable rules and regulations.*

(1) The subdivision standards contained in this chapter are to assure that the improvements, reservations, and design of new developments will conform to minimum requirements promoting the health, safety, and general welfare of the public. In addition to these regulations and to ensure that future developments are consistent with land use goals, objectives and policies of the city, subdivisions shall conform to the city Comprehensive Plan, zoning ordinance, Building Code, and engineering standards of the city.

(2) All subdivision plats also shall comply with all applicable statutory provisions, rules and regulations of state agencies, and policies and regulations of the Dover, Eyota, St. Charles Area Sanitary District.

(B) *Character of the land.* Land which the Planning Commission finds to be unsuitable for

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subdivision or development due to flooding, improper drainage, or other soils-related problems, or other features which will reasonably be harmful to the safety, health, or general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the City Council upon recommendation of the City Engineer to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve such a danger.

(C) *Monument.* Durable iron monuments shall be placed at all block and lot corner, all intermediate points on blocks where there is a change in the direction of the block line, at points of curves in streets, at each angle and curve point on the exterior boundary lines of the plat, and at such other points as may be required by the City Council. Following instances in which the character of the land will require excavation or filling along the lot or block boundaries all permanent monuments set prior to such activities shall be checked for proper placement by the owner of recorded, then placed or restored to the proper location in the event that they have been moved. There will be a time limit of two years from the date the plat is recorded within which this check of monument existence and proper placement shall be initiated and completed.

(D) *Self-imposed restrictions.* If the owner places restrictions on any of the land contained in the subdivision greater than those required by the zoning ordinance or these regulations, such restrictions or reference thereto may be required to be indicated on the preliminary plat, and in a document attached to the final plat, or the City Council may require that restrictive covenants be recorded with the County Recorder in a form to be approved by the City Attorney.

(E) *Performance and payment bond.* The developer constructing the required improvements shall be required to provide to the city a two year performance and payment bond for all road, drainage, sewage and water facility improvements.

(Ord. 154, passed 5-25-2017)

§ 152.071 LOT IMPROVEMENTS.

(A) *Lot improvement.* The lot arrangements shall be such that there will be no foreseeable difficulties for reasons of topography or other conditions in securing building permits to build on all lots in compliance with the zoning ordinance and in providing driveway access to buildings on such lots from an approved street.

(B) *Lot dimensions.* Lot dimensions shall comply with the minimum standards of the zoning ordinance. Where lots are more than double the minimum required area for the zoning district, the City Council may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve such potential lots, all in compliance with the zoning ordinance and these regulations. In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from the rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum front-yard setback from both streets.

(C) *Double frontage lots.* Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arterials or to overcome

specific disadvantages of topography and orientation.

(D) *Access to lots.* Every lot shall abut on a public street or private driveway or easement with access to a public street to assure access for fire protection, utilities, and other services. Lots shall not derive access exclusively from a major street. Where driveway access from a major street may be necessary for several adjoining lots, the Planning Commission may require that such lots be served by a combined access drive in order to limit possible traffic hazards. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic or arterials. The creation of reserve strips shall not be permitted adjacent to a proposed street in such a manner as to deny access from adjacent property to such street.

(E) *Soil protection and surface drainage.*

(1) *Soil preservation.* Topsoil shall not be removed from residential lots or used as spoil. But where necessary, topsoil shall be redistributed so as to provide an adequate amount of cover on the lots and shall be stabilized by seeding, sodding, or planting appropriate types of grasses in appropriate amounts in the spring or fall, whichever comes first following lot and/or subdivision improvements.

(2) *Lot drainage.* Lots shall be laid out so as to provide positive drainage away from all buildings and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.

(3) *Erosion and sediment control.*

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

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

(c) Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.

(d) When soil is exposed, the exposure shall be for the shortest feasible period of time.

(F) *Debris and waste.* No cut trees, timber, debris, earth, rocks, stones, soil, junk, rubbish, or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of the issuance of building permits, and removal of same shall be required prior to issuance of any building permit on a subdivision. Nor shall any be left on deposited in any area of the subdivision at the time of dedication of public improvements.

(G) *Fencing.* Each subdivider and/or developer shall be required to furnish and install fences wherever the City Council determines that a hazardous condition may exist. No building permit shall be issued until said fence improvements have been duly installed.

(H) *Lot improvement.* Prior to the signing of building permits by the city, completion of all requirements contained in this section of these regulations including, but not limited to, soil preservation, lot drainage, lawn-grass seeding, removal of debris and waste, fencing, and all other lot improvements required by the City Council shall be required.
(Ord. 154, passed 5-25-2017)

§ 152.072 ROADS.

(A) *General requirements.*

(1) *Frontage on improved roads.*

(a) No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing street or a street that is:

1. An existing state, county, or township highway; or
2. A street shown upon a plat approved by the City Council and recorded by the County Recorder. Such street must be suitably improved.

(b) Wherever the area to be subdivided is to utilize existing road frontage, such road shall be suitably improved by the applicant.

(2) *Topography and layouts.*

(a) Roads shall be related appropriately to the topography. Local roads shall be curved wherever possible to avoid conformity of lot appearance. All streets shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. Specific standards are contained in the design standards of these regulations.

(b) All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way.

(c) All thoroughfares shall be properly related to special traffic generators such as industries, business districts, schools, churches, and shopping centers; to population densities; and to the pattern of existing and proposed land uses.

(d) Minor or local streets shall be laid out to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.

(e) Proposed streets shall be extended to the boundary lines of the tract to be subdivided unless prevented by topography or other physical conditions, or unless in the opinion of the City Council such extension is not necessary or desirable for the coordination of the layout of the

subdivision with the existing layout or the most advantageous future development on adjacent tracts.

(f) In business and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading, and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.

(3) *Blocks.*

(a) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to major streets, railroads, waterways, natural hazards, or sensitive areas.

(b) The lengths, widths, and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but block lengths in residential areas shall not exceed 1,200 feet or 12 times the minimum lot width required in the zoning district, nor be less than 400 feet in length.

(c) 1. In long blocks, the City Council may require the reservation of an easement or dedication of a right-of-way through the block to accommodate utilities, drainage facilities, or pedestrian traffic.

2. Pedestrian-ways or crosswalks not less than ten feet wide may be required by the City Council through the center of blocks more than 800 feet long where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation, or other community facilities. Blocks designed for industrial uses shall be of such length and width as may be determined suitable by the City Council for prospective use.

(4) *Access to arterials.* Where a subdivision borders on or contains an existing or proposed arterial, the City Council may require that access to such streets be limited by one of the following means:

(a) The subdivision of lots so as to back onto the arterial and front onto a parallel local street; no access shall be provided from the arterial, and screening in shall be provided in a strip of land along the rear property line of such lots;

(b) A series of cul-de-sacs, U-shaped streets, or short loops entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the arterial; and

(c) A marginal access or service road (separated from the primary arterial by a planting or grass strip and having access thereto at suitable points).

(5) *Road signs.*

(a) The applicant shall deposit with the city, at the time of final subdivision approval, the appropriate sum of money for each road sign required by the City Engineer at all road intersections. The

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city shall install all street signs and road regulatory signs as deemed necessary or at appropriate times as the subdivision is developed.

(b) Road names shall be sufficiently different in sound and spelling from other city road names so as not to cause confusion. An existing road or planned continuation of an existing road shall bear the same name. All streets names must also be approved by the county.

(6) *Treatment of dead-end roads.*

(a) *Dead-end roads (temporary).* The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection, for efficient provision of utilities, and where such continuation is in accordance with the Comprehensive Plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A circular turnabout shall be provided on all temporary dead-end streets, with the notation on the preliminary plat and on a separate document with the final plat that land outside the normal street right-of-way shall revert to abutters whenever the street is continued. The City Council may limit the length of temporary dead-end streets in accordance with the design standards of these regulations.

(b) *Dead-end roads (permanent).* Where a road does not extend beyond the boundary of the subdivision and its continuation is not required by the City Council for access to adjoining property, its terminus shall normally not be nearer to such boundary than 50 feet. However, the City Council may require the reservation of an appropriate easement or right-of-way to accommodate drainage facilities, utilities, or pedestrian traffic. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street and shall have a minimum right-of-way radius of 60 feet and surface radius of 30 feet. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length to 500 feet.

(B) *Design standards.* In order to provide for roads of suitable location, width, and improvement to accommodate prospective traffic and afford satisfactory access to police, firefighting, snow removal, sanitation, and road maintenance equipment, and to coordinate roads so as to compose a convenient system and avoid undue hardships to adjoining properties, the following design standards for roads are hereby required.

<i>Minimum Design Standards for Roads</i>						
	<i>Arterial</i>	<i>Collector Street</i>	<i>Local Street</i>	<i>Frontage Road</i>	<i>Alley</i>	<i>Industrial Parks or Districts</i>
Right-of-way	90 ft.	80 ft.	66 ft.	50 ft.	20 ft.	66 ft.
Surface width	44 ft.	40 ft.	36 ft.	20 ft.	18 ft.	26 ft.
Minimum horizontal curve radius measured to centerline	400 ft.	300 ft.	100 ft.	100 ft.	100 ft.	400 ft.
Minimum tangent between curves	200 ft.	100 ft.	50 ft.	50 ft.	50 ft.	150 ft.

Minimum grade	0.4%	0.4%	0.4%	0.4%	0.4%	0.4%
Maximum grade	6.0%	8.0%	10.0%	10.0%	10.0%	5.0%
Minimum sight distance (horizontal and vertical curves)	300 ft.	200 ft.	200 ft.	200 ft.	200 ft.	—
Minimum radius (cul-de-sac)						
Right-of-way	—	70 ft.	60 ft.	60 ft.	—	—
Pavement	—	60 ft.	30 ft.	30 ft.	—	—
Base specifications	As specified by the city					
Note: The combination of maximum grade and minimum centerline curvature shall be prohibited in cases where the central angle of the curves is greater than 90 degrees.						

(1) *Road improvements.* After sewer and water utilities have been installed by the developer, the applicant shall be required to provide final grading and placement of paving materials as specified below. Adequate provision shall be made for culverts, drains, shoulders, and curves.

(a) Local streets and alleys shall be of a seven-ton design and constructed as per MN/DOT standards, with a minimum of ten inches of Class 2 or 5 aggregate base and four inches of bituminous surfacing.

(b) Arterial, collector, frontage roads, and industrial districts shall be of nine-ton design and constructed as per MN/DOT standards, with a minimum of 12 inches of Class 2 or 5 aggregate base and four inches of bituminous surfacing.

(c) Concrete curb and gutter shall be used for all streets and shall be constructed per MN/DOT standards. In all new subdivisions, local streets shall be drive over curb as approved, and all other streets shall be type B624.

(d) The gravel base, concrete curb and gutter, and two and one-half-inch bituminous base shall be constructed and accepted by the city before permits, are issued. The one and one-half-inch bituminous wear shall be constructed after one winter season has passed and the contractor has repaired any settlements in the street.

(2) *Railroads.* Railroad rights-of-way where so located as to affect the subdivision of adjoining lands shall be treated as follows.

(a) In residential districts a buffer strip at least 25 feet in depth in addition to the depth of the lot required in the zoning district shall be provided adjacent to the railroad right-of-way. This strip shall be part of the platted lots and shall be designated on the preliminary plat and attached as a separate document with the final plat: “This strip is reserved for screening. The placement of structures hereon is prohibited.”

(b) Streets parallel to the railroad when intersecting a street which crosses the railroad at grade shall, to the extent practicable, be at a distance of at least 150 feet from the railroad right-of-way.

Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

(3) *Intersections.*

(a) Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets at an angle of less than 75° shall not be acceptable. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least 100 feet therefrom. Not more than two streets shall intersect at any one point unless specifically approved by the City Council.

(b) Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs with centerline offsets of less than 150 feet shall not be permitted. Where streets intersect major streets, their alignment shall be continuous. Intersection of major streets shall be at least 800 feet apart.

(c) The cross-slopes on all streets, including intersections, shall not exceed 3%.

(C) *Road dedications and reservations.*

(1) *New perimeter streets.* Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-streets. Where an existing half-street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The City Council may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within his or her own subdivision boundaries.

(2) *Widening and realignment of existing roads.* Where a subdivision borders an existing narrow road or when the Comprehensive Plan, zoning setback regulations, and current engineering standards indicate plans for realignment or widening of a road that would require the use of some of the land in the subdivision, the applicant shall be required to improve and dedicate at his or her expense such areas for widening or realignment of such roads. Such frontage roads and streets shall be improved and dedicated by the applicant at his or her own expense to the full width as required by these subdivision regulations. Land reserved for any road purposes may not be counted in satisfying yard or area requirements of the zoning ordinance, whether the land is to be dedicated to the municipality in fee simple or an easement is granted to the city.

(Ord. 154, passed 5-25-2017)

§ 152.073 DRAINAGE AND STORM SEWERS.

(A) *General requirements.* The Planning Commission shall not recommend for approval any plat or subdivision which does not make adequate provision for storm or flood water runoff channels or basins. The stormwater drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be designed through appropriate methods as approved by the City Council. Inlets shall be provided so that surface water is not earned across or around any intersection unless concrete gutters are provided not for a distance of more than 600 feet in the gutter. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be

made for flow beyond that point, and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for every lot and block and planned in coordination with the applicable public storm sewers.

(B) *Nature of stormwater facilities.*

(1) *Location.* The applicant may be required by the City Council to carry away by pipe or open ditch any spring or surface water that may exist either previously to or as a result of the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be approved by the City Council.

(2) *Requirements.* The applicant's engineer shall submit a hydraulic report, grading plan, and stormwater pollution prevention plan meeting the following:

(a) All NPDES stormwater permit requirements;

(b) The storm sewer shall be sized to collect the ten-year storm event;

(c) A safe overflow shall be provided with one-foot of freeboard for all structures for the 100-year storm event;

(d) A stormwater management basin or structure should be provided to control the stormwater runoff from the proposed development, unless a regional basin exists;

(e) A 20-foot travel lane should be maintained during a ten-year storm event. Spread calculations shall be included within the hydraulic report; and

(f) All developments are required to limit the stormwater runoff rate to pre-existing conditions for the two, ten, and 100-year storm events.

(3) *Accessibility to public storm sewers.*

(a) Where a public storm sewer outlet is accessible, the applicant shall install storm sewer facilities, or if no outlets are within a reasonable distance, adequate provision shall be made for the disposal of stormwaters, subject to the specifications of the City Engineer. However, in subdivisions containing lots less than 15,000 square feet in area and in business and industrial districts, underground storm sewer systems shall be constructed throughout the subdivision and be conducted to an approved outfall. Inspection of facilities shall be conducted by the City Engineer.

(b) If a connection to a public storm sewer will be provided eventually, as determined by the City Engineer and the City Council, the developer shall provide for future stormwater disposal by a public stormwater system at the time the plat receives final approval. Provision for such connection shall be incorporated by inclusion in the performance bond required for the subdivision plat.

(4) *Accommodation of upstream drainage areas.* A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The City Engineer shall determine the necessary size of the

facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development permitted by the zoning ordinance.

(5) *Effect on downstream drainage areas.*

(a) The applicant's engineer shall study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. All capacity restrictions should be noted within the hydraulic report. Local government drainage studies together with such other studies as shall be appropriate shall serve as a guide to needed improvements. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

(b) Lots shall be developed to maximize the amount of natural drainage, especially which is percolated into the soil, and to minimize direct overland runoff into adjoining streets and watercourses. Stormwater runoff from roofs and other impervious surfaces should be diverted into swales or terraces on the lot when possible. This will be an additional element to the stormwater sewer system required.

(6) *Areas of poor drainage.* Whenever a plat is submitted for an area which is subject to flooding, the City Council may approve such subdivision provided that the applicant fills the affected area of said subdivision to an elevation sufficient to place the elevation of streets and lots at a minimum of 12 inches above the elevation of the maximum probable flood, as determined by the City Engineer. The plat of such subdivision shall provide for an overflow zone along the bank of any stream or watercourse, in a width which shall be sufficient in times of high water to contain or move the water, and no fill shall be placed in the overflow zone nor shall any structure be erected or placed therein. The boundaries of the overflow zone shall be subject to approval by the City Engineer. Areas of extremely poor drainage shall be discouraged from being developed.

(7) *Floodplain areas.* The City Council may, when it deems it necessary and according to Minnesota Department of Natural Resources and Federal Insurance Administration (National Flood Insurance Program) regulations, for the health, safety, or welfare of the present and future population of the area and necessary to the conservation of water, drainage, and sanitary facilities prohibit the subdivision of any portion of the property which lies within the floodplain of any stream or drainage course. These floodplain areas shall be preserved from any and all destruction, damage or alteration which restricts flow or changes the direction of flow and substantially changes the location of flooding as identified on the official flood boundary and floodway map.

(C) *Dedication of drainage easements.*

(1) *General requirements.* Where a subdivision is traversed by a watercourse, drainageway, channel, or stream there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse and of such width and construction or both as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

(2) *Drainage easement.*

(a) Where conditions are such as to make impractical the inclusion of drainage facilities

within road rights-of-way, perpetual unobstructed easements at least 15 feet in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat.

(b) When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the preliminary plat and in a separate document attached to the final plat.

(c) The applicant shall dedicate, either in fee or by drainage or conservation easement of land on both sides of existing watercourse, to a distance to be determined by the City Engineer and City Council.

(d) Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainageways. Such land or lands subject to periodic flooding shall not be computed in determining the number of lots to be utilized for average density procedure not for computing the area requirement of any lot.

(3) *Drainage during construction.* Where necessary, the natural surface drainage system shall be augmented by constructed surface drainageways. The drainage system shall be constructed and operational during the initial phases of construction. It shall be constructed in such a way as to not a cause additional soil erosion or sedimentation during and after all phases of construction. (Ord. 154, passed 5-25-2017)

§ 152.074 WATER FACILITIES.

(A) *General requirements.*

(1) The subdivider shall install adequate water facilities (including fire hydrants) subject to the specifications of the city. All water mains shall be at least six inches in diameter.

(2) Water main extensions shall be approved by the City Council and the Minnesota Department of Health.

(3) To facilitate the above, the location of all fire hydrants, all water supply improvements, and the boundary lines of proposed districts, indicating all improvements proposed to be served, shall be shown on the preliminary plat.

(B) *Fire hydrants.* Fire hydrants shall be required for all subdivisions. Fire hydrants shall be located no more than 400 feet apart and within 200 feet of any structure and shall be approved by the applicable protection unit. To eliminate future street openings, all underground utilities for fire hydrants, together with the fire hydrants themselves and all other supply improvements, shall be installed before any final paving of a street shown on the subdivision plat. (Ord. 154, passed 5-25-2017)

§ 152.075 SEWERAGE FACILITIES.

(A) *General requirements.* The applicant shall install sanitary facilities in a manner prescribed by the Dover, Eyota, St. Charles Area Sanitary District, City of Eyota and Minnesota Pollution Control Agency construction standards and specifications. All plans shall be designed in accordance with the rules, regulations, and standards of the City of Eyota, the Dover, Eyota, St. Charles Area Sanitary District, and the Minnesota Pollution Control Agency. Plans shall be approved by the City Engineer and City Council and Dover, Eyota, St. Charles Area Sanitary District.

(B) *Chapter 50.* The applicant shall be required to meet all necessary requirements in Chapter 50 of this code of ordinances.
(Ord. 154, passed 5-25-2017)

§ 152.076 DRIVEWAY, SIDEWALKS, AND OTHER PEDESTRIAN FACILITIES.

(A) *Individual lots.* Driveways shall be surfaced with concrete, asphalt, or an approved paving brick block material. Plans for such must be included in the homeowner's construction plans, and driveways must be completed within six months of homeowner occupation. Driveways shall have a maximum grade of 8% within the public right-of-way.

(B) The placement of sidewalks or trails will be determined by the location of the plat/subdivision. In evaluating the need for sidewalks or trails, the city shall consider the community facilities, trail, zoning, and land use map as defined in the city Comprehensive Plan, as well as current and future land use, and traffic along roadways. Subdivisions shall be graded for sidewalks. Sidewalks will be required where needed to provide a connecting link to existing or planned sidewalks or trails on adjacent properties in order to fill gaps in the pedestrian network.

(C) Refer to Chapter 91 in this code of ordinances.
(Ord. 154, passed 5-25-2017)

§ 152.077 UTILITIES.

(A) *Location.*

(1) All utility facilities, including, but not limited to, gas, electric power, telephone, and CATV cables, shall be located underground throughout the subdivision. Wherever existing utility facilities are located above ground, except where existing on public roads and rights-of-way, they shall be removed and placed underground. All utility facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the City Council, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

(2) All utility facilities shall be located within the street right-of-way provided adjacent to

each lot within the subdivision. Only where topographic or other conditions are such as to make impractical the inclusion of utilities in the street right-of-way shall easements in alternative locations be identified and used for utilities.

(B) *Easements.*

(1) Perpetual unobstructed easements adjacent to front lot lines, where required by the City Council, shall be provided for public utilities; such easements shall be at least ten feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.

(2) Perpetual unobstructed easements at least ten feet in width shall be provided alongside and rear lot lines, where requested by the City Council.
(Ord. 154, passed 5-25-2017)

§ 152.078 PUBLIC USES.

(A) *Parks, playgrounds, and recreation areas.*

(1) *Responsibility for recreation opportunities.* The City Council shall require, prior to final approval of the subdivision plat, that the applicant deposit with the City Council a cash payment. Such deposit shall be placed in a city and Neighborhood Park and Recreation Improvement Fund to be established by the City Council. Such deposit shall be used by the city for improvement of a city or neighborhood park, playground, or recreation area including the acquisition of property. Such deposit must be used for facilities that will be actually available to and benefit the persons in said subdivision and be located in the general neighborhood of the subdivision.

(2) *Dedicated land required.* To obtain city approval for a subdivision, an applicant shall dedicate public land for the following uses: parks, recreational facilities, trails, or open space in a quantity of land equal to 0.1 acre per residential dwelling unit proposed to be developed in conjunction with such subdivision.

(3) *Land in lieu of money.* The City Council may accept land in lieu of money. The land shall be reserved for parks, trails, and playgrounds or other recreation purposes in locations designated on the Comprehensive Plan or otherwise where such reservations would be appropriate. Each reservation shall be of suitable size, location, dimension, topography, and general character and shall have adequate road access, for the particular purposes envisioned by the City Council. The area shall be shown and marked on the plat, "Reserved for Park and/or Recreation Purposes". When recreation areas are accepted by the City Council, it shall be based on the standard of three acres of recreation area for every 100 dwelling units. Land reserved for recreation purposes shall have an area of at least two acres, and no dimension of the site shall be less than 200 feet.

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(4) *Cash payment in lieu of land.* If in the City Council's judgment the quantity of land to be subdivided is of a size or configuration that dedication of a portion thereof is not feasible or practical; or it is adjacent or readily accessible to an existing park, recreational facility, trail, or open space facilities; the requirement of dedication of land be satisfied by a payment of cash by the subdivider to the city. Said payment shall be made prior to the execution of the final plat by the appropriate city officials in an amount equivalent to the fair market value of the land which would otherwise be required to be dedicated. The City Engineer shall determine the fair market value per acre of the undeveloped land proposed to be subdivided at the time the preliminary plat is proposed, giving due consideration to the value assigned similarly situated land by the County Assessor following its subdivision. The required payment shall be computed by multiplying the value of the land per acre by the number of acres required to be dedicated.

(5) *Proceeds.* All funds received by the city pursuant to division (A)(3) above shall be deposited by the City Clerk-Treasurer in a Park Capital Improvement Fund to be established by City Council resolution, and disbursed only for the purposes set forth therein.

(6) *Flexible zoning.* Any subdivision plat utilizing the flexible zoning criteria shall not be exempt from the provisions of this section.

(7) *Other recreation reservations.* The provisions of this section are minimum standards. None of the divisions above shall be construed as prohibiting a developer from reserving other land for recreation purposes in addition to the requirements of this section.

(B) *Other public uses; plat to provide for public uses.* Except when an applicant utilizes planned unit development or density zoning in which land is set aside by the developer as required by the provision of the zoning ordinance, whenever a tract to be subdivided includes recreation uses (in excess of the requirements of division (A) above) or other public use as indicated on the Comprehensive Plan or any portion thereof, such space shall be suitably incorporated by the applicant into his or her concept plan. After proper determination of its necessity by the Planning Commission, the site shall be suitably incorporated by the applicant into the preliminary and final plats.

(Ord. 154, passed 5-25-2017)

§ 152.079 NONRESIDENTIAL SUBDIVISIONS; GENERAL.

(A) If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to such land shall make such provision as the City Council may require.

(B) A nonresidential subdivision shall be subject to all the requirements of site plan approval set forth in the zoning ordinance. Site plan approval and nonresidential subdivision plat approval may proceed simultaneously at the discretion of the City Council. A nonresidential subdivision shall be subject to all the requirements of these regulations, as well as such additional standards for improvements required by the City Council, and shall conform to the proposed land use and standards established in the Comprehensive Plan and zoning ordinance.

(C) In addition to the principles and standards in these regulations, which are appropriate to the

planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the City Council that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity.

(Ord. 154, passed 5-25-2017)

ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

§ 152.090 IMPROVEMENTS AND ISSUANCE OF BUILDING PERMITS.

(A) *Completion of improvements.* Before building permits are signed by the city, all applicants shall be required to complete, in accordance with the City Council's decision and to the satisfaction of the City Engineer, all the street, sanitary, and other improvements including lot improvements on the individual lots of the subdivision as required in these regulation, specified in the final subdivision plat, and as approved by the City Council, and to dedicate same to the city, free and clear of all liens and encumbrances on the property and public improvements thus dedicated.

(B) *Costs of temporary and permanent improvements.* All temporary and permanent required improvements shall be made by the applicant, at his or her expense, without reimbursement by the city or any improvement district therein. All required temporary improvements shall be maintained for the period specified by the City Council.

(C) *Required development agreement.* Prior to development of construction plans and installation of required improvements, and prior to approval of the final plat, the subdivider shall enter into a development agreement with the city requiring that the subdivider or the city furnish and construct said improvements at the subdivider's expense and in accordance with plans and specifications to be approved by the City Engineer. The contract shall stipulate the type and extent of the improvements to be constructed, the cost of construction, the construction time schedule, the city's authority to inspect the construction, and the amount of the performance bond to be furnished in accordance with this chapter.

(D) *Performance bond.*

(1) The applicant shall be required to post a bond at the time of application for final subdivision approval in an amount estimated by City Engineer and City Council as sufficient to secure to the city the satisfactory construction, installation, and dedication of the in-completed portion of required improvements. The performance bond shall also secure all lot improvements on the individual lots of the subdivision as required in these regulations.

(2) (a) Such performance bond shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency, and manner of execution as set forth in these regulations. The period within which required improvements must be completed shall be specified by the City Council in the resolution approving the final subdivision plat and shall be incorporated in the bond and shall not in any event exceed two years from date of final approval.

(b) Such bond shall be approved by the governing body as to amount and surety and

conditions satisfactory to the City Council. The Planning Commission may, upon proof of difficulty, recommend to the City Council extension of the completion date set forth in such bond for a maximum period of one additional year. The City Council may at any time during the period of such bond accept a substitution of principal or sureties on the bond.

(E) *Failure to complete improvement.* In those cases where a performance bond has been posted and required improvements have not been installed within the terms of such performance bond, the city may thereupon declare the bond to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the bond is declared to be in default. (Ord. 154, passed 5-25-2017)

§ 152.091 INSPECTION OF IMPROVEMENTS.

(A) *General procedure and fees.* The City Council shall provide for inspection of required improvements during construction and ensure their satisfactory completion. The applicant shall pay to the city an inspection fee that will equal the actual cost of inspection. These fees shall be due and payable upon demand of the city, and no building permits shall be issued until all fees are paid. If the City Engineer finds upon inspection that any of the required improvements have not been constructed in accordance with the city's construction standards and specifications, the applicant shall be responsible for completing the improvements.

(B) *Certificate of satisfactory completion.* The City Council will not accept dedication of required improvements until the City Engineer has submitted a certificate stating that all required improvements have been satisfactorily completed and until the applicant's engineer or surveyor has certified to the City Engineer, through submission of detailed "as-built" survey plat of the subdivision, indicating location, dimensions, materials, and other information required by the City Council or City Engineer, that the layout of the line and grade of all public improvements is in accordance with construction plans for the subdivision and are ready for dedication to the city and are free and clear of any and all liens and encumbrances. Upon such approval and recommendation, the City Council shall thereafter accept the improvements for dedication in accordance with the established procedure. (Ord. 154, passed 5-25-2017)

§ 152.092 MAINTENANCE OF IMPROVEMENTS.

The applicant shall be required to maintain all improvements on the individual subdivided lots, such as erosion control, and provide for snow removal on streets, if required, until acceptance of said improvements by the city. (Ord. 154, passed 5-25-2017)

§ 152.093 DEFERRAL OR WAIVER OF REQUIRED IMPROVEMENTS.

(A) The City Council may defer or waive at the time of final approval, subject to appropriate conditions, the provision of any or all such improvements as, in its judgment, are not requisite in the interests of the public health, safety, and general welfare, or which are inappropriate because of

inadequacy or lack of connecting facilities.

(B) Whenever it is deemed necessary by the City Council to defer the construction of any improvement required herein because of incompatible grades, future planning, inadequate or lack of connecting facilities, or for other reasons, the applicant shall pay his or her share of the costs of the future improvements to the city prior to the issuing of building permits.

(Ord. 154, passed 5-25-2017)

§ 152.999 PENALTY.

Any person, firm, or corporations who fails to comply with or violates any of these regulations shall be guilty of a misdemeanor.

(Ord. 154, passed 5-25-2017)

CHAPTER 153: ZONING

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GENERAL PROVISIONS

§ 153.001 PREAMBLE.

(A) A chapter establishing comprehensive zoning regulations for the city, to carry out the intent of the Comprehensive Guide Plan and providing for the administration, enforcement, and amendment

thereof, in accordance with M.S. § 462.357, as it may be amended from time to time.

(B) Furthermore, the Zoning Code is adopted to:

- (1) Promote and protect the public health, safety, and general welfare of the inhabitants of the city;
 - (2) Protect and conserve the character and social and economic stability of residential, commercial, industrial, agricultural, and other use areas;
 - (3) Secure the most appropriate use of land throughout the city;
 - (4) Prevent the overcrowding of the land and undue congestion of population;
 - (5) Provide adequate light and air and reasonable access;
 - (6) Facilitate the provision of public services and facilities;
 - (7) Promote the safe, rapid, and efficient movement of people and goods;
 - (8) Conserve unique and other natural environmental features and natural processes;
 - (9) Allow for the provision of a safe, adequate supply of housing in suitable residential environments;
 - (10) Encourage energy conservation and the use of renewable energy sources; and
 - (11) Carry out the spirit and intent of the city's land use goals and policies.
- (Ord. 155, passed 5-25-2017)

§ 153.002 COMPLIANCE REQUIRED.

It shall be the duty of all architects, contractors, builders, engineers, planners, and other persons having charge of the erecting, altering, enlarging, repairing, improving, or moving of any building or structure, including tents and trailer coaches, before beginning or undertaking any such work, to see that such work does not conflict with and is not a violation of the terms of this chapter; and any such person doing or performing any such work that is in conflict with the terms of this chapter, shall be deemed guilty of a violation and shall be held accountable for such violation.

(Ord. 155, passed 5-25-2017) Penalty, see § 153.999

§ 153.003 VALIDITY (SEVERABILITY CLAUSE).

This chapter and the various parts, sentences, paragraphs, sections, and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged to be unconstitutional or invalid for any reason by a court of competent jurisdiction, such holding shall not

affect the remaining portions of this chapter.
(Ord. 155, passed 5-25-2017)

§ 153.004 RELIEF FROM PERSONAL RESPONSIBILITY.

Any claim based upon an act or omission of an officer or employee exercising due care in the execution of any valid or invalid portions of this chapter, any claim based upon the performance or the failure to exercise or perform a discretionary function or duty whether or not the discretion is abused, are hereby enumerated as exceptions to M.S. § 466.02, as it may be amended from time to time, and said section does not apply. The city shall defend, save harmless, and indemnify any of its officers or employees, whether elective or appointed, against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of duty in the enforcement and administration of the zoning ordinance, except as provided in M.S. § 466.07, as it may be amended from time to time.

(Ord. 155, passed 5-25-2017)

§ 153.005 CHAPTER CONFORMANCE WITH THE COMPREHENSIVE PLAN.

The Comprehensive Plan and this chapter shall strive to be in conformance with one another. Where conflicts exist between the Comprehensive Plan and zoning chapter, the two documents shall be brought into conformance with one another.

(Ord. 155, passed 5-25-2017)

§ 153.006 INTERPRETATION OF STANDARDS.

In their interpretation and application, the provisions of the Zoning Code shall be held to be minimum requirements. Wherever the Zoning Code imposes a greater restriction than is imposed or required by other provisions of law or rules or regulations or ordinances, the provisions of the Zoning Code shall govern.

(Ord. 155, passed 5-25-2017)

§ 153.007 INTERPRETATION OF BOUNDARIES.

Except where referenced on said map to a street or alley line or other designated line by dimensions shown on said map, the district boundary lines of all districts except the Flood Fringe and Floodway Districts shall follow the corporate limits of the city, lot lines, or the centerlines of streets or alleys, rivers or lakes as they existed at the time of the adoption of this chapter. The limits of the Flood Fringe and Floodway District shall be shown on the zoning map. Where interpretation is needed as to the exact location of the boundaries of any district, the Zoning Administrator shall make the necessary interpretation.

(Ord. 155, passed 5-25-2017)

§ 153.008 GUIDELINES FOR USE INTERPRETATIONS.

The following conditions shall govern the Zoning Administrator, and the Board of Adjustment on appeals from the Zoning Administrator, in issuing use interpretations.

(A) No use interpretation by the Board of Adjustment shall allow the establishment of any use which was previously considered and rejected on an application for amendment.

(B) No use interpretation shall permit any use in any district unless evidence shall be presented which demonstrates that it will comply with each use limitation established for the particular district.

(C) No use interpretation shall permit any use in a particular district unless such use is substantially similar to other uses permitted in such district and is more similar to other such uses than to uses permitted or conditionally permitted in a less restrictive district.

(D) If the proposed use is more similar to a use permitted only as a conditional or interim use in the district in which it is located, then any use interpretation permitting such use shall be conditioned on the issuance of a permit for a conditional or interim use permit pursuant to § 153.193.

(E) Any use permitted pursuant to this section shall fully comply with all requirements and standards imposed by this chapter.

(Ord. 155, passed 5-25-2017)

§ 153.009 EFFECT OF FAVORABLE USE INTERPRETATION.

No use interpretation finding a particular use to be permitted or conditionally permitted in a specific district shall authorize the establishment of such use or the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and certificates which may be required by the codes and ordinances of the city or other governmental agencies having jurisdiction. These permits and approvals include, but are not limited to, zoning certificates, site planning permits, and building permits.

(Ord. 155, passed 5-25-2017)

§ 153.010 ZONING MAP.

The zoning map shall be entitled “City of Eyota, Zoning Map”, which is hereby adopted by reference at the time of adoption of this chapter. A certified copy of the map shall be signed and dated by the Mayor and Chairperson of the Planning Commission and maintained in City Hall with all current amendments, so long as this chapter remains in effect.

(Ord. 155, passed 5-25-2017)

§ 153.011 ZONING OF ANNEXED AREA.

All territory which may be annexed to the city shall automatically be zoned Low Density Residential (R-1 District) until otherwise rezoned. An exception to this provision shall be where the

Soil Survey of Olmsted County, Minnesota (U.S.D.A. Soil Conservation Service) indicates that a particular area is listed as having “rare”, “occasional”, or “frequent” flooding potential. Such areas shall be automatically designated as Floodplain Management District, in addition to being zoned Low Density Residential (R-1 District).
(Ord. 155, passed 5-25-2017)

§ 153.012 FEES.

There shall be fees established for items in this chapter as established from time to time by ordinance.
(Ord. 155, passed 5-25-2017)

§ 153.013 LOCK BOXES.

All new buildings, other than single-family residential, shall provide a lock box and access keys at the owners’ expense for emergencies and/or inspection to the city before obtaining their certificate of occupancy. The required boxes shall be Knox boxes.
(Ord. 155, passed 5-25-2017)

DEFINITIONS

§ 153.025 DEFINITION PURPOSE.

For the purposes of this chapter, certain terms or words used herein shall be interpreted and issued under the following guidelines. The word person includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular. The word shall is mandatory, the word may is permissive. The words used or occupied includes the words intended, designed, or arranged to be used or occupied. The word lot includes the words plot or parcel. Reference to the Comprehensive Plan shall mean the city Comprehensive Plan or any future land use plan adopted by the City Council.
(Ord. 155, passed 5-25-2017)

§ 153.026 DEFINITIONS.

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

ACCESSORY USE OR BUILDING. A use or building on the same lot with, and of a nature customarily incidental and subordinate to, the principal use of land, principal structure, or building.

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

ALLEY. Any dedicated public way providing a secondary means of vehicular access to land or structures thereon, which may be located on the opposite property line from the principal street access.

BASEMENT. That portion of a floor of a building which is wholly or one-half or more below the average grade of the ground level adjoining the building.

BOARD OF ADJUSTMENT. The City Council shall serve as the Board of Adjustment, as provided in § 153.170.

BOARDER. An individual other than a member of the family occupying the dwelling unit or a part thereof who, for a consideration, is furnished sleeping accommodations and may be furnished meals or other services.

BOARDING/ROOMING HOUSE. Any dwelling occupied in any such manner that certain rooms in excess of those used by members of the immediate family and occupied as a home or family unit, are leased or rented to persons outside of the family, without any provision for cooking or kitchen accommodations within individual rooms, but centrally located.

BUILDABLE AREA. The portion of a lot remaining after required yards and open space, including buffering and screening, required by this chapter have been provided.

BUILDING/STRUCTURE. Any structure for the shelter, support, and enclosure of persons, animals, or property of any kind; and when separated by party walls without openings, each portion of such building so separated shall be deemed a separate building.

BUILDING, EARTH-SHELTERED. A building constructed so that more than 50% of the exterior surface area of the building, excluding garages or other accessory buildings, is covered with earth and the state Building Code standards are satisfied. Partially completed buildings shall not be considered **EARTH-SHELTERED**.

BUILDING HEIGHT. The vertical distance from the average ground level at the front wall of the building to the highest point of the roof.

BUILDING, PRINCIPAL. A building in which is conducted the principal use of the lot on which it is located.

CHILD CARE FACILITY. A state and county licensed private establishment, which for gain or otherwise regularly provides one or more children with care, training, supervision, habitation, rehabilitation, or developmental guidance, for periods of less than 24 hours a day, in a dwelling. (All **CHILD CARE FACILITIES** shall be licensed under M.S. Ch. 245A, as it may be amended from time to time.)

CLINIC. A public or proprietary institution providing diagnostic, therapeutic, or preventive treatment of ambulatory patients by a group of doctors, dentists, doctors of acting in chiropractor, or other providers of medical care licensed by the state and acting in concert and in the same building for the purposes aforesaid.

COMPREHENSIVE PLAN. The long range plan for the desirable use of land in the city as officially adopted and as amended from time to time by the City Council.

CONVALESCENT HOME. A home designed and licensed by the state to provide care for aged or infirm persons requiring personal care or custodial care.

DEVELOPMENT. Any human-made change to improved or unimproved real estate including, but not limited to, buildings and other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of materials or equipment.

DRIVE-THROUGH. A use where products and/or services are provided to the customer under conditions where the customer does not have to leave his or her car.

DWELLING. Any building or portion thereof designed or used as the permanent residence consisting of living/sleeping/kitchen and sanitary facilities. A tent, or travel trailer is not considered a **DWELLING**.

DWELLING, FARM. A single-family detached or manufactured home dwelling located on a farm which the resident of said dwelling either owns, operates, or is employed thereon.

DWELLING, MULTI-FAMILY. A residential building that is designed for three or more dwellings. The number of families in residence shall not exceed the number of dwellings provided.

DWELLING, SINGLE-FAMILY ATTACHED. An attached single-family dwelling which is attached at one side to only one other single-family dwelling.

DWELLING, SINGLE-FAMILY DETACHED. A detached single-family dwelling, other than a manufactured home.

DWELLING, TOWNHOUSE. Three or more attached dwellings where each dwelling is divided by a separation wall extending the full height of the building. Each unit is capable of individual access, use and maintenance without trespassing upon adjoining properties, and utilities and service facilities are independent for each dwelling.

DWELLING, TWO-FAMILY. A detached building on a single lot enclosing two dwellings and used exclusively for two families.

ESSENTIAL SERVICES. The erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies of underground, surface or overhead transmission or distribution lines or systems that are necessary for the furnishing of adequate service by such public utilities or governmental agencies or for the public health or safety or general welfare, but excluding all buildings except water well pump houses.

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EXTRACTION. Any removal from the surface of the earth of soil, gravel, stone, or other mineral or solid natural matter or made by tunneling or breaking or undermining the surface of the earth for commercial purposes.

FAMILY. One or more persons related by blood, marriage, or adoption, including foster children, or a group of not more than five persons, some or all of whom are not related by blood, marriage, or adoption, living together and maintaining a common household.

FARM. A parcel or parcels the principal use being for purposes of agriculture, including farm dwellings and related structures used for agriculture.

FEEDLOT.

(1) Land or buildings or both intended for confined feeding, breeding, raising, or holding of animals, including poultry, and where manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure, and where ten or more animal units are raised and/or held, fed, or bred.

(2) For the purposes of this definition, an **ANIMAL UNIT** shall be the equivalent of the following:

1 mature dairy cow	1.4 animal unit
1 slaughter steer or heifer	1.0 animal unit
1 horse	1.0 animal unit
1 swine over 55 pounds	.4 animal unit
1 duck	.2 animal unit
1 sheep	.1 animal unit
1 swine under 55 pounds	.05 animal unit
1 turkey	.018 animal unit
1 chicken	.01 animal unit
For animals not listed above, the number of animal units shall be defined as the average weight of the animal divided by 1,000 pounds	

FENCE. An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

FLOODPLAIN. The areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.

FLOOD, REGIONAL. A flood which is representative of large floods known to have occurred generally in the state 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 the Flood Insurance Study.

GARAGE. Any space or structure or series of structures for the storage of motor vehicles or recreational vehicles for the use by the owner of the property.

GROUND LEVEL, AVERAGE. Average elevation of the finished grade at the outside building wall that is adjacent to the front yard.

HAZARDOUS MATERIAL. A solid, liquid, or gaseous material that may cause or contribute to serious illness or death, or that poses a substantial threat to human health or to the environment when improperly managed. **HAZARDOUS MATERIAL** may be identified by any of four characteristics. The four characteristics are:

(1) *Ignitable.* These materials may pose a fire hazard. Fires may present immediate dangers of heat and smoke and may also spread harmful particles over a wide area;

(2) *Corrosive.* These materials require special containers because of their characteristic of corroding standard materials. They have an additional characteristic of being able to dissolve toxic compounds;

(3) *Reactive.* These materials, when handled in a routine manner, may react spontaneously and vigorously with air and/or water. They also may be unstable to shock or heat. They may generate toxic gases or explode; and

(4) *Toxic.* Those materials, when improperly managed, may release toxicants (poisonous material) in sufficient quantities to pose a hazard to human health or to the environment.

HOME OCCUPATION. Any activity which is conducted within a dwelling and carried out for gain by a resident conducted as an accessory use, clearly incidental and secondary to the principal use, in the resident's dwelling.

HOTEL, MOTEL, TRAVEL COURT. A commercial establishment comprising a series of attached or detached rental units, with or without eating facilities, used primarily as temporary residences for motorists, tourists or travelers.

KENNELS. Any building or premises on which three or more domestic animals over two months of age are kept.

LICENSED RESIDENTIAL FACILITY. These include housing with services establishment registered under and defined in M.S. Ch. 144D, as it may be amended from time to time.

LOADING SPACE. An off-street space on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which has means of access to a public street or alley.

LOT. A designated parcel, tract or piece of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed, or built upon as a unit.

LOT, CORNER. A lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or part of the same street forming an interior angle of less than 135 degrees. The point of intersection of the street lines is the corner.

LOT COVERAGE. That part or percentage of the total lot area occupied by buildings and structures, including all accessory buildings or structures.

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

LOT FRONTAGE. The smallest dimension of a lot abutting on a public street measured along the street line, but it shall not be considered as the ordinary side of a corner lot. Any corner lot shall have only one front yard and all other sides shall be side street side yards.

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

LOT LINE, FRONT. The line separating the lot from the street right-of-way. In the case of planned unit developments (§§ 153.075 through 153.078), a line separating the lot from the street right-of-way or private drive, street, or parking area or common open space area.

LOT LINE, REAR. The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. Corner lots shall consider the **REAR LOT LINE** an interior side lot line.

LOT LINE, SIDE. Any lot line other than a front or rear lot line. A **SIDE LOT LINE** separating a lot from another lot or lots is called an interior side lot line. Corner lots shall have two interior **SIDE LOT LINES**.

LOT OF RECORD. A lot which is part of a subdivision plat or a lot described by metes and bounds which has been legally recorded by the county. Lots not approved by the city through the subdivision ordinance shall be considered illegal and not **LOTS OF RECORD**.

LOT, THROUGH. A lot having frontage on two parallel or approximately parallel streets. It may be referred to as a double frontage lot.

LOT WIDTH. The distance between the side lot lines measured along a straight line at the minimum required front yard setback line.

MANUFACTURED HOME. A building transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. It shall comply with M.S. Ch. 327, §§ 327.31 to 327.35, as they may be amended from time to time.

MANUFACTURED HOME PARK OR SUBDIVISION. Any lot or tract of land upon which

three or more occupied manufactured homes are harbored, either with or without charge, and including any building or enclosure intended for use as a part of the equipment of such park.

NONCONFORMING LOT. A lot that does not comply with the minimum lot area or frontage requirements of the district in which it is located.

NONCONFORMING STRUCTURE. A structure that does not comply with the bulk, height, or setback regulations of the district in which it is located; this includes structures that do not comply with the regulations of the floodplain district.

NONCONFORMING USE OF LAND. Any use of a lot or parcel of land that does not conform to the applicable use regulations of the district in which it is located.

NONCONFORMING USE OF STRUCTURES. A use of a structure that does not conform to the applicable use regulations of the district in which it is located.

PARKING SPACE. A space for the parking of a motor vehicle within a public or private parking area.

PERSON. Any individual, corporation, firm, partnership, association, organization, or other group acting as a unit. It also includes any executor, administrator, trustee, receiver, or other appointed representative.

PORCH, UNENCLOSED. An entrance to a building which may include steps, a landing, railings, and a roof, but not enclosed either partially or completely above the landing by windows, screens, or siding.

PUBLIC UTILITY. Any person, firm, corporation, municipal department, or board, duly authorized to furnish and furnishing under governmental regulation to the public, electricity, gas, steam, water, sewage, disposal, communication, or transportation facilities.

RECREATIONAL CAMPING VEHICLE. Any of the following.

(1) **CAMPING TRAILER.** A folding structure mounted on wheels and designed to be towed and used for travel, recreation, and vacation use.

(2) **PICK-UP COACH.** A structure design to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.

(3) **MOTOR HOME.** A portable, temporary dwelling to be used for travel, recreation, and vacation and constructed as an integral part of a self-propelled vehicle.

(4) **TRAVEL TRAILER.** A vehicular, portable structure built on a chassis designated to be towed and used as a temporary dwelling for travel, recreational, or vacation use.

RIGHTS-OF-WAY. A corridor of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission, shade trees, or for other special use.

SHOPPING CENTER. A development in which one or more principal buildings are located on one or more lots of record that abut one another and the principal building(s) contain two or more servicing, merchandising, leisure uses, or office uses, and where each such use abuts the adjacent use located within the principal building; and the development is under one ownership or management. **SHOPPING CENTERS** have common on-site parking, and have a building composition that functions as an architectural unit.

SIGN. Any device located outdoors designed to inform or attract the attention of persons on which the sign is located.

SIGN, ADVERTISING. A sign located outdoors that directs attention of persons to a business, commodity, service, or entertainment not related to the premises where such a sign is located or to which it is affixed.

SIGN, BUSINESS. A sign that is limited to identification purposes announcing the proprietor's name, the nature of the business and identifying exclusively the principal use of the premises on which the sign is located.

SOLAR GARDEN/FARM. A solar power installation that accepts capital from and provides output credit and tax benefits to individual and other investors.

SOLAR STRUCTURE. A structure designed to utilize solar energy as an alternative for, or supplemental to, a conventional energy system. A **SOLAR STRUCTURE** may be erected on all buildings and lots if zoning district standards are met.

STATE BUILDING CODE. The Minnesota State Building Code, setting forth standards for the construction, addition, modification, and repair of buildings and other structures for the purpose of protecting the health, safety, and general welfare of the public.

STREET. A public or private right-of-way approved or accepted by public authority or user, which provides a primary means of public access to abutting property. The term **STREET** shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare, or any other similar term.

STRUCTURE ALTERATION. Any changes in the supporting members of a building such as bearing walls, columns, beams, or girders or any substantial change in the roof or exterior walls.

SUBDIVISION. Any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms and conditions, including re-subdivision.

SUPERVISED CARE FACILITY. A facility providing lodging plus supervision, counseling, or rehabilitative services to persons, and licensed as such under M.S. Ch. 144G, as it may be amended from time to time. The facility cannot substantially change the exterior of the building or unreasonably interfere with the existing neighborhood environment.

SWIMMING POOL. Any private pool, pond, lake, or open tank not located within a completely enclosed building and capable of containing water to a depth at any point greater than one and one-half feet.

USE. The purpose or activity for which land or structures are designed, arranged, or intended, or for which land or structures are occupied or maintained.

USE, CONDITIONAL. A use that would not be appropriate generally but may be allowed upon finding that specific conditions and criteria are met and appropriate restrictions are placed on the lot, structures, or use.

USE, INTERIM. A temporary use of property until a specified date or event occurs. The use may not be appropriate generally but may be allowed with conditions or criteria that are placed on the lot, structures, use.

USE, PERMITTED. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

USE, PRINCIPAL. The primary or predominant use of any lot.

USE, TEMPORARY. A use established for a fixed period of time with the intent of discontinuance of such use upon the expiration of the time period.

YARD. A required open space on the same lot as the principal building, unoccupied and unobstructed by any structure or portion of a structure from the ground upward; provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to certain limitations of the zoning ordinance.

YARD, FRONT. A required yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the principal building and the front lot line. For through lots, the determination of a **FRONT YARD** shall be determined by the front yard patterns of adjoining lots. For corner lots both yards abutting a street shall be considered **FRONT YARDS**.

YARD, REAR. A required yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the principal building.

YARD, SIDE. A required yard extending from the front lot line to the rear lot line, the width of which is the minimum horizontal distance between the side lot line and the principal building.

ZONING ADMINISTRATOR. The designated Zoning Administrator of the city, or his or her authorized representative.

ZONING CERTIFICATE. A document issued by the Zoning Administrator authorizing buildings, structures, or uses consistent with the terms of the Zoning Code and for the purpose of carrying out and enforcing its provisions.

ZONING CODE. The Zoning Code of the city consisting of Ord. 155.

ZONING MAP. A map designating the areas comprising the zoning districts of this chapter and boundaries of said districts. The map is made a part of this chapter, being designated as the **OFFICIAL ZONING MAP** for the city with all proper notations, references, and other information as shown thereon.

(Ord. 155, passed 5-25-2017)

USE CATEGORIES AND DISTRICT USES

§ 153.040 USE CATEGORIES.

The purpose of this section is to identify and categorize land use types. These use categories shall be used in Table 1: Development Regulations; Districts and Uses in the determination of uses permitted, conditionally permitted, or not permitted within the specific zoning districts.

(A) Agricultural uses.

(1) *General agriculture.* The production of crops, plants, or trees; or the production, keeping, grazing, or feeding of livestock for the sale of livestock, or livestock products, or other animals and animal products. This use includes incidental retail sales of products grown or raised on the farm. A farm dwelling (one-family, detached or manufactured home) shall be considered a part of this use category.

(2) *Animal services.* Activities or establishments that consist of veterinary and related services for livestock, domestic pets, and equines including kennels or the housing or boarding of pets and other domestic animals such as stables and breeding services.

(3) *Agricultural services.* Activities or establishments engaged in services that support or assist the agricultural community such as soil preparation services, crop services, or farm management services and includes offices and storage areas.

(4) *Retail agricultural.* Establishments that are primarily engaged in providing services related to or conducting the sale at retail of horticulture and floriculture products, including nurseries, greenhouses, lawn and garden services, or ornamental shrub and tree services. These enterprises typically produce their own stock, unlike a garden center which imports from other establishments the products it sells at retail.

(B) Residential uses.

(1) *Single-family, conventional.* One-family attached or detached dwellings, townhouses, or two-family dwellings built singly or as part of a larger subdivision, and supervised living facilities.

(2) *Multi-family, limited.* Multi-family dwellings of three or four units developed singly or as part of a larger multi-family development, and supervised living facilities.

(3) *Multi-family*. Multi-family dwellings of five or more units, singly or as part of a larger development, boarding/rooming houses, convalescent homes, and supervised living facilities.

(4) *Manufactured home*. Manufactured homes as defined in § 153.026, and located within a subdivision, park, or singly on a separate lot.

(C) *Servicing, merchandising, leisure uses, office uses.*

(1) *Commercial recreation*. Facilities and activities which primarily provide a recreational service, including, but not limited to, indoor/outdoor private and public for profit sports/recreation clubs and facilities, and camping facilities and indoor shooting ranges, but excluding target ranges, shooting or gun clubs.

(2) *Public recreation*. Facilities and activities providing or recreational opportunities for the general public by a governmental body, including, but not limited to, public parks, playgrounds, buildings and grounds, golf courses.

(3) *Amusement and entertainment*. Facilities and activities that consist of the retail sale of alcoholic beverages for consumption on the premises, theaters, dance halls, and other facilities with live entertainment, bowling alleys, billiard parlors, and coin-operated amusement devices.

(4) *Transient amusement enterprises*. Facilities and activities consisting of temporary outdoor amusement enterprises including circuses, carnivals, and fairs.

(5) *Racing and track enterprises*. Facilities and activities that consist of outdoor racing with but not limited to horses, cars, motorcycles, and dogs, or track facilities for vehicles and animals including motor-cross courses.

(6) *Transient accommodations*. Establishments engaged in providing lodging or lodging and meals for the traveling public including hotels, motels, and tourist courts.

(7) *Services, low impact*. Activities involving personal, financial, real estate, insurance, health, legal, or social services and business services that are located solely within a building. Such activities include, but are not limited to, household product repair services, coin operated laundries, beauty and barber shops, funeral home, advertising services, collection agencies, banks, doctors offices, clinics, law offices, and counseling services.

(8) *Services, high impact*. Activities involving personal or business services, repair services, and automotive repair services. Such activities include, but are not limited to, commercial laundries, linen supply, industrial laundries, outdoor advertising services with outdoor storage, blueprints/photocopying, cleaning/disinfecting/extermination services, specialized repair shops needing outside storage, equipment and vehicle rental/leasing, parking lots, car washes, bus/taxi depots.

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(9) *Essential services.* Facilities for telephone lines and minor switching stations, and local service for natural gas lines, electric supply lines, sanitary sewer lines, storm sewer lines, water supply systems.

(10) *Membership organizations.* Facilities and activities that consist of organizations operating on a membership basis for the promotion of the interests of the members, including trade organizations, political or labor organizations, and civic, social, and fraternal associations, with the primary activities related to membership organization functions, amusement/entertainment, or services to the general public.

(11) *Restaurants.* Retail establishments selling, primarily, prepared foods, and secondarily, alcoholic beverages for consumption on the premises; and also lunch counters, refreshment stands, and fast-food establishments.

(12) *Retail and convenience retail trade.* Establishments engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of the goods. Such uses include, but are not limited to, food, drug, clothing, sporting goods, hardware, paint, glass and wallpaper stores, home improvement establishments, retail nurseries, general merchandise stores, food stores, apparel and accessory stores, furniture stores, home furnishing stores, florists, garden centers, retail butcher shops, variety or specialty stores of a similar character and intensity.

(13) *Vehicle/implement dealers and gasoline service stations.* Retail dealers selling new and used automobiles, trucks, and other self-propelled vehicles, boats, recreational and utility trailers, motor-homes, motorcycles, farm implements, (including showroom and service facilities), and gasoline service stations, and convenience stores that sell gasoline.

(14) *Wholesaling, limited impact.* Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers. Such primary activities or incidental activities shall not be conducted outside of the primary buildings related to the activity. Uses in this category include, but are not limited to, vehicle parts and supplies, furniture, electrical goods, hardware, plumbing and heating supplies, drugs, apparel, grocery products, alcoholic beverages, meat locker plants, and other specialty wholesaling of a similar character and intensity.

(15) *Wholesaling, high impact.* Establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, farm, or professional business users; or to other wholesalers, and where outdoor storage may be a necessary part of the business. Uses in this category include, but are not limited to, wholesaling of vehicles, lumber, and other construction materials (lumber yards), construction machinery, farm machinery, industrial machinery, transportation equipment, scrap/waste materials, farm-product raw materials and product storage, and other wholesaling of a similar character and intensity. This category will include also all facilities for freight transportation and motor freight warehousing of any type.

(16) *Institutional buildings.* Government offices of legislative, judicial, administrative and regulatory activities of federal, state, or local governments, local schools, child care centers other than those located in a residential dwelling, churches, and hospitals; excluding structures used for essential services and all activities requiring related outdoor storage areas.

(D) *Industrial uses.*

(1) *Construction.* Activities and facilities consisting of general building construction or building/road or related maintenance, heavy construction, and special trade contractors. Such uses include the fixed place of business, including office space, indoor storage space, and space or yards for storage of vehicles, equipment, and supplies.

(2) *Research and testing.* Primary activities consisting of research and development laboratories. Such facilities carry on investigations in the natural or physical sciences or engineering and development as an extension of investigation with the objective of creating end products. Such primary uses may include soils testing and engineering, medical research, agricultural research, and activities and facilities of a similar character and intensity.

(3) *Heavy industry.* Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, establishments that blend materials. Such uses include, but are not limited to, food and kindred products preparation such as grain milling; lumber and wood products such as sawmills, planing mills or hardwood veneer production and storage; leather tanning and finishing; clay, glass, and concrete products production; fabricated metal products such as metal coating or engraving; manufacturing of machinery, equipment; chemical manufacturing; related waste/refuse treatment by such uses, excluding land fills or dumps; and uses of a similar character and intensity. (Refer to § 153.124.)

(4) *Light industry.* Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, or includes establishments engaged in assembling component parts of manufactured products. Such uses include, but are not limited to, recycling establishments located completely inside a building, printing, publishing, and allied industries; manufacturing of leather products from finished leather; apparel products made from fabrics; furniture and fixtures, mill-work, cabinet and similar wood products production; cut stone and stone products production excluding quarries; manufacture of engineering, laboratory, scientific, or research instruments/equipment, and measuring and controlling instruments; and uses of similar character and intensity.

(5) *Transmission and distribution.* Consists of establishments providing to the general public or to other business enterprises; facilities for freight transportation by train or truck; and electricity, gas and other utility system elements including, but not limited to, electric, gas, and other utility substations, transformer stations, pumping stations, regulator stations; and broadcasting towers.

(6) *Junkyards.* The temporary or continuous above-ground storage of unusable or unlicensed vehicles, construction and farm machinery and equipment, or portions thereof and other similar materials treated in a like manner. This category includes establishments that recycle vehicles, machinery, equipment or materials and stored outside buildings.

(7) *Extraction.* Extraction of soil, stone, rock, gravel, sand, or similar natural products from the ground for commercial purposes.

(E) *Other uses.*

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(1) *Cemeteries*. The permanent interment of people or domestic pet animals either above or below ground level.

(2) *Signs*. Signs that are permanently attached to buildings or having a fixed location on the ground.

(3) *Home occupations*. See § 153.122 and the definition of a home occupation in § 153.026.

(4) *Hazardous or toxic material storage*. See § 153.138.
 (Ord. 155, passed 5-25-2017)

§ 153.041 DISTRICT REGULATIONS.

(A) This table in § 153.042 shall indicate what categories of uses as listed in § 153.040 are permitted or permitted under a conditional or interim use permit, or not permitted within each zoning district.

(B) The table shall be used in combination with the use categories in § 153.040 by the Zoning Administrator, Planning Commission, and City Council.
 (Ord. 155, passed 5-25-2017)

§ 153.042 DEVELOPMENT REGULATIONS; DISTRICTS AND USES.

<i>Table 1: Development Regulations; Districts and Uses</i>					
P - Permitted Use C - Conditional Use I- Interim Use Blank - Not Permitted					
<i>Agricultural Uses</i>					
	<i>R-1</i>	<i>R-2</i>	<i>C-1</i>	<i>M-1</i>	<i>AG</i>
Agricultural services			C	P	C
Animal services				C	P
General agriculture				C	P
Retail agriculture					P
<i>Residential Uses</i>					
	<i>R-1</i>	<i>R-2</i>	<i>C-1</i>	<i>M-1</i>	<i>AG</i>
Child care facility	P	C			
Licensed day care facility					
Serving 12 or fewer persons, and group family day care facilities licensed serving 14 or fewer children	P	C	P		P

Table 1: Development Regulations; Districts and Uses

P - Permitted Use C - Conditional Use I- Interim Use Blank - Not Permitted						
Serving 13 to 16 persons		P	P			
Licensed residential facility; state-licensed residential facilities serving 7 to 16 persons		P	P		I	
Licensed residential facility; state-licensed residential facilities serving more than 16 persons		C	C		C	
Manufactured home						
Single home	P				P	
Park/subdivision		C				
Multi-family		P				
Multi-family, limited	C	P				
PUD-R and PUD-M	C	C	C	C		
Single-family, conventional	P					
Supervised care facility	I	I	I		I	
<i>Service, Merchandising, Leisure Uses, Office Uses</i>						
		<i>R-1</i>	<i>R-2</i>	<i>C-1</i>	<i>M-1</i>	<i>AG</i>
Amusement/entertainment				C		
Commercial recreation				C		C
Drive-through				C	C	
Essential services	P	P	P	P	P	P
Gasoline service stations				C	C	
Institutional buildings	C	C	C	C	C	C
Membership organizations			I	P		P
Public recreation	P	P	P	P	P	P
PUD-R and PUD-M			C	C	C	
Racing/track enterprises						I
Restaurants				P	C	
Retail/convenience retail trade				P		
Services, high impact				C	P	
Services, low impact				P		

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<i>Table 1: Development Regulations; Districts and Uses</i>					
P - Permitted Use C - Conditional Use I- Interim Use Blank - Not Permitted					
Sex oriented business			I	I	
Shopping center			C	C	
Transient accommodations			C	C	
Transient amusement enterprise				I	I
Wholesaling, high impact				C	
Wholesaling, limited impact			C		
<i>Industrial Uses</i>					
	<i>R-1</i>	<i>R-2</i>	<i>C-1</i>	<i>M-1</i>	<i>AG</i>
Construction			C	C	
Heavy industrial				C	
Light industrial				P	
Research/testing				P	
Transmission/distribution			C	C	
* Telecommunication service and towers use, see § 153.060					

(Ord. 155, passed 5-25-2017)

§ 153.043 SEXUALLY ORIENTED BUSINESSES.

(A) *Generally.* A sexually oriented business under this section shall be defined as provided for in the code of ordinances, and specifically the sexually oriented business ordinance, as codified in Chapter 113 of this code of ordinances.

(B) *Conditional use.* Sexually oriented businesses shall be considered conditional uses and may be permitted only within qualifying areas of C-1 Commercial District and M-1 Industrial District.

(C) *Conditional use permit.* No sexually oriented business may be granted a conditional use permit under this section unless it has applied for and received a license under the sexually oriented business ordinance. Application for the sexually oriented business license and a conditional use permit may happen concurrently or a conditional use permit may be granted under this section subject to the applicant receiving a license pursuant to the sexually oriented business ordinance. An applicant for a conditional use permit under this section shall also include a copy of the application for the license under the sexually oriented business ordinance with the application under this article.

(D) *Location.* No sexually oriented business may be located or operated within 1,500 feet of:

(1) A church, synagogue, mosque, temple, or building which is used primarily for religious worship and related activities;

(2) A public or private educational facility, including but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

(3) A boundary of a residential district as defined in the city Zoning Code;

(4) A public park or recreational area which has been designated for park or recreational activities including, but limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the city which is under the control, operation, or management of the city park and recreation authorities;

(5) A public theater;

(6) A shopping center;

(7) An airport;

(8) A senior housing facility;

(9) A hospital;

(10) A medical clinic; or

(11) A care center.

(E) *Location near other sexually oriented businesses.* The operation, establishment, substantial establishment, or transfer of ownership or control of a sexually oriented business may not occur within 1,500 feet of another sexually oriented business. In addition, there shall not be more than one sexually oriented business within a block front even if said block is greater than 1,500 feet in length.

(F) *Multiple uses or enlargement of uses.* The operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business, is prohibited.

(G) *Measurement from certain uses.* For the purpose of division (D) above, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is

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conducted, to the nearest property line of the premises of a use listed in division (D) above. Presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of the section. Such distance shall be measured across property lines, regardless of ownership of the property.

(H) *Measurement between sexually oriented businesses.* For purposes of division (E) above, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

(I) *Severability.* In the event any section, division, clause, phrase, or portion of this section is for any reason held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remainder of this section. It is the legislative intent of the City Council that this section would have been adopted if such illegal provision had not been included or any illegal application had not been made.

(Ord. 155, passed 5-25-2017)

USE DISTRICTS

§ 153.055 AGRICULTURAL (AG).

The intent of this district is to provide for the continuation of certain historically cultivated or pastured agricultural lands and related agricultural activities that will be used for urban land uses in the future. The intent is to apply this district to those areas designated as “Agricultural” in the Comprehensive Plan.

(A) *Permitted and conditional uses.* See Table 1 in § 153.042.

(B) *Development requirements.*

(1) *Maximum building height.*

(a) No height restrictions shall be placed on farm or other nonresidential buildings or structures. Where farm or other nonresidential buildings or structures are located within 200 feet of a residential zoning district, no building or structure shall have a maximum height of more than 55 feet.

(b) Thirty-five feet for residential principal buildings (two and one-half stories).

(2) *Minimum lot area.*

(a) Fifteen acres for general agriculture uses;

(b) Two acres for all animal services, agricultural services, and retail agriculture uses;

(c) Essential services shall have no required minimum lot area; and

(d) All other uses: one-half acre minimum or 50% larger than the building(s) planned for the site, whichever is greater.

(3) *Maximum lot coverage.* Non-farm buildings shall cover no more than 15% of the lot area.

(4) *Minimum front yard.* The minimum front yard shall be 45 feet.

(5) *Minimum rear yard.* A minimum rear yard of 50 feet shall be required.

(6) *Minimum side yard.* Each lot or parcel shall have a total side yard (both yards) of 50 feet, where no side yard shall be less than 20 feet.

(C) *Use limitations.*

(1) No feedlot shall be permitted on a temporary or permanent basis within this district. (See § 153.026 for definition of a feedlot.)

(2) The commercial feeding of garbage or offal to swine or other animals, soil surface application of sewage sludge, or open non-contained storage of silage shall not be permitted or conditionally permitted in the agricultural district.

(3) A second farm dwelling, only in the form of a manufactured home, may be permitted on the same lot as the farm dwelling of a farm, but shall house only family members or persons employed on the farm. All minimum County Health Department regulations pertaining to the sewage system shall be adhered to or the manufactured home shall meet all city requirements for connecting with the city sewer, and shall be consistent with all other requirements of this chapter. A conditional use permit shall be required for manufactured homes as a second farm dwelling.

(4) Animal services are permitted provided no cage or pen housing such animals is located nearer than 100 feet from any lot line.

(5) One temporary building and required parking spaces for the incidental sale of agricultural produce shall be located not less than 20 feet from the front lot line. Two parking spaces on-site shall be provided.

(D) *Accessory uses and structures.* Accessory structures and uses customarily incidental to any of the permitted uses when located on the same property are permitted. Accessory structures attached to a principal building shall be located in the buildable area of the lot. Other structures shall not be located in the front yard, and shall not be closer than 25 feet to any side or rear lot line.

(Ord. 155, passed 5-25-2017)

§ 153.056 LOW DENSITY RESIDENTIAL (R-1).

The intent of this district is to provide land area for residential uses that are compatible with and of

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a similar character to single-family residential buildings. The intent is to apply this district to those areas designated as “Low Density Residential” in the comprehensive guide plan.

(A) *Permitted and conditional uses.* See Table 1 in § 153.042.

(B) *Development requirements.*

(1) *Maximum building height.*

(a) Thirty feet for principal buildings;

(b) Twenty feet for accessory structures; and

(c) A maximum height of 55 feet for institutional buildings may be permitted. Any institutional building with a height of over 30 feet shall provide two feet of additional front and side yard for each additional one foot of height.

(2) *Minimum lot area for a principal building.*

(a) Single-family detached: 7,200 square feet;

(b) Single-family, attached, single manufactured home: 6,000 square feet per dwelling;

(c) Two-family dwelling: 10,000 square feet;

(d) Supervised care facility: 7,200 square feet;

(e) Multi-family, limited:

3 unit building	12,800 square feet
4 unit building	15,600 square feet

(f) Multi-family: five units or more; 20,000 square feet minimum or 50% larger than the building(s) planned for the site, whichever is greater;

(g) Institutional building: 10,000 square feet;

(h) Cemeteries: one-half acre;

(i) All other uses: 7,200 square feet minimum or 50% larger than the building(s) planned for the site, whichever is greater; and

(j) Essential services: no minimum.

(3) *Minimum lot frontage.*

(a) Two-family dwelling, and multi-family, limited: 80 feet;

(b) All other uses: 70 feet; and

(c) Frontage modifications: where curvilinear streets and culs-de-sac are used in a subdivision or where other unconventional lot shapes are used, a reduction in the lot frontage shall be permitted, provided that:

1. The lot width measured at the required minimum front yard setback shall equal the frontage required in this district; and

2. The lot width measured at the front lot line shall not be less than 40 feet.

(4) *Minimum front yard.* Measured 25 feet from foundation to the property lines.

(5) *Minimum rear yard.*

(a) Measured 25 feet from foundation to property line.

(b) Accessory structures not attached to the principal building may be erected in the rear yard providing that the eaves and wall of any accessory building shall be placed at least five feet from all lot lines. A ten-foot minimum setback is required if a driveway is attached to the structure facing an alley or road.

(6) *Minimum side yard.*

(a) For single-family attached and detached, two-family dwellings, single manufactured home, and supervised care facility, a side yard seven and one-half feet measured from foundation to lot lines for both sides.

(b) 1. For all other uses, a minimum total side yard for each lot shall be 25 feet measured from foundation to property lines with a minimum of 15% of the lot frontage provided for each side yard.

2. Parking areas may be located in the side yard; however, all paved areas shall be a minimum of five feet from the side lot line.

(c) Accessory structures to the principal building shall be placed at least 15 feet from a side street lot line. An accessory building may be erected detached from or attached to the principal building as an integral part thereof, or it may be attached by a breezeway or similar structure. Such accessory buildings shall be located in the buildable area, or in the required rear yard, and shall be placed so that the eaves of the building are at least five feet from property line.

(7) *Maximum lot coverage.* The maximum lot coverage of all structures shall not exceed 50% of the total lot or development site.

(8) *Accessory uses and structures.* Accessory uses and structures on the same property are

permitted.

(9) *Fences in residential locations of the city.*

(a) No fence shall be constructed of animal farm wire, gates, or farm post material (wood or steel). Every fence shall be constructed in a substantial, workmanlike manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair and danger.

(b) All wood fences will have a finished surface facing the outer side of its respective residential property.

(c) No fence shall be constructed in a utility easement and/or right-of-way.

(d) All fences may be constructed adjacent but not beyond the property line of the respective residential property owner.

(e) No fence shall be constructed more than eight feet high from the ground. Or more than four feet high in the front yard.

(f) All fences shall have at least one external access gate.

(10) *Individual lots*, Driveways shall be surfaced with concrete, asphalt, or an approved paving brick block material. Plans for such must be included in the homeowner's construction plans, and driveways must be completed within six months of homeowner occupation. Driveways shall have a maximum grade of 8% within the public right-of-way.

(C) *Exceptions and additions to standards of this section.*

(1) *Location*. Location of multi-family, limited buildings in the Low Density Residential District shall be limited to areas with the following characteristics.

(a) Meeting the minimum lot area requirements of this district, and provide adequate area for buffering and screening as required under § 153.136.

(b) Abutting less restrictive zoning district boundaries (R-2, C-1, M-1). The multi-family limited building(s) shall not extend more than 100 feet from the side or rear lot line of the abutting lot which is in the less restrictive zoning district.

(c) Located at the intersections of public streets, and the public streets, shall be either collector or higher level streets as designated in the Comprehensive Plan.

(2) *Townhouse style building developments*. Townhouse style building developments shall be required to be developed under the planned unit development (§§ 153.075 through 153.078) provisions of this chapter.

(3) *Design criteria for dwellings.* All dwellings permitted or conditionally permitted in this district shall meet the following established design criteria.

(a) All such dwellings shall be constructed upon a permanent foundation which is located along the entire length of all exterior walls of the dwelling and is approved according to the Minnesota Building Code.

(b) The minimum width of the dwelling shall be 24 feet, measured between non-intersecting exterior walls along a straight line perpendicular to both walls. The requirement shall not apply to any additions made subsequent to the original construction of the dwelling.

(c) All manufactured homes shall be equipped with an anchoring system approved by the Minnesota Building Code.
(Ord. 155, passed 5-25-2017)

§ 153.057 HIGH DENSITY RESIDENTIAL (R-2).

The intent of this district is to provide land area primarily for residential uses of a higher density than the R-1 District, and include manufactured housing singly or in subdivisions/parks; such uses should be compatible to multi-family residential buildings. This district applies to the “High Density Residential” land use designation of the Comprehensive Plan.

(A) *Permitted and conditional uses.* See Table 1 in § 153.042.

(B) *Development requirements.*

(1) *Maximum building height.*

(a) Thirty-five feet for all principal residential buildings of permitted and conditional uses;

(b) For nonresidential principal buildings, 55 feet, provided that for each one foot of height over 35 feet, two feet of additional front, side and rear yard shall be required; and

(c) Twenty feet for all accessory structures.

(2) *Maximum density and minimum lot area.*

(a) All residential development, except manufactured houses and supervised care facilities, shall have a minimum of 2,178 square feet of land area per dwelling unit or a maximum density of 20 dwelling units per net acre. (Net acreage shall be gross acreage minus that area of public right-of-way and floodplain within the area proposed for development under this district.)

(b) Minimum lot size for manufactured home park/subdivisions and supervised care facilities shall be 7,200 square feet.

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(c) All other permitted or conditionally permitted uses shall provide adequate land area to meet the minimum lot frontage, yard requirements, maximum lot coverage, on-site parking requirements, and area necessary for minimum buffering and screening.

(3) *Maximum lot coverage.* The maximum lot coverage of all structures shall not exceed 50% of the total lot or development site.

(4) *Minimum lot frontage.*

(a) Residential development, manufacture home subdivision/park: 70 feet; and

(b) All other uses permitted or conditionally permitted uses: 75 feet.

(5) *Minimum front yard.* Twenty-five feet measured from foundation to lot lines.

(6) *Minimum rear yard.*

(a) Thirty feet measured from foundation to lot lines, except for manufactured homes in manufactured home subdivisions;

(b) Manufactured homes in manufactured home subdivisions: 15 feet measured from outside of wall foundation to lot lines; and

(c) Accessory structures not attached to the principal building may be erected in the rear yard providing that the accessory buildings shall be placed at least five feet measured from the eaves of the building to lot lines.

(7) *Minimum side yard.*

(a) Buildings 35 feet and under: seven and one-half feet, measured from the foundation to lot lines. (See division (B)(1)(b) above.)

(b) Nonresidential uses with a height of 35 feet and under: seven and one-half feet measured from foundation to lot lines for both sides.

(8) *Open space.* All nonresidential permitted or conditionally permitted uses shall provide 25% of the gross lot area for unpaved open space. This requirement shall not apply to essential services and cemeteries. Landscaping may be required within the open space area by the City Council, including buffering or screening around the parking area.

(9) *Buffering and screening.* Buffering and screening shall be required as specified in § 153.136.

(10) *Individual lots.* Driveways shall be surfaced with concrete, asphalt, or an approved paving brick block material. Plans for such must be included in the homeowner's construction plans, and driveways must be completed within six months of homeowner occupation. Driveways shall have a maximum grade of 8% within the public right-of-way.

(C) *Accessory uses and structures.* When located on the same lot are permitted.

(D) *Exceptions and additions to standards of this section; zero lot line development.* A single-family detached dwelling or single-family attached may reduce one side yard to zero when at any location within this district where all of the following conditions are met.

(1) The applicant records a covenant and deed restriction on all properties which will abut the zero or common lot line. Said covenants' and deed restrictions shall:

(a) Provide access to the abutting lot for the adjacent lot owner and/or his or her representative for the purpose of construction, reconstruction, repair, and maintenance of either side on the total lot;

(b) Provide for necessary encroachments for footings, eaves, and special structures; and

(c) Provide for restrictions to limit color, material, and design of the principal building as to be compatible with the attached building.

(2) The zero side yard of a zero lot line dwelling shall not abut a dwelling built to meet the side yard standards of division (B)(7) above. Unless said dwelling is on a corner lot and the dwelling and garage where this applies are a minimum of 15 feet from the side lot line, and all other requirements of this district are met or exceeded. The zero side yard of a zero lot line dwelling shall not abut the rear yard of any dwelling located on a corner lot.

(3) Windows shall be prohibited in the wall that is on the same side as the zero yard.

(4) The side yard opposite the zero side yard shall have a minimum width equal to the minimum total side yard, normally required for that dwelling type in this district.

(5) No building side wall shall be closer than 15 feet to the adjacent lot building side wall with the exception of accessory structures. Accessory structures shall be no closer than ten feet to the principal building on abutting lots.

(6) The wall of the dwelling shall be placed upon said lot in a manner not to encroach upon another lot.

(7) Water runoff from structure roofs shall not drain onto abutting lot but shall be required to drain onto only the lot on which the structure is located.

(8) The zero side street side yard, where this applies, shall be opposite the zero side yard.
(Ord. 155, passed 5-25-2017)

§ 153.058 COMMERCIAL (C-1).

The intent of this district is to provide land area for land uses of a service or retail nature and other commercial uses of a similar character and intensity. This district is intended to reflect the

“Commercial” designation of the Comprehensive Plan.

(A) *Permitted and conditional uses.* See Table 1 in § 153.042.

(B) *Development requirements.*

(1) *Maximum building height.*

(a) Fifty-five feet for all principal structures; and

(b) Fifteen feet for all accessory structures.

(2) *Maximum lot coverage.* One hundred percent of the net land area of the parcel may be used and covered by principal and accessory buildings. (**NET LAND AREA** is total land area of the parcel minus yard setbacks where required, parking area where required, loading/unloading area where required and buffer or screen areas where required.)

(3) *Minimum lot area.* Two thousand square feet.

(4) *Minimum front yard.* No minimum front yard is required, with the exception of the following. A minimum front yard of 25 feet measured from the foundation to the lot line shall be required where the lot is adjacent to or abuts an existing residential zoning district, unless divided by a public street or abuts a federal, state or county highway with the exception of the downtown commercial area as identified in the Comprehensive Plan.

(5) *Minimum rear yard.*

(a) Ten feet measured from the foundation to the lot line for all uses; and

(b) Where a commercial use is adjacent to or abuts a residential or agricultural zoning district, the minimum rear yard shall be 25 feet, measured from the foundation to the lot line unless divided by a public street.

(6) *Minimum side yard.*

(a) No minimum side yard is required.

(b) A commercial lot adjacent to or abutting a residential or agricultural zoning district shall have a minimum side yard of 15 feet measured from the foundation to the lot line on the side yard adjacent to or abutting these listed districts. The required side yard may be included as part of the area required for buffering and screening.

(c) A commercial lot adjacent to or abutting a federal, state, or county highway and that is required to have off-street parking shall have a minimum side yard total of 25 feet, measured from the foundation to the lot line, with a minimum of ten feet for each side yard measured from the foundation to the lot line. Where the federal, state, or county highway is the side street, the side yard abutting the highway shall be 25 feet.

(7) *Minimum lot frontage.*

(a) Shall be a minimum of 35 feet; and

(b) Lots required to provide off-street parking that abut a federal, state or county highway shall have a minimum frontage of not less than 50 feet.

(8) *Buffering and screening.* Buffering and screening shall be provided as specified in § 153.136.

(9) *Individual lots.* Driveways shall be surfaced with concrete, asphalt, or an approved paving brick block material. Plans for such must be included in the construction plans. Driveways must be completed within six months of occupation. Driveways shall have a maximum grade of 8% within the public right-of-way.

(C) *Use limitations.*

(1) All commercial activities shall be conducted within a building. Exceptions to this requirement include activities using designated loading/unloading areas, and temporary waste storage. Outdoor display of retail items shall not be permitted on public right-of-way. An establishment that requires outside storage of materials may locate offices or retail operations within this district, but not outdoor storage areas.

(2) No building customarily used for night operation shall be located closer than 100 feet to any residential district.

(3) Public streets, alleys, or parking areas shall not be used for commercial vehicle storage or parking on a temporary or permanent basis.

(4) Storage of materials: storage of all materials or machinery related to the use shall be stored in buildings or structures. There shall be no outside storage, with the exception of vehicles used as part of the on-site commercial use. Storage of junk, wrecked vehicles, or other waste products shall be enclosed within a building or structure. Waste materials incidental to the principal operation shall be kept in neatly stored containers, screened from public view. The waste materials shall be removed and disposed of in a manner adequate to meet all federal, state, and County Health Department regulations. No wastes shall be piled on open ground.

(5) Dwelling units (apartments) located above the street level, first floor, in buildings in the downtown commercial area, shall be permitted where adequate on-site parking is available. Minimum square footage for each unit allowed shall be: 650 square feet for a studio apartment; 800 square feet for a one bedroom; and 1,000 square feet for a two bedroom. Lot of record that meets all lot area, frontage, and yard requirements shall be permitted.

(6) Gasoline service stations and convenience stores that sell gasoline may be conditionally permitted in this district where the site is adjacent to an arterial or higher level street and where all other requirements of the ordinance are met or exceeded.

(7) Shopping center: applicants petitioning for approval of a shopping center shall be required

to obtain a conditional use permit in addition to meeting all other requirements of specific commercial uses as specified under this or any other section of this chapter.

(D) *Parking requirements.* See § 153.127. Any use on a lot fronting on or having access to a federal, state, or county highway shall be required to have on-site parking, with the exception of commercial uses located in the downtown commercial area as identified in the Comprehensive Plan.

(E) *Sign requirements.* See § 153.128.

(F) *Accessory uses and structures.* Accessory structures when located on the same lot are permitted.
(Ord. 155, passed 5-25-2017)

§ 153.059 INDUSTRIAL (M-1).

The intent of this district is to provide land area for land uses of an industrial nature including, but not limited to, manufacturing, major transportation, and communication facilities, utilities, warehousing, wholesaling and uses of a similar character and intensity. The intent is to apply this district to those areas designated as “Industrial” in the Comprehensive Plan.

(A) *Permitted and conditional uses.* See Table 1 in § 153.042.

(B) *Development requirements.*

(1) *Maximum building height.*

(a) Within 200 feet of a residential zoning district, all principal structures or buildings shall have a maximum height of 55 feet or less, and all accessory structures shall have a maximum height of 25 feet or less. Grain elevators and all necessary structures for the operation of such a facility shall be exempt from this height limitation.

(b) Any lot, parcel, or property zoned industrial that is more than 200 feet from a residential zoning district shall have a maximum height of no more than 150 feet.

(c) All grain elevators and the structures necessary for the operation of such a facility shall be permitted to have a maximum building height of 100 feet in any portion of the industrial district wherein such facility is located that is less than 200 feet of a residential zoning district.

(2) *Minimum lot area.* Five thousand square feet. Each parcel, lot, or property shall contain sufficient area for the necessary building area, yard requirements, buffer and screen requirements, parking area, and loading/unloading requirements. Consideration shall be given to space for future potential for expansion of planned buildings and activities.

(3) *Maximum lot coverage.* One hundred percent of the area available for building after providing minimum area for yard requirements, buffer and screen requirements, and parking and loading/unloading requirements, where required.

(4) *Minimum front yard.*

(a) Fifteen feet shall be required.

(b) Where the industrial zoning district or use is adjacent to or abutting a residential zoning district or a federal, state, or county highway, a minimum front yard of 25 feet shall be required.

(5) *Minimum rear yard.* No minimum rear yard is required, with the following exceptions.

(a) Where an industrial use rear yard is abutting a railroad siding, no minimum rear yard shall be required. However, consideration shall be given to the loading/unloading area needed servicing the railway facilities and to the need for adequate access by employees to and from the industrial buildings. Where access into or from a building is needed or required by the Building Code on the wall abutting the rear yard adjacent to a railroad siding, a six-foot rear yard shall be provided.

(b) A minimum rear yard of 25 feet shall be required where an industrial zoning district or use is adjacent to or abutting a residential zoning district or a federal, state or county highway.

(6) *Minimum side yard.* A total side yard (both side yards) minimum of 30 feet, and no side yard being less than ten feet.

(7) *Minimum lot frontage.* There shall be a minimum frontage of 60 feet.

(8) *Buffering and screening.* Buffering and screening shall be required as specified in § 153.136.

(9) *Individual lots.* Driveways shall be surfaced with concrete, asphalt, or an approved paving brick block material. Plans must be included in the construction plans. Driveways must be completed within six months of occupation. Driveways shall have a maximum grade of 8% within the public right-of-way.

(C) *Use limitations.*

(1) *Storage of materials.*

(a) The open storage of lumber, coal, or other combustible material shall be not less than 25 feet from an interior lot line.

(b) Open storage of junk, wrecked vehicles to be dismantled, or other similar salvage materials shall be enclosed by an eight foot permanent fence or combination of fence and other structures that entirely blocks the view of the storage area from the public and adjacent property owners located in other than the industrial district.

(c) Waste materials incidental to the principal operation shall be kept in neatly stored containers screened from public view, and at least 25 feet from all interior lot lines. The waste materials shall be removed and disposed of in a manner adequate to meet County Health Department regulations

and applicable state and federal regulations.

(d) No waste material shall be piled on open ground.

(e) All industrial uses shall comply with the requirements of § 153.138, if applicable.

(2) *Parking requirements.* See § 153.127.

(3) *Sign requirements.* See § 153.128.

(4) *Accessory uses and structures.* Accessory structures when located on the same lot are permitted.

(Ord. 155, passed 5-25-2017)

§ 153.060 COMMERCIAL WIRELESS TELECOMMUNICATIONS SERVICES AND TOWERS.

(A) *Purpose.* The city acknowledges the legal right of wireless telecommunications providers to do business within the city. The city further acknowledges that, pursuant to federal law, the city's regulations must be nondiscriminatory, must not be based on the health effects of radio frequency emissions and must not prohibit the delivery of telecommunication services. Accordingly, in order to establish uniform, nondiscriminatory, and competitively neutral regulations that protect the public health, safety, and general welfare of the community, these regulations are intended to:

(1) Facilitate the provision of commercial wireless telecommunication services in city and surrounding area;

(2) Minimize adverse visual effects of towers through careful design and siting standards;

(3) Avoid potential damage to adjacent properties from tower or antenna failure and weather related occurrences through structural standards, careful siting, and setback requirements;

(4) Require the placement of commercial wireless telecommunication service towers in nonresidential zoning districts or alternatively on commercial, industrial, or institutional property and large publicly-owned parcels; and

(5) Minimize the total number of existing and new towers needed to serve the community, and maximize the use of existing towers and buildings to accommodate commercial wireless telecommunication service antennas.

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

ANTENNA. A structure or device used to transmit or receive radio waves for voice, data, or video communications, including, but not limited to, directional, panel-type antennas, disk-type antennas, and omni-directional/whip-type antennas.

COMMERCIAL MOBILE SERVICES. Any mobile service (as defined in 47 U.S.C. § 153(33)) that is provided for profit and makes interconnected service available:

(a) To the public; or

(b) To such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by the regulations of the Federal Communications Commission.

COMMISSION. The Planning Commission of the city.

EQUIPMENT SHELTER. A structure installed as a part of a PWS facility for the storage, protection, and security of communications equipment associated with one or more antennas and including freestanding buildings and equipment cabinets.

EXISTING SUPPORT STRUCTURE. Any existing or proposed freestanding human-made structure capable of supporting antenna, including, but not limited to, church steeples, buildings, water tanks, smoke stacks, signs, silos, utility poles, or similar structures used primarily to support electric or telephone service lines, or other tall non-tower structure.

EXISTING TOWER. Any tower existing within or outside the city on the effective date of this chapter.

INSTITUTIONAL PROPERTY. Land used by a nonprofit, religious, or educational organization, such as a church, library, public or private school, hospital or airport. Government-owned or operated buildings, structure or land used for a public purpose shall be considered separate from **INSTITUTIONAL PROPERTY**.

INTERCONNECTED SERVICE. Service that is interconnected with the public switched network.

MODIFICATION. Any change, addition, deletion, or replacement of any antenna, or any change to a PWS facility approved by the commission pursuant to this chapter.

PERSONAL WIRELESS SERVICES (PWS). The provision of personal wireless services by commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, which services are regulated by the Federal Communication Commission.

PERSONAL WIRELESS SERVICE FACILITY. A facility for the provision of personal wireless service including antennas, supporting masts, towers, and other antenna support structures and associated telecommunications equipment cabinets and/or buildings.

PWS PROVIDER. A provider of personal wireless service pursuant to a license issued by the Federal Communication Commission.

SITE COMPOUND. An area with minimum dimensions of 50 feet by 50 feet, which area encompasses all structures installed on a site as a part of a PWS facility.

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TOWER. A structure designed to support, or capable of supporting, one or more antennas, including guyed towers, self-supporting lattice or monopole tower, but specifically excluding existing support structures and any support structure including attachments of 65 feet or less in height that is owned and operated by an amateur radio operator licensed by the Federal Communications Commission, and used exclusively for amateur radio purposes.

TOWER HEIGHT. The vertical distance measured from the average finished grade at the base of the tower or its foundation to the highest point of the tower including any antennas that extend above the top of the tower.

UNLICENSED WIRELESS SERVICE. The offering of telecommunication services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined by 47 U.S.C. § 303(v)).

(C) *Tower and accessory structure height.* In any zoning district telecommunications towers shall not exceed 150 feet in height including the tower and attached antennas. All proposed towers and all accessory structures or buildings shall meet the maximum height provisions of the underlying zoning district and § 153.120. The height of towers shall be determined by measuring the vertical distance from the tower's point of contact with the ground or rooftop to the highest point of the tower, including all antennas or other attachments. When towers are mounted on top of other structures or buildings, the combined height of the structure or building and tower must meet the height requirements of the applicable zoning district. Antennas placed on non-telecommunications related structures or buildings shall have a height of not more than 25 feet.

(D) *Tower and accessory structure setback.* Towers shall conform to the setback requirements of the underlying zoning district as determined for area accessory development. Towers located in districts with no height restriction shall be required to meet the setback requirements of § 153.059.

(E) *Equipment, structure, or cabinet setback.*

(1) All structures or cabinets shall conform to the setback requirements of the underlying zoning districts as specified for area accessory development.

(2) Under a conditional use permit the Commission must determine, by means of a design modification as part of the conditional use application, the structure or cabinet setback and buffering. The Commission must consider the lot size, surrounding land uses, site characteristics such as topography and existing vegetation, and proximity of dwellings to the proposed accessory structures. The Commission must determine the most appropriate method for buffering structures or cabinets by applying the requirements of division (K) below.

(3) Where fences are used to control unauthorized climbing of towers, the site plan shall conform to the requirements for fence setbacks in § 153.136. Fences or walls shall be located between the buffer yards and tower based on the standards of § 153.136 (see Table 2 in § 153.136).

(F) *Towers and services as the principal use.* In any residential district, a commercial wireless telecommunications tower may only be permitted when located on institutional or publicly owned property where it maybe an accessory use. Equipment structures or cabinets serving the

telecommunications tower on a property may be permitted as regulated by this section.

(G) *Tower design requirement.*

(1) Towers and antennas shall blend in to the surrounding environment through the use of color and camouflaging architectural treatment except where color is dictated by federal or state authorities. Tower color shall be a solid color, not multi-colored, and shall be light blue, light beige, or rust colored. Rust color on towers shall be used only on sites where there is a predominance of woodland.

(2) New towers shall be monopole design. Existing towers may be used for the placement of antennas and will not be required to be of a monopole design.

(3) No tower shall have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair when the tower is located on a lot that is within 200 feet of a residential zoning district, a designated residential area on the land use plan, or where residential uses currently exist.

(4) All guyed towers shall have placed on the supporting cables bird diverter devices with a design recommended by the Minnesota Department of Natural Resources.

(H) *Antenna co-location.* All commercial wireless telecommunication towers or antennas erected, constructed, or located within the city shall comply with the following requirements.

(1) A proposal for a new tower or antennas shall not be approved unless the city finds that the telecommunications equipment planned for the proposed structure cannot be accommodated on an existing or approved tower or structure within a one mile search radius of the proposed tower due to one or more of the following reasons:

(a) The planned equipment would exceed the structural capacity of the existing or approved tower or structure, as documented by a qualified and licensed professional engineer, and the existing or approved tower or structure cannot be reinforced, modified, or replaced to accommodate planned equipment at a reasonable cost;

(b) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or structure as documented by a qualified and licensed professional engineer or qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost;

(c) Existing or approved towers and structures within the search radius that are 60 feet of over in height that cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer; or

(d) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or structure.

(2) Any proposed tower shall be designed (structurally, electrically, and in all other respects)

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to accommodate both the applicant antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height, or for at least one additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

(3) Zoning certificate or conditional use permit applicants must submit in writing a response to divisions (H)(1) and (H)(2) above. Where an applicant is proposing to locate commercial wireless telecommunications equipment on an existing telecommunications tower this information is not required as part of the application. Where an applicant is proposing to locate commercial wireless telecommunications services on a structure where services now exist this information is not required. However, if a proposed location is within 200 feet of a residential dwelling the applicant shall be required to submit the written information.

(I) *Antennas mounted on existing structures or towers.* The placement of wireless telecommunication antennas on existing buildings, structures, or towers, and placement of equipment structures or cabinets shall meet the standards of the underlying zoning district as specified for an area accessory development and the procedural requirements and standards of this section. A site plan and building plan shall be submitted to the city as part of the zoning certificate.

(J) *Equipment buildings or cabinets.*

(1) All buildings, excluding cabinets, accessory to a tower or antenna, or separate from a tower or antenna location shall be:

(a) Constructed of material on the exterior of the building walls and roof similar to the surrounding residential area when located on property within 200 feet of residential zoning districts; and

(b) Buffered and screened from adjoining uses as established in division (K) below.

(2) Equipment buildings or cabinets shall meet the height limitations as stated in the section relevant to the zoning district on which located.

(3) Equipment buildings or cabinets equipped with exterior lighting shall meet the following lighting requirements. No more than one light located on the equipment structure shall be permitted when the facility is located within a residential zoning district. The light shall be controlled such that the light is on only during nighttime hours. The light shall illuminate only the equipment structure to which it is attached.

(K) *Buffering and screening.*

(1) Towers and equipment structures and cabinets shall be buffered and screened from adjoining uses as established in the requirements of the underlying zoning district for Area Accessory Development. See Table 2 in § 153.136.

(2) Additional landscaping may be required by the Commission as part of a conditional use permit as specified in this division (K)(2). The added landscaping may be in response to the size of the property used for the telecommunications towers, equipment structures and cabinets, surrounding land

uses, proximity of dwellings on adjacent properties to the lot lined, topography, and existing woody vegetation on the property.

(3) The owner/operator of an approved PWS facility shall be responsible for the maintenance of the site compound, associated landscaping, access driveway, and any associated areas of the property used as a part of the PWS facility.

(L) *Signs and advertising.* The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

(M) *Tower lighting.*

(1) (a) A tower shall not be illuminated by artificial means and shall not have affixed or attached to it in any way, except during time of repair or installation, any lights, reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Administration, Federal Communications Commission, or any state agency. Strobe lights will not be permitted for night time tower lighting.

(b) The applicant shall choose from alternative lighting standards supplied by the Federal Aviation Administration, Federal Communications Commission, or state agency. The applicant shall submit with their application the required lighting standard specified by these agencies.

(2) When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

(N) *Abandoned or unused towers.*

(1) Abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the Zoning Administrator. In the event that a tower is not removed within 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the city and the costs of removal may be assessed against the property.

(2) As a condition of the Commission's approval of a PWS facility tower, the owner of the property upon which the PWS facility tower is located shall be required to submit to the Commission the owner's covenant to undertake the responsibility and cost for the removal of a PWS facility tower, which covenant shall be made enforceable by the city and recorded as a lien against the property. This lien shall be released after tower removal and final inspection and sign off by the City Administrator or its designee.

(O) *Public safety telecommunication interference.* Commercial wireless telecommunications services shall not interfere with public safety telecommunications. All zoning certificate applications shall include adequate information that will be reviewed by the city and county public safety communications system before a certificate may be issued. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the city and county at least ten calendar days in advance of changes and allow the city and county to monitor interference levels during the testing process.

(P) *Additional submittal requirements.*

(1) In addition to the information required elsewhere, applications shall include the following information:

(a) A report from a licensed professional engineer that describes the tower's capacity, including the number and type of antennas that it can accommodate;

(b) A letter of intent from the commercial wireless telecommunication service tower owner committing the tower owner and successors to allow the shared use of tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use; and

(c) Information specifically indicating how a tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons.

(2) The Commission may, in its sole discretion engage experts to assist the Commission in its review and understanding of the PWS provider's information. The fees for such expert services shall be borne by the applicant.

(Q) *Registration of commercial wireless telecommunication service and towers.*

(1) *Purpose.* The purpose of registration under this division (Q) is to provide the city with accurate and current information concerning commercial wireless telecommunications services and to assist the city in the administration of this section. This requirement shall apply to companies that offer or provide services within the city of that own or operate facilities, including, but not limited to, antennas and towers, within the city.

(2) *Registration and application requirements.* Commercial wireless telecommunications services and tower companies that offer or provide any telecommunications services for a fee directly to the public or have facilities within the city shall register and provide to the city, pursuant to this chapter the following information:

(a) The identity and legal status of the registrant, including affiliates;

(b) The name, address and telephone number of the officer, agent, or employee responsible for the accuracy of the registration statement;

(c) A narrative and map description of registrants existing telecommunications facilities with the city and adjacent townships; and

(d) Such other information as the city may reasonably require.

(3) This information shall be updated on an annual basis by the companies. The city may request updates of the list whenever a tower or facility is added or removed from service by a company. (Ord. 155, passed 5-25-2017)

§ 153.061 WIND ENERGY GENERATION SYSTEMS (WEGS).

(A) *Purpose.* It is the public interest and contributes to the protection of the public safety, health, and welfare to regulate the construction or re-erection of any form of wind energy generation systems or similar structures within the city limits.

(B) *Regulations.* A person, firm, or corporation shall apply for a zoning certificate to erect, construct in place, or re-erect a wind energy generation structure system or similar structure for the purpose of wind energy generation. Installation shall be governed by the following.

(1) *Compliance required.* The installation must comply with § 153.129.

(2) *Site testing.* A person, firm, or corporation may establish a WEGS meteorological tower on a single or multiple parcels of land for up to a period of one year by obtaining a zoning certificate. The purpose of the tower shall be primarily to measure wind speed, direction, and to determine capacity factor and collect related data necessary to determine suitability of the site for the establishment of a WEGS.

(3) *Setback requirement.* All WEGS shall be set back one and one-half times the total height of the wind energy generation system from the property line.

(4) *Setbacks for accessory structures and facilities.* Substations, facility buildings, and other structures that are part of the WEGS shall meet the setback requirements for the zoning district in which the project is located.

(5) *Tower construction.* All freestanding towers shall be of tubular construction, and no guyed towers permitted.

(6) *Height.*

(a) Freestanding towers shall be deemed an accessory structure and shall not exceed the maximum height requirement for an accessory structure in all zoning districts. Roof type structures, or any tower attached in any way to a principal or accessory building, shall be deemed part of that building; and shall be included in calculating the height of that principal building or accessory structure. The height of the building, including the WEGS apparatus shall not exceed the maximum height requirement for the principal building or accessory structure in all zoning districts.

(b) 1. *Maximum height requirements.* Maximum height requirements for any freestanding accessory structure or buildings with an attached WEGS apparatus shall be specified in the zoning district within which it is located as follows:

<i>District - Type of Structure</i>	<i>Maximum Height</i>
Residential R-1	
Accessory structures	20 feet

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<i>District - Type of Structure</i>	<i>Maximum Height</i>
Institutional buildings	55 feet
Principal buildings	30 feet
Residential R-2	
Accessory structures	20 feet
Nonresidential principal buildings	55 feet
Principal buildings	35 feet
Commercial	
Accessory structures	70 feet
Principal buildings	55 feet
Industrial/Manufacturing M-1	
Within 200 feet of a residential zoning district:	
Accessory structures	70 feet
Principal buildings	55 feet
Grain elevators and all necessary structures for the operation of such a facility shall be exempt from this height limitation.	
More than 200 feet from a residential zoning district:	
Accessory structures	150 feet
Principal buildings	150 feet
All grain elevators and the structures necessary for the operation of such a facility	Maximum building height of 100 feet in any portion of the industrial district wherein such facility is located that is less than 200 feet of a residential zoning district.
Agriculture AG	
Within 200 feet of a residential zoned district:	
Accessory structures	55 feet
Principal buildings	35 feet
More than 200 feet of a residential zoned district:	
Accessory structures	No restrictions
Principal buildings	35 feet

2. *Structures not included in height of building.* Chimneys, elevator bulk heads, drive-in movie theater screens, stacks, water towers, pumping towers, monuments, cupolas, steeples, radio/TV towers, and mechanical appurtenances pertaining to and necessary to the permitted use of the district in which they are located shall not be included in calculating the height of the principal

structure.

(C) *Safety standards.*

(1) *Automatic overspeed controls.* All wind turbines shall be equipped with manual and automatic overspeed controls to limit the blade rotation speed to within unit design limits. A professional engineer must certify that the wind turbine is equipped with rotor and overspeed controls.

(2) *Blade clearance.* No portion of a utility wind turbine blade of a WEGS shall extend closer to the ground than 30 feet. Blade clearance for a non-utility WEGS shall be no less than ten feet.

(3) *Noise.* Fifty decibels or less measured from the property line.

(4) *Decommissioning of WEGS.* The applicant and future owners shall ensure those facilities are decommissioned upon the end of project life or facility abandonment. A decommissioning plan shall be submitted with the project application. Decommissioning shall include removal of all structures and electrical transmission components, to a depth of four feet, and restoration of the soil and vegetation to avoid temporary or long term soil erosion.

(D) *Application requirements.*

(1) All applicants shall complete a zoning certificate application form and supply all information required on the application;

(2) A site plan to scale detailing the location of the project area boundaries, property lines, leased land, easements on the site, and easements obtained for the project; and

(3) A description of the project including, but not limited to, the number of turbines, rated capacity, height of towers, rotor diameter, and height of tower and rotor combined, turbine and tower color, manufactures of the equipment, and schedule/phasing of the project including start-up date, current use and land cover on the project site and on the adjacent parcels as per city, Minnesota Land Use Plan.

(Ord. 155, passed 5-25-2017)

PLANNED UNIT DEVELOPMENTS (PUD)

§ 153.075 PURPOSES.

(A) The planned unit development (PUD) zoning district allows projects of innovative design and layout that would not otherwise be permitted under this code because of the strict application of zoning district or general development standards. The PUD District encourages innovative land planning and site design concepts that achieve a high level of environmental sensitivity, energy efficiency, aesthetics, high-quality development, and other community goals by:

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(1) Reducing or eliminating the inflexibility that sometimes results from strict application of zoning and development standards that were designed primarily for individual lots;

(2) Allowing greater freedom in selecting the means to provide access, light, open space, and design amenities;

(3) Allowing greater freedom in providing a mix of land uses in the same development, including a mix of housing types, housing prices, lot sizes, and densities as well as commercial and light industrial uses in the PUD-M District;

(4) Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations, and land uses; and

(5) Encouraging quality urban design and environmentally sensitive development by allowing increases in base densities or floor area ratios when such increases can be justified by superior design or the provision of additional amenities such as public open space.

(B) In return for maximum flexibility in site design and development, PUDs are expected to deliver exceptional quality design that preserves critical environmental resources, provide above-average open space amenities, incorporate creative design in the layout of buildings, open space, and circulation, assure compatibility with surrounding land uses and neighborhood character, and provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure. The PUD District shall not be utilized as a means of circumventing the city's adopted land development regulations for routine developments.

(Ord. 155, passed 5-25-2017)

§ 153.076 STANDARDS OF DEVELOPMENT.

(A) *PUD-R uses.* Residential building types, as specified in §§ 153.040 through 153.043, shall be permitted under the applicable residential zoning district regulations. Where a proposed PUD-R is located in two residential zoning districts, residential building types shall be conditionally permitted only in the district in which they are permitted under §§ 153.056 and 153.057.

(B) *PUD-M uses.* High density residential uses, servicing, merchandising, leisure, office, uses, and research and testing, as defined in the industrial uses as specified in §§ 153.040 through 153.043, shall be conditionally permitted under the applicable zoning district regulations. Only designated high density/mixed land use areas meeting all five locational criteria as shown in the land use plan, shall be allowed to use the PUD-M process.

(C) *PUD-M intent.* The PUD-M District is intended to fulfill the general purpose of PUDs by encouraging alternative developments containing a creative mix of commercial, limited light industrial, and/or residential uses. This district is intended to promote the grouping of commercial business uses, limited light industrial, together with optional residential uses, in an area large enough to establish harmonious relationships between structures, people, and the automobile. These districts should be sited and designed using parking access, pedestrian walkways, courtyards, and open space to connect the various uses and users. This district should offer a wide variety of goods and services and cater to employees, pedestrians, shoppers, and residents.

(D) *Minimum parcel size.* The minimum total amount of land required for a PUD-R shall be three acres and five acres for a PUD-M. The parcel(s) proposed for all PUD Districts shall not be divided by major roads; the area shall be one contiguous piece.

(E) *Maximum lot coverage.* The maximum lot coverage of all structures shall not exceed 45% of the total lot or development site in all PUD Districts.

(F) *PUD-R project density.* For both the Low Density Residential (R-1) and High Density Residential (R-2) Districts, a density bonus of up to 25% maybe permitted where all other requirements of this subchapter are complied with. (In the R-1 District, using the density of 7.26 units per acre, a maximum of 1.8 additional housing units per acre may be permitted; and in the R-2 District, using the density of 20 units per acre, a maximum of five additional housing units may be permitted. Where the density figure is not a whole number, it shall be rounded to the nearest whole number.) Where the Planning Commission and City Council find that the proposed PUD-R density is incompatible with the surrounding uses and density, the City Council may require that the maximum project density bonus be modified to less than 25%.

(G) *Open space requirements.*

(1) *Definition.* **OPEN SPACE** shall consist of all land within a PUD District that is not covered by structures or accessory structures, with the exception of structures used for recreational purposes, and not covered by auto areas (roads, parking, loading/unloading areas) and is under private or common (homeowner's association) control.

(2) *Minimum area.* Required total open space shall comprise at least 50% of the total gross area of the proposed development site. Where a PUD abuts a city park for one-half of the distance of the abutting lot line of the development, but which shall not be less than 100 feet, the required open space may be reduced to 45% of the total gross area of the proposed development site.

(3) *Adequate amount of open space.* In PUD-R developments, an adequate amount of open space shall be provided for private open space based on housing type and style and number of units having immediate access to the development grounds.

(4) *Common open space.* A minimum of 50% of the required open space shall be designated and identified as common open space to be used for passive or active recreational activities by the development residents.

(5) *Dimension.* No common open space area shall be less than 625 square feet in area, nor less than 20 feet in its smallest dimension. All common open space areas shall be contiguous to one another or be connected by walkways.

(6) *Physical characteristics.* Common open space shall be equitably distributed within the development in relation to the number of dwelling units which will be served.

(7) *Usable common open space.* The common open space shall be useable. This determination shall be made based on slope, wetness, and related soils limitations, amount of common

open space used for natural drainageways, and access.

(8) *Remaining portion.* The remaining portion of the required open space not designated as private or common open space may be improved or may be left in its natural state. Areas devoted to natural or improved floodplain or natural drainageways and swales, and those areas encumbered by flowage, or drainage easements may be applied toward satisfying the total open space requirement.

(9) *Required trees.* All common open space shall be required to have, as a minimum, one deciduous shade tree per 1,600 square feet. Each tree shall be not less than one and one-half inches in diameter at ground level and six feet in height. Only Linden, Norway or sugar maple, thornless locust, seedless ash, hackberry, pin oak or ginkgo shall be planted. Additional landscaping may be required by the City Council along the site boundary to serve as a buffer, in the common open space and around the housing units based on surrounding land use, site characteristics, site design including common open space design and dwelling unit design.

(10) *Buffering.* The landscaping shall provide buffering where appropriate, shading of buildings and private and common open space, visual diversity, enhance existing natural features, and improve overall on-site aesthetics.

(11) *Landscaping plan.* A landscaping plan shall be submitted with other plans at the preliminary and final plat stages. The plan shall indicate plant varieties and numbers of each variety, location and spacing. Landscaping shall be completed in stages along with the construction of dwellings, where the sequence of construction is to occur in stages.

(12) *Appropriate buildings, structures, and improvements.* The buildings, structures, and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space having regard to its topography and unimproved condition.

(13) *PUD-R private space.* Private open space shall be provided for all residential dwellings with main floor levels within five feet of ground level for the following dwelling types: multi-family; multi-family limited; single-family attached; and two-family dwellings. This space shall be at least 300 square feet in size and made private by fencing or a combination of fencing and appropriate landscaping. All fences shall be between six and eight feet in height and be made of wood, cement block, brick, stone or cement in such a way that the fence is visually solid. Where landscaping is used, no plant material shall be less than four feet in height at the time of planting and shall be a perennial, woody plant material. The location of the fencing or fencing and landscaping shall be along the entire perimeter of the private space, except along the exterior walls of dwellings.

(H) *Traffic circulation and road improvements.* Principal vehicular access points shall be located and designed to permit safe and efficient traffic flow. Local streets within the development shall not be connected to streets outside the development in such a way as to encourage their use by through traffic.

(I) *Streets within a PUD District.* All streets within a PUD District shall be designed to standards adequate to accommodate their anticipated uses. Public streets shall be developed to city standards. Private streets shall be developed to city standards, with the exception of right-of-way and surface width requirements and minimum radius for cul-de-sacs which may be modified by the City Council

where the applicant is able to prove that there will be adequate ingress and egress, adequate off-street parking, safe pedestrian circulation facilities, and that emergency vehicles have adequate access to all structures within the development, and where such modifications are deemed by the City Council as consistent with the public interest.

(J) *Adequate pedestrian access.* Adequate pedestrian access shall be provided for each building in a PUD District. In no case shall designation of easements for pedestrian or vehicular access be acceptable. Access shall be provided by lot frontage or by private streets, drives, or parking areas and across common open space.

(K) *Parking requirements.* Parking requirements, as specified in § 153.127, shall apply to all PUD Districts. Parking areas shall:

(1) Screened from adjacent buildings and roads with hedges, dense plantings, trees, earth berms, or walls or fences;

(2) Limited in size and shall be landscaped in a manner so as to interrupt the expanse of parking where necessary;

(3) Arranged so as to prevent through traffic to other parking areas;

(4) Graded and drained so as to dispose of all surface water without erosion, flooding, and other negative effects; and

(5) A separate area will be designated for storage, indoors or outdoors, of occupants' recreational vehicles. Parking spaces shall be marked and suitably landscaped so as to be harmonious with the rest of the development.

(L) *Compatible development.* PUDs shall be designed to harmonize the scale, setback, and overall mass with existing adjacent development. Landscaped buffers, earth berms, and fencing may be required where the City Council finds that the proposed building scale, mass or setback are not compatible with existing adjacent residential development.

(Ord. 155, passed 5-25-2017)

§ 153.077 ADMINISTRATIVE REQUIREMENTS.

(A) *Coordination with subdivision ordinance.* It is the intent of this chapter that subdivision review under the subdivision ordinance, codified as Chapter 152 in this code of ordinances, be carried out simultaneously with review under this subchapter of Chapter 153. The review procedure shall be as specified in § 152.040 of this code of ordinances.

(B) *Preparation of plans.* The applicant is required to have the necessary document and supporting evidence prepared and endorsed by a qualified professional team consisting of a registered architect, and if the PUD requires the subdivision of land and the installation of public site improvements, a licensed land surveyor, and licensed engineer.

(C) *Effect of approval.* The final plan as approved together with the conditions and restrictions imposed, if any, shall govern and control the use and development of the land involved, provided that general zoning regulations which were applicable to the land prior to approval of the plan and which are not inconsistent with the plan shall continue to be applicable. No zoning permit shall be issued for any structure in a PUD District unless and until the Zoning Administrator certifies that the planned structure conforms to the provisions of the plan and other applicable zoning requirements.

(D) *Plan changes.* The Zoning Administrator shall refer all plan changes in use, density and bulk standards, open space and other standards of development to the Planning Commission and City Council following the zone change procedure. Any such changes shall be recorded as amendments to the final plan.

(E) *Annual review.*

(1) The Zoning Administrator shall review each incomplete PUD at least once each year and shall make a report, through the Planning Commission, to the City Council on the current construction and site improvement status of the development. If development is not progressing reasonably well, according to the staging plan or approved schedule, the owner shall be required to submit a statement to the Zoning Administrator setting forth the reasons for the lack of progress. If the City Council finds that the development has not occurred according to the established development schedule or is not otherwise reasonable in the view of the City Council, the Council may initiate rezoning to remove the PUD.

(2) Where the Zoning Administrator finds that construction of a PUD has not been started after one year from the date of adoption, the City Council shall act to initiate rezoning to remove the PUD District, unless the owner or owners provide in writing the reasons for lack of progress. If the Council finds such reasons acceptable, they may extend this time limit to start construction for up to one additional year only.

(Ord. 155, passed 5-25-2017)

§ 153.078 GENERAL REQUIREMENTS.

(A) *Ownership.* A tract of land to be developed as a PUD shall be under the control of a single person, (acting through a corporation) where the person agrees in advance to be bound by the conditions and regulations which will be effective within the district and to record such covenants, easements, and other provisions with the County Recorder.

(B) *Staging plan.*

(1) A staging plan shall be submitted as part of the application at the preliminary plat stage as set forth in the subdivision ordinance, §§ 152.040 through 152.043 of this code of ordinances where the PUD is proposed to be developed in stages over a period of more than one year. The staging plan shall be part of the final plan submitted for review by the City Council and shall indicate the areas to be developed and the times of the development. The schedule may be modified by the City Council on the showing of good cause by the developer.

(2) If the sequence of construction of various portions of the development is to occur in stages, then the open space recreational facilities, landscaping, and other amenities shall be developed, or committed to, in proportion to the density of the project intended to be developed during any given stage of construction as approved by the City Council. Furthermore, at no time during the construction of the project shall the number of constructed dwelling units or per acre or mixed use buildings exceed the overall density per acre established by the approved final plan.
(Ord. 155, passed 5-25-2017)

FLOODPLAIN MANAGEMENT DISTRICT

§ 153.090 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE.

(A) *Statutory authorization.* The legislature of the state has, in M.S. Chs. 103F and 462, as they may be amended from time to time, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council does ordain as follows.

(B) *Purpose.*

(1) This subchapter regulates development in the flood hazard areas of the city. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this subchapter to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

(2) National Flood Insurance Program compliance: this subchapter 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.

(3) This subchapter is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits, and enhance community and economic development.
(Ord. 152, passed 3-23-2017; Ord. 155, passed 5-25-2017)

§ 153.091 GENERAL PROVISIONS.

(A) *Lands to which subchapter applies.* This subchapter applies to all lands within the jurisdiction of the city shown on the official zoning map and/or the attachments to the map as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts. The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map, or as modified in accordance with division (A)(2) below.

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(1) The Floodway, Flood Fringe, and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this subchapter. In case of a conflict, the more restrictive standards will apply.

(2) Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor in locating the regulatory floodplain limits.

(3) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.

(B) *Incorporation of maps by reference.* The following maps together with all attached material are hereby adopted by reference and declared to be a part of the official zoning map and this chapter. The attached material includes the Flood Insurance Study for Olmsted County, Minnesota, and Incorporated Areas, dated April 19, 2017 and the Flood Insurance Rate Map panels enumerated below, dated April 19, 2017, all prepared by the Federal Emergency Management Agency. These materials are on file in the City Clerk's office.

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(C) *Abrogation and greater restrictions.* It is not intended by this subchapter to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this subchapter imposes greater restrictions, the provisions of this chapter prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

(D) *Warning and disclaimer of liability.* This subchapter 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 does not create liability on the part of the city or its officers or employees for any flood damages that result from reliance on this subchapter or any administrative decision lawfully made hereunder.

(E) *Severability.* If any section, clause, provision, or portion of this subchapter is adjudged unconstitutional or invalid by a court of law, the remainder of this subchapter shall not be affected and shall remain in full force.

(F) *Definitions.* Unless specifically defined below, words or phrases used in this subchapter must be interpreted according to common usage and so as to give this chapter its most reasonable application.

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

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION. The elevation of the "regional flood". The term **BASE**

FLOOD ELEVATION is used in the flood insurance survey.

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

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

(a) Certain conditions as detailed in the remaining portions of this chapter (zoning ordinance) exist; and

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

CRITICAL FACILITIES. Facilities necessary to a community's public health and safety, those that store or produce highly volatile, toxic, or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of **CRITICAL FACILITIES** include hospitals, correctional facilities, schools, day care facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.

DEVELOPMENT. Any human-made change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

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

FARM FENCE. A fence as defined by M.S. § 344.02, subs. 1(a) through (d), as they may be amended from time to time. An open type fence of posts and wire is not considered to be a structure under this subchapter. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this subchapter.

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

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

FLOOD FRINGE. The portion of the special flood hazard area (1% annual chance flood) located outside of the floodway. **FLOOD FRINGE** is synonymous with the term **FLOODWAY FRINGE** used in the Flood Insurance Study for Olmsted County, Minnesota.

FLOOD INSURANCE RATE MAP. An official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the

community. A FIRM that has been made available digitally is called a **DIGITAL FLOOD INSURANCE RATE MAP (DFIRM)**.

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.

FLOOD PRONE AREA. Any land susceptible to being inundated by water from any source (see **FLOOD**).

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

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's **LOWEST FLOOR**; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 C.F.R. Part 60.3.

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

NEW CONSTRUCTION. Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this subchapter.

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

ONE-HUNDRED YEAR FLOODPLAIN. Lands inundated by the **REGIONAL FLOOD** (see definition).

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

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

RECREATIONAL VEHICLE. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this subchapter, the term **RECREATIONAL VEHICLE** is synonymous with the term **TRAVEL TRAILER/TRAVEL VEHICLE**.

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. **REGIONAL FLOOD** is synonymous with the term **BASE FLOOD** used in a Flood Insurance Study.

REGULATORY FLOOD PROTECTION ELEVATION (RFPE). An elevation not less than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

REPETITIVE LOSS. Flood related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.

SPECIAL FLOOD HAZARD AREA. A term used for flood insurance purposes synonymous with **ONE-HUNDRED YEAR FLOODPLAIN**.

START OF CONSTRUCTION. Includes substantial improvement, and means the **ACTUAL START** of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement that occurred before the permit's expiration date. The **ACTUAL START** is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the **ACTUAL START OF CONSTRUCTION** means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in § 153.099(B)(2) of this subchapter and other similar items.

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

SUBSTANTIAL IMPROVEMENT. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

(a) 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; or

(b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”. For the purpose of this chapter, “historic structure” is as defined in 44 C.F.R. Part 59.1.

(G) *Annexations.* The Flood Insurance Rate Map panels adopted by reference into division (B) above may include floodplain areas that lie outside of the corporate boundaries of the city at the time of adoption of this subchapter. If any of these floodplain land areas are annexed into the city after the date of adoption of this subchapter, the newly annexed floodplain lands will be subject to the provisions of this subchapter immediately upon the date of annexation.

(Ord. 152, passed 3-23-2017; Ord. 155, passed 5-25-2017)

§ 153.092 ESTABLISHMENT OF ZONING DISTRICTS.

(A) Districts.

(1) *Floodway District.* The Floodway District includes those areas within Zones AE that have a floodway delineated, as shown on the Flood Insurance Rate Map adopted in § 153.091(B).

(2) *Flood Fringe District.* The Flood Fringe District includes areas within Zones AE on the Flood Insurance Rate Map adopted in § 153.091(B), but located outside of the floodway.

(3) *General Floodplain District.* The General Floodplain District includes those areas within Zone A as shown on the Flood Insurance Rate Map adopted in § 153.091(B).

(B) *Applicability.* Where Floodway and Flood Fringe Districts are delineated on the floodplain maps, the standards in §§ 153.094 and 153.095 will apply, depending on the location of a property. Locations where Floodway and Flood Fringe Districts are not delineated on the floodplain maps are considered to fall within the General Floodplain District. Within the General Floodplain District, the Floodway District standards in § 153.094 apply unless the floodway boundary is determined, according to the process outlined in § 153.096(B).

(Ord. 152, passed 3-23-2017; Ord. 155, passed 5-25-2017)

§ 153.093 REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS.

(A) *Permit required.* A permit must be obtained from the Zoning Administrator to verify a development meets the standards outlined in this subchapter prior to conducting the following activities:

- (1) The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this subchapter;
- (2) The use or change of use of a building, structure, or land;
- (3) The construction of a dam, on-site septic system, or fence, although a permit is not required for a farm fence as defined in this subchapter;
- (4) The change or extension of a nonconforming use;
- (5) The repair of a structure that has been damaged by flood, fire, tornado, or any other source;
- (6) The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain;
- (7) Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for; and
- (8) Any other type of “development” as defined in this chapter.

(B) *Building sites.* If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:

- (1) Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) Constructed with materials and utility equipment resistant to flood damage;
- (3) Constructed by methods and practices that minimize flood damage; and
- (4) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(C) *Flood capacity.* In no cases shall floodplain development adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems.

(D) *Storage or processing of materials.* 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.

(E) *Critical facilities.* Critical facilities, as defined in § 153.091(F), are prohibited in all floodplain districts.

(Ord. 152, passed 3-23-2017; Ord. 155, passed 5-25-2017)

§ 153.094 FLOODWAY DISTRICT (FW).

(A) *Permitted uses.* The following uses, subject to the standards set forth in this section, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

(1) General farming, pasture, grazing, farm fences, outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting;

(2) Industrial-commercial loading areas, parking areas, and airport landing strips;

(3) Open space uses, including, but not limited to, private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails;

(4) Residential yards, lawns, gardens, parking areas, and play areas; and

(5) Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources area hydrologist is notified at least ten days prior to issuance of any permit.

(B) *Standards for Floodway permitted uses.*

(1) The use must have a low flood damage potential.

(2) The use must not obstruct flood flows or cause any increase in flood elevations and must not involve structures, obstructions, or storage of materials or equipment.

(3) Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

(C) *Conditional uses.* The following uses may be allowed as conditional uses following the standards and procedures set forth in § 153.100(D) and further subject to the standards set forth in division (D) below, if otherwise allowed in the underlying zoning district or any applicable overlay district:

(1) Structures accessory to the uses listed in division (B)(1) through (B)(3) above and the uses listed in division (C)(2) and (C)(3) below;

(2) Extraction, fill and storage of soil, sand, gravel, and other materials;

(3) Marinas, boat rentals, permanent docks, piers, wharves, and water control structures;

(4) Storage yards for equipment, machinery, or materials;

(5) Construction of fences that obstruct flood flows. Farm fences, as defined in § 153.091(F), are permitted uses;

(6) Travel-ready recreational vehicles meeting the exception standards in § 153.099(B)(2); and

(7) Levees or dikes intended 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.* A conditional use must not cause any increase in the regional flood elevations or cause an increase in flood damages in the reach or reaches affected.

(2) *Fill; storage of materials and equipment.*

(a) Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap, or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.

(b) Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% chance or regional flood may only be allowed if the City Council has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.

(3) *Accessory structures.* Accessory structures, as identified in division (C)(1) above, may be permitted, provided that:

(a) Structures are not intended for human habitation;

(b) Structures will have a low flood damage potential;

(c) Structures will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;

(d) Service utilities, such as electrical and heating equipment, within these structures must be elevated to or above the regulatory flood protection elevation or properly floodproofed;

(e) Structures must be elevated on fill or structurally dry floodproofed in accordance with the FP1 or FP2 floodproofing classifications in the State Building Code. All floodproofed structures must be adequately anchored to prevent flotation, collapse, or lateral movement and designed to equalize hydrostatic flood forces on exterior walls; and

(f) As an alternative, an accessory structure may be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:

1. To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

2. 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.

(4) *Structural works for flood control.* Structural works for flood control that will change the course, current, or cross-section of protected wetlands or public waters are subject to the provisions of M.S. § 103G.245, as it may be amended from time to time.

(5) *Levee, dike or floodwall constructed in the Floodway.* A levee, dike, or floodwall constructed in the Floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(6) *Floodway developments.* Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system. (Ord. 152, passed 3-23-2017; Ord. 155, passed 5-25-2017)

§ 153.095 FLOOD FRINGE DISTRICT (FF).

(A) *Permitted uses.* Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in division (B) below. If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.

(B) *Standards for Flood Fringe permitted uses.*

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

(2) Accessory structures: as an alternative to the fill requirements of division (B)(1) above,

structures accessory to the uses identified in division (A) above may be permitted to be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided that:

(a) The accessory structure constitutes a minimal investment, does not exceed 576 square feet in size, and is only used for parking and storage;

(b) All portions of floodproofed accessory structures below the regulatory flood protection elevation must be:

1. Adequately anchored to prevent flotation collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls;

2. Be constructed with materials resistant to flood damage; and

3. Must have all service utilities be water-tight or elevated to above the regulatory flood protection elevation.

(c) Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:

1. To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

2. 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.

(3) The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with division (B)(1) above, or if allowed as a conditional use under division (C)(3) below.

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

(5) All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.

(6) All fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover, or other acceptable method.

(7) All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning/emergency evacuation plan acceptable to the City Council.

(8) Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the

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general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

(9) Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.

(10) Manufactured homes and recreational vehicles must meet the standards of § 153.099 of this subchapter.

(C) *Conditional uses.* The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in § 153.100(D) of this subchapter.

(1) Any structure that is not elevated on fill or floodproofed in accordance with divisions (B)(1) and (B)(2) above;

(2) Storage of any material or equipment below the regulatory flood protection elevation; and

(3) The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with division (B)(1) above.

(D) *Standards for Flood Fringe conditional uses.*

(1) The standards listed in divisions (B)(4) through (B)(9) above apply to all conditional uses.

(2) Residential basements, as defined by § 153.091(F) of this subchapter, are not allowed below the regulatory flood protection elevation.

(3) All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be structurally dry floodproofed, meeting the FP1 or FP2 floodproofing classification in the State Building Code, which requires making the structure water-tight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(4) The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.

(a) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.

(b) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City Council.

(c) 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 below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.

(Ord. 152, passed 3-23-2017; Ord. 155, passed 5-25-2017)

§ 153.096 GENERAL FLOODPLAIN DISTRICTS (GF).

(A) Permitted uses.

(1) The uses listed in § 153.094(A) of this subchapter are permitted uses.

(2) All other uses are subject to the floodway/flood fringe evaluation criteria specified in division (B) below. Section 153.094 applies if the proposed use is determined to be in the Floodway District. Section 153.095 applies if the proposed use is determined to be in the Flood Fringe District.

(B) Procedures for determining Floodway and Flood Fringe boundaries and regional flood elevations.

(1) Upon receipt of an application for a permit or other approval within the General Floodplain District, the Zoning Administrator must obtain, review, and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.

(2) If regional flood elevation and floodway data are not readily available, or the application involves a project exceeding the lesser of five acres or 50 lots, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in division (B)(3) below.

(3) The determination of floodway and flood fringe must include the following components, as applicable:

(a) Estimate the peak discharge of the regional (1% chance) flood;

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

(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 is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.

(4) The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator

may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.

(5) Once the Floodway and Flood Fringe District boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of §§ 153.094 and 153.095 of this subchapter.

(Ord. 152, passed 3-23-2017; Ord. 155, passed 5-25-2017)

§ 153.097 SUBDIVISION STANDARDS.

(A) *Generally.* No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities.

(B) *Subdivisions.* Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this subchapter.

(1) All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.

(2) All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the City Council. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.

(3) For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.

(4) In the General Floodplain District, applicants must provide the information required in § 153.096(B) to determine the regional flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

(5) Subdivision proposals must be reviewed to assure that:

(a) All such proposals are consistent with the need to minimize flood damage within the flood prone area;

(b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and

(c) Adequate drainage is provided to reduce exposure of flood hazard.

(Ord. 152, passed 3-23-2017; Ord. 155, passed 5-25-2017)

§ 153.098 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES.

(A) *Public utilities.* All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.

(B) *Public transportation facilities.* Railroad tracks, roads, and bridges to be located within the floodplain must comply with §§ 153.093 and 153.094. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

(C) *On-site water supply and sewage treatment systems.* Where public utilities are not provided:

(1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minn. Rules Ch. 4725.4350, as amended; and

(2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minn. Rules Ch. 7080.2270, as amended.

(Ord. 152, passed 3-23-2017; Ord. 155, passed 5-25-2017)

§ 153.099 MANUFACTURED HOMES AND RECREATIONAL VEHICLES.

(A) *Manufactured homes.* New manufactured home parks and expansions to existing manufactured home parks are prohibited in any floodplain district. For existing manufactured home parks or lots of record, the following requirements apply:

(1) Placement or replacement of manufactured home units is prohibited in the Floodway District; and

(2) Placement or replacement of manufactured home units in the Flood Fringe District is subject to the requirements of § 153.095 and the following standards.

(a) New and replacement manufactured homes must be elevated in compliance with § 153.094 and must be securely anchored to an adequately anchored foundation system that resists flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(b) New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in § 153.097(B)(2).

(B) *Recreational vehicles.* New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain must meet the requirements below.

(1) Recreational vehicles are exempt from the provisions of this chapter if they are placed in any of the following areas and meet the criteria listed in division (B)(2) below:

- (a) Individual lots or parcels of record;
- (b) Existing commercial recreational vehicle parks or campgrounds; and
- (c) Existing condominium-type associations.

(2) Criteria for exempt recreational vehicles:

- (a) The vehicle must have a current license required for highway use;
- (b) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks;
- (c) No permanent structural type additions may be attached to the vehicle; and
- (d) Accessory structures may be permitted in the Flood Fringe District, provided that they constitute a minimal investment, do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in §§ 153.093(B) and 153.095(B).
(Ord. 152, passed 3-23-2017; Ord. 155, passed 5-25-2017)

§ 153.100 ADMINISTRATION.

(A) *Duties.* A Zoning Administrator or other official designated by the City Council must administer and enforce this subchapter.

(B) *Permit application requirements.*

(1) *Application for permit.* Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:

- (a) A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit;
- (b) Location of fill or storage of materials in relation to the stream channel;

(c) Copies of any required municipal, county, state, or federal permits or approvals; and

(d) Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.

(2) *Certification.* The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this chapter. Floodproofing measures must be certified by a registered professional engineer or registered architect. Accessory structures designed in accordance with § 153.095(B)(2) are exempt from certification, provided sufficient documentation is provided.

(3) *Certificate of zoning compliance for a new, altered, or nonconforming use.* No building, land, or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this chapter.

(4) *Record of first floor elevation.* The Zoning Administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.

(5) *Notifications for watercourse alterations.* Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to M.S. § 103G.245, as it may be amended from time to time, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

(6) *Notification to FEMA when physical changes increase or decrease base flood elevations.* As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

(C) *Variances.*

(1) *Variance applications.* An application for a variance to the provisions of this chapter will be processed and reviewed in accordance with applicable state statutes and § 153.171.

(2) *Adherence to state floodplain management standards.* A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

(3) *Additional variance criteria.* The following additional variance criteria of the Federal Emergency Management Agency must be satisfied.

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

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(b) Variances may only be issued by a community upon:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
3. 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.

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

(4) *Flood insurance notice.* The Zoning Administrator must notify the applicant for a variance that:

(a) 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

(b) Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.

(5) *General considerations.* The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:

(a) The potential 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;

(c) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination, and unsanitary conditions;

(d) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;

(e) The importance of the services to be provided by the proposed use to the community;

(f) The requirements of the facility for a waterfront location;

(g) The availability of viable alternative locations for the proposed use that are not subject to flooding;

(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 Land Use 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; and

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

(6) *Submittal of hearing notices to the Department of Natural Resources (DNR).* The City Clerk-Treasurer must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.

(7) *Submittal of final decisions to the DNR.* A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.

(8) *Recordkeeping.* The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

(D) *Conditional uses.*

(1) *Administrative review.* An application for a conditional use permit under the provisions of this chapter will be processed and reviewed in accordance with § 153.193.

(2) *Factors used in decision-making.* In passing upon conditional use applications, the City Council must consider all relevant factors specified in other sections of this chapter, and those factors identified in division (C)(5) above.

(3) *Conditions attached to conditional use permits.* The City Council may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this subchapter. 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; and

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

(4) *Submittal of hearing notices to the Department of Natural Resources (DNR).* The City Clerk-Treasurer must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.

(5) *Submittal of final decisions to the DNR.* A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.
(Ord. 152, passed 3-23-2017; Ord. 155, passed 5-25-2017)

§ 153.101 NONCONFORMITIES ; CONTINUANCE.

A use, structure, or occupancy of land which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions. Historic structures, as defined in § 153.091(F) in the definition for substantial improvement, are subject to the provisions of divisions (A) through (F) below.

(A) A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in division (B) below. Expansion or enlargement of uses, structures, or occupancies within the Floodway District is prohibited.

(B) Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 through FP4 floodproofing classifications) allowable in the State Building Code, except as further restricted in division (D) below.

(C) If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this chapter.

(D) If any structure experiences a substantial improvement as defined in this chapter, then the entire structure must meet the standards of §§ 153.094 or 153.095 of this subchapter for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. If the current proposal, including maintenance and repair during the previous 365 days, plus the costs of any previous alterations and additions since the first Flood Insurance Rate Map exceeds 50% of the market value of any nonconforming structure, the entire structure must meet the standards of §§ 153.094 or 153.095 of this subchapter.

(E) If any nonconformity is substantially damaged, as defined in this chapter, it may not be

reconstructed except in conformity with the provisions of this chapter. The applicable provisions for establishing new uses or new structures in §§ 153.094 or 153.095 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.

(F) If any nonconforming use or structure experiences a repetitive loss, as defined in § 153.091(F) of this subchapter, it must not be reconstructed except in conformity with the provisions of this subchapter.

(Ord. 152, passed 3-23-2017; Ord. 155, passed 5-25-2017)

§ 153.102 VIOLATIONS AND PENALTIES.

(A) *Violation constitutes a misdemeanor.* 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) constitute a misdemeanor and will be punishable as defined by law.

(B) *Other lawful action.*

(1) Nothing in this chapter restricts the city from taking such other lawful action as is necessary to prevent or remedy any violation.

(2) If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this subchapter and will be prosecuted accordingly.

(C) *Enforcement.* Violations of the provisions of this chapter will be investigated and resolved in accordance with the provisions of § 153.999. In responding to a suspected ordinance violation, the Zoning Administrator and City Council may utilize the full array of enforcement actions available to it including, but not limited to, prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The city must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(Ord. 152, passed 3-23-2017; Ord. 155, passed 5-25-2017)

§ 153.103 AMENDMENTS.

(A) *Floodplain designation - restrictions on removal.*

(1) The floodplain designation on the official zoning map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain.

(2) Special exceptions to this rule may be permitted by the Commissioner of the Department

of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

(B) *Amendments require DNR approval.* All amendments to this chapter must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.

(C) *Map revisions require ordinance amendments.* The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in § 153.091(B) of this subchapter.

(Ord. 152, passed 3-23-2017; Ord. 155, passed 5-25-2017)

GENERAL REQUIREMENTS

§ 153.115 CONFORMANCE.

The following shall apply equally to all districts except where otherwise stated or where special provisions provide otherwise.

(Ord. 155, passed 5-25-2017)

§ 153.116 ACCESSORY BUILDINGS.

(A) In any R-2 (High Density Residential), C-1 (Commercial), or M-1 (Industrial) Zoning District, no accessory building or structure shall be erected or constructed prior to the erection or construction of the principal or main building, but may be erected simultaneously.

(B) In the R-1 (Low Density Residential) Zoning District, no accessory building or structure shall be erected or constructed prior to the erection or construction of the principal or main building, but may be erected simultaneously.

(1) The following accessory uses or structures may be permitted:

(a) Carports or garages for storage of tools, implements, cars, trucks or recreational vehicles, meeting all other requirements of this chapter;

(b) Workshops that shall be used only for personal use, and not as a home occupation;

(c) Gardening or other horticultural activities for personal use, including the growing of vegetables, ornamental plants, fruit and nut trees, bushes or vines, but where no commercial agricultural uses are carried out; and

(d) Recreational uses and structures incidental to residential uses such as swimming pools, tennis courts, patios, porches, cabanas, or other similar uses and structures.

(2) All R-1 Zoning District lot size and yard requirements for accessory uses or structures shall be complied with.

(3) All structures permanently affixed to the ground shall be located on the lot in such a way so as to permit the location on the same lot of a principal structure.

(4) All accessory buildings or structures permanently affixed to the ground shall have a maximum total lot coverage that shall not exceed 10% of the total lot area.

(5) (a) The lot proposed to be used for the specified accessory uses or structures shall in all cases abut the lot whereon the principal use and building is located, and shall have a common lot line of no less than 45 feet.

(b) The applicant or property owner shall be required to apply for and obtain a conditional use permit before being permitted to construct a structure or otherwise use the lot.

(6) All accessory buildings, including storage sheds, that are 200 square feet or less in size shall be required to be permanently anchored to the ground by being attached to appropriate materials located on or below the surface of the ground.

(Ord. 155, passed 5-25-2017)

§ 153.117 ACCESSORY BUILDINGS ATTACHED, RESIDENCE DISTRICTS.

An accessory building including carports attached to the principal building, on a lot, shall be made structurally a part thereof and shall comply with all the requirements of this chapter applicable to the principal building. A breezeway, for the purpose of this chapter, is an attachment between the garage or carport and the principal building and shall be considered a part of the principal building.

(Ord. 155, passed 5-25-2017)

§ 153.118 ACCESSORY BUILDINGS DETACHED, RESIDENCE DISTRICTS.

All detached accessory buildings shall have a minimum of six feet of separation between building eaves and walls of other accessory buildings or the principal building.

(Ord. 155, passed 5-25-2017)

§ 153.119 ACCESSORY BUILDINGS, ATTACHED BUILDINGS.

(A) Accessory buildings for single-family attached dwellings may be attached to other buildings in the buildable area and/or in the rear yard of a lot, providing the applicant records a covenant and deed restriction on all properties which will abut the common lot line (zero lot line).

(B) Said covenants and deed restrictions shall:

(1) Provide access to the abutting property for the adjacent property owner and/or his or her

representative for the purpose of construction, reconstruction, repair, and maintenance of either side on the total property;

(2) Provide for necessary encroachments for footings and eaves for said building; and

(3) Provide for restrictions to limit changes of color, material, and design of the accessory building as to be compatible with the attached building.

(Ord. 155, passed 5-25-2017)

§ 153.120 STRUCTURES, NOT INCLUDED IN HEIGHT OF BUILDING.

Chimneys, elevator bulk heads, drive-in movie theater screens, stacks, watertowers, pumping towers, monuments, cupolas, steeples, radio or television towers, and mechanical appurtenances pertaining to and necessary to the permitted use of the district in which they are located shall not be included in calculating the height of the principal structure.

(Ord. 155, passed 5-25-2017)

§ 153.121 NONCONFORMING USES, LOT AND STRUCTURE.

(A) *Purpose.* It is the purpose of this section to provide for the regulation of nonconforming lots, buildings, and uses and to specify those requirements, circumstances, and conditions under which nonconforming lots, buildings, structures, and uses will be operated and maintained. It is necessary and consistent with the establishment of zoning districts that nonconforming buildings, structures, and uses not be permitted to continue without restriction. Furthermore, it is the intent of this section that all nonconforming uses shall eventually brought into conformity.

(B) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

EXPAND or **EXPANSION.** Any increase in a dimension, size, area, volume, or height, any increase in the area of use, any placement of a structure or part thereof where none existed before; any addition to a site feature such as a deck, patio, fence, driveway, parking area, or swimming pool; any improvement that would allow the land to be more intensely developed; any move of operations to a new location on the property; any increase in intensity of use based on a review of the original nature, function, or purpose of the nonconforming use; increase in the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, or such other factors deemed relevant by the city.

IMPROVEMENT. Making the nonconforming use better, more efficient, or aesthetically pleasing, including any change that does not replicate what pre-existed. A mere expansion, enlargement, or intensification of a nonconforming use does not constitute an **IMPROVEMENT** for that reason alone.

NONCONFORMING LAND USE. An activity using land, a building, or structure, or a

combination thereof, for a purpose that was lawful when established and which is not permitted by the provisions of existing land use regulations.

NONCONFORMING STRUCTURE. A structure that was constructed in compliance with the land use regulations in effect at that time with respect to certain standards such as location, height, setback, or size, but no longer complies in that regard with existing land use regulations.

REPLACEMENT, RECONSTRUCTION, or RESTORATION. The repair of a building or structure that duplicates the condition of the building prior that existed prior to the construction activity.

(C) *General principles.*

(1) A nonconforming use or structure may be used and continued by means of repair, replacement, restoration, maintenance, or improvement that does not constitute an expansion.

(2) A nonconforming land use or nonconforming structure may not be expanded except for the purpose of making it a permitted use or structure; or, as otherwise may be permitted by the provisions of this section.

(3) A nonconforming use land use may be extended throughout the building or structure, provided no structural alterations or changes are made therein. If a structural alteration or change is required by law, is needed to promote safety, or is otherwise necessary to secure or ensure the continued advantageous use of the building during its natural life, such structural alteration is permitted.

(4) A nonconforming land use may not be resumed if the use has been discontinued for a period of 12 consecutive months; or if the use requires the existence of a nonconforming structure that has been removed and not replaced for a period of 12 consecutive months.

(5) Removal or destruction of a nonconforming structure to the extent of more than 50% of its estimated market value at the time of its removal or damage by fire or other peril terminates the right to replace or repair such nonconforming structure, unless a building permit application to do so is submitted to the city for approval within 180 days of the date of the removal or damage.

(6) An expansion may be made to a structure used as a residence that constitutes a nonconforming land use when such expansion improves the livability and safety of the structure, and does not increase the number of dwelling units contained within the structure. Construction and alteration of a garage or accessory building is also permitted if said construction or alteration otherwise complies with the building standards applicable to the underlying zoning district, and the use of the building is consistent with the nonconforming land use in question.

(7) If a nonconforming land use is superseded or replaced by a permitted use the nonconforming status of the premises and any right which may arise under the provisions of this section terminate.

(D) *Preexisting lots of record.* A single-family detached dwelling may be erected on any lot,

irrespective of its area or width, of record prior to the effective date of the ordinance from which this chapter is derived, provided that:

(1) Such residential construction was permitted on that lot under city zoning and land use ordinances which predated this subchapter; and

(2) Such construction complies with the applicable yard size open space, and other requirements of such previous ordinances.

(Ord. 155, passed 5-25-2017)

§ 153.122 HOME OCCUPATIONS.

Home occupations may be conditionally permitted in order to promote local economic activities consistent with the character of the city, and the neighborhood in which it is proposed to be located. Standards of the zoning district shall apply. The following specific standards shall apply to all home occupations.

(A) Said use shall not occupy an area of more than 25% of the total first floor area of the dwelling. The home occupation may be located in any part of the dwelling, however in conformance with all Building Code requirements.

(B) The use shall not require any exterior alteration of the dwelling that would cause the premises to differ from its residential character.

(C) All employees shall reside within the dwelling in which the home occupation is located.

(D) Said use shall not create undue odor, fumes, dust, noise, electrical disturbances, glare, vibrations, or other hazards or nuisances noticeable outside of the dwelling.

(E) There shall be no outside storage of material or equipment or display of merchandise.

(F) A home occupation shall not involve the use of commercial vehicles for delivering of materials to or from the premises.

(G) Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front or rear yard.

(H) The use, storage, or disposal of hazardous materials as part of a home occupation may be permitted where all other federal, state, county, and city regulations are met or exceeded. Any person applying for a permit to operate a home occupation shall disclose all hazardous materials that may be used, stored, or disposed of as part of the operation of the home occupation to the city and the City Volunteer Fire Department.

(Ord. 155, passed 5-25-2017)

§ 153.123 CLEAR VISION AREAS.

A clear vision area shall be maintained on the corners of all property at the intersection of two streets, or a street and a railroad. A clear vision area shall be a triangular shaped area with two sides following property lot lines; the clear vision area shall extend along the edge of the road surface or curb for a distance of not less than 25 feet. The clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding 36 inches in height, except for trees with branches and foliage removed to a height of eight feet above the ground, and open wire fencing that does not obscure sight.

(Ord. 155, passed 5-25-2017)

§ 153.124 DUMPING AND DISPOSAL OF SOLID OR LIQUID WASTE MATERIAL.

(A) The use of land for the dumping or disposal of scrap iron, junk, garbage, rubbish, sludge or other refuse or of ashes, slag, or other industrial wastes or byproducts is not permitted in any district. The dumping of dirt, sand, rock, or other material excavated from the earth is permitted in any district not within the floodplain management district, provided the surface of such material is graded within four months of the initiated dumping activities and in a manner preventing the collection of stagnant water and which leaves the ground surface in a stable condition suitable for growing of turf, and that will not be subject to erosion, and is usable for other land uses permitted in the district.

(B) No discharge at any point into any public sewer, or stream, or into the ground except in accord with federal or state pollution control standards, or in Chapter 50 of this code of ordinances, of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements shall occur.

(C) Where hazardous wastes covered by state and federal regulations are produced, stored, or otherwise located on a site, the hazardous wastes shall be stored and disposed of in a manner that meets all state and federal hazardous waste disposal regulations.

(D) No open burning of liquid waste material shall be permitted within city limits.
(Ord. 155, passed 5-25-2017)

§ 153.125 OFF-STREET LOADING.

Off-street loading requirements as specified below shall be provided.

(A) *Dimensions and location.* Each loading space shall be not less than ten feet in width, 25 feet in length, and 14 feet in height and shall be on the same lot as the principal use it serves or minimum size to accommodate the type of truck used. Such space may occupy all or any part of any required side or rear yard but shall comply with all buffering and screening requirements as specified in § 153.136; except the side yard along the side street in the case of a corner lot. In no event shall any part of a required front yard be occupied by such loading space. Each loading space shall have adequate space for loading and unloading services in order to avoid any interference with public use of the roads, alleys, or sidewalks.

(B) *Requirements.*

<i>Use</i>	<i>Loading Spaces</i>
Convalescent or nursing homes	1 loading space for each 20 beds
Industrial or warehousing	Under 10,000 square feet of gross floor area shall require 1 loading space; over 10,000 square feet shall require 1 additional loading space per each 20,000 square feet of gross floor area
Motels and hotels	Under 20,000 square feet in floor area shall require 1 loading space, over 20,000 square feet 1 additional loading space
Multiple-family (buildings with 20 or more dwelling units)	1 loading space per each 20 or more dwelling units
Schools	1 loading space
Servicing, merchandising, leisure uses, and office	For any building of over 5,000 square feet in gross floor uses area, 1 loading space

(Ord. 155, passed 5-25-2017)

§ 153.126 RECREATIONAL VEHICLE PARKING.

All recreational camping vehicles, and including, but not limited to, boats and other vehicles that are stored on trailers, and of a size that prohibits storage in a garage, when parked shall meet the minimum requirements of this section.

(A) *Residential districts.*

- (1) All recreational vehicles shall be required to be parked on-site.
- (2) Side yard parking shall be permitted where only one side yard is used for recreational vehicle parking.
- (3) Parking shall be on a stable, prepared, weather-resistant surface.
- (4) Planned unit developments (PUDs), shall provide a separate area for parking, indoors, or outdoors, for the occupants' recreational camping vehicles. Such storage shall have the parking spaces marked and be suitably landscaped so as to be harmonious with the rest of the development.

(B) *Additional requirements.*

- (1) In all districts no long-term front yard parking shall be permitted. This requirement shall not apply to retail sales establishments for recreational vehicles.
- (2) In all districts recreational vehicles may be permitted to be parked in the buildable area to

the rear (adjacent to the rear yard) of the principal building on any lot.
(Ord. 155, passed 5-25-2017)

§ 153.127 PARKING REQUIREMENTS.

The following off-street parking requirements shall be provided for each use listed in this section, unless otherwise specified.

(A) *Location of parking facilities.*

(1) Single-family, conventional and multi-family, limited uses shall provide parking stalls on the same lot as the dwelling and may occupy all or part of any required side or rear yard but shall not be located in the front yard, except on an established driveway that is not located between the principal building, except a garage or porch, and the front lot line.

(2) Multi-family uses shall have off-street parking on property owned by the owner of the building and must be located within 200 feet of the building they are intended to serve.

(3) In any nonresidence district, off-street parking may occupy that part of front yard to within seven feet of the front lot line and in the case of corner lots that part of a side street side yard to within seven feet of the side street lot line. This said seven feet of front or side street side yard shall be suitably landscaped to control surface water runoff from the paved and landscaped area. A landscaping plan shall be included as part of the information required in the application for a zoning permit. In no case shall off-street parking be permitted within the clear-vision areas. (See § 153.123.)

(4) There shall be adequate provisions for ingress and egress to all parking areas or lots. Said access drive shall not be less than eight feet in width for single-family conventional, multi-family limited, and multi-family residential uses, and not less than 18 feet in width for commercial and industrial uses; provided, however, that one-way access drives for nonresidential uses may be reduced to not less than ten feet in width.

(5) All parking areas for more than four vehicles shall be designed so no vehicle must back out onto any highway, street or road. All parking lot aisles (the drives between opposite parking spaces) shall be a minimum of 24 feet in width.

(6) Necessary curbs or other protection against damage to abutting properties, roads, and sidewalks shall be provided and maintained. Necessary curbs and other structures shall be provided at all ingress and egress areas to clearly delineate such areas.

(7) All parking spaces for uses other than single-family (attached and detached) dwellings shall be a minimum of nine and one-half feet in width and 18 feet in length, and shall be clearly marked.

(8) It shall be the responsibility of the owner of the principal use or of the property to ensure that the parking area is neat and maintained in a safe condition.

(9) When calculations for required parking spaces result in a requirement of a fractional

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space, any fraction of less than one-half shall be disregarded, and fractions of one-half or more shall require one parking space.

(10) Shopping centers shall have off-street parking on the same lot or lots on which the principal building(s) are located and shall meet the minimum requirements listed below.

(11) Artificial lighting which may be provided shall be deflected so as not to shine directly onto adjoining dwellings or other types of living units and so as not to create a hazard to public use of a street or road.

(B) Required parking spaces.

<i>Use</i>	<i>Parking Spaces</i>
Single-family conventional and multi-family, limited	2 parking spaces per dwelling unit
Multi-family	1.5 parking spaces per dwelling unit
Boarding/rooming house	1 parking space for every 2 living units
Hotels and motels	1 parking space per guest room and 1 parking space per employee on largest shift
Retail commercial and shopping centers	1 parking space per 200 square feet of gross floor area
Restaurants	1 parking space for every 4 seats and 1 parking space for every 2 employees on largest shift
Offices, banks and public administration	1 parking space for every 400 square feet of gross floor area
Furniture store, plumbing supply, wholesale store, laundry, motor vehicle sales showroom, or similar large uses.	1 parking space for every 800 square feet of gross floor area
Bowling alley	2 parking spaces for each bowling lane
Service station car washes, and car repair	5 parking spaces per stall or repair bay
Funeral home	1 parking space for every five seats, or 50 square feet of floor area in public portions of the building
All other commercial	1 parking space for every 300 square feet of gross floor area
Schools, nurseries, and day care centers	1 parking space for every 2 employees, and for high schools, 1 additional parking space for each 10 students
Nursing or convalescent homes	1 parking space for every 4 beds
Library	1 parking space for every 500 square feet of gross floor area
Lodges and meeting halls (no fixed seating)	1 parking space for every 5 persons, based on the maximum capacity of the building
Churches and auditoriums (with fixed seating)	1 for every 5 seats or 10 feet of bench seat or pew space
Industrial/warehousing	1 parking space for every 2 employees of the largest work shift

(C) Additional standards.

(1) Buffers or screening shall be required for all parking areas used by commercial or industrial uses that are adjacent to or abutting a residential district. (See § 153.136.)

(2) Residential uses located above a commercial use in a commercial district shall be required to have one off-street parking space for each dwelling unit with zero to two bedrooms and for dwelling units with three or more bedrooms, there shall be required one parking space for each two additional bedrooms.

(D) *Exceptions.* For all existing and new permitted commercial uses located in the downtown commercial area, as identified by the Comprehensive Plan, no off-street parking shall be required. (Ord. 155, passed 5-25-2017)

§ 153.128 SIGNS.

(A) *General definitions.* The following words and terms, when used in this section shall have the following meanings, unless the context clearly indicates otherwise.

ABANDONED SIGN. Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one year or more, or any sign which pertains to a time, event, or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of **ABANDONED SIGN**.

AWNING/CANOPY. Any sign that is part of or attached to an awning or canopy, made of fabric, plastic, or structural protective cover over a door or entrance.

BUILDING SIGN. Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service that is placed on the exterior of a building.

COMMERCIAL SIGN. Speech advertising a business, profession, commodity, service, or entertainment.

ELECTRONIC MESSAGE SIGN. A programmable display sign that has the capability to present text and/or symbolic imagery in motion and in a variety of colors.

EXTERIOR SIGN. A sign which is located on the exterior of a building which is visible from a public street or adjoining property.

FREESTANDING SIGN. Any sign which has supporting framework that is placed on or anchored in, the ground and which is independent from any building or other structure.

GRADE. The final ground elevation after construction. Earth mounding criteria for landscaping and screening is not part of the **FINAL GRADE** for sign height computation.

HEIGHT OF SIGN. The vertical distance measured from the base of the sign structure at grade to the top of the highest attached component of the sign.

ILLUMINATED SIGN. Any sign which contains an element designed to emanate artificial light internally or externally.

INTERIOR SIGN. A sign which is located within the interior of any building, including signs attached to interior window panes or glass whether visible from the outside or not, or within an enclosed and screened exterior space not visible from a public street or adjoining property and does not create a public nuisance.

LEGALLY ESTABLISHED NONCONFORMING SIGN. Any sign and its sign structure lawfully erected prior to the effective date of this chapter which fails to conform to the requirements of this chapter. A sign which was erected in accordance with a variance granted prior to the adoption of this chapter and which does not comply with this chapter shall be deemed to be a **LEGAL NONCONFORMING SIGN**. A sign which was not lawfully erected shall be deemed to be an illegal sign.

MONUMENT SIGN. A freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign.

NONCOMMERCIAL SPEECH. The dissemination of messages not classified as commercial speech which includes, but is not limited to, messages concerning political, religious, social, ideological, public service, and informational topics.

OFF-PREMISES SIGN. A sign containing commercial speech which directs the attention of the public to a business, activity conducted, or product sold or offered at a site not on the same premises where such sign is located. For purposes of this definition, an easement or other appurtenance to a site shall be considered to be outside of such location where the business, activity conducted, or location where a product is sold or offered, and any sign located or proposed to be located in such easement or other appurtenance shall be considered an off-premises sign.

ON-PREMISES SIGN. A sign which identifies or advertises an establishment, person, activity, goods, products, or services located on the premises where the sign is installed.

PORTABLE SIGN. Any sign which is manifestly designed to be transported, either by a vehicle or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground.

PRINCIPAL BUILDING. The building in which the principal use of the site is conducted. A site with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses under the zoning ordinance shall not be considered principal buildings for purposes of this chapter.

PYLON SIGN. A freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above grade by pole(s) or beam(s) and with the area below the sign face open.

ROOF LINE. The upper-most edge of the roof or in the case of an extended facade or parapet, the upper-most height of said facade or parapet.

SIGN. Any letter, word or symbol, poster, picture, statuary, banner, flag, pennant, poster, or advertising display constructed of cloth, canvas, plastic sheet, cardboard, wallboard, inflatable device reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

SIGN STRUCTURE. Any structure including the supports, uprights, bracing and framework which supports or is capable of supporting any sign above or below ground.

SITE. A plot or parcel of land, or combination of contiguous lots or parcels of land, which are intended, designated, and/or approved to function as an integrated unit.

TEMPORARY SIGN. A banner, pennant, poster, or advertising display constructed of cloth, canvas, plastic sheet, cardboard, wallboard, inflatable device, or other like materials that identify symbols or messages related to the use or event, and intended to be displayed for no more than 30 days.

TOTAL SITE SIGNAGE. The maximum permitted combined area of all freestanding and building signs allowed on a specific property.

WINDOW SIGN. Any building sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed on the exterior panes or glass of a window.

(B) *Purpose and intent.* It is not the purpose or intent of this section to regulate the message displayed on any sign; nor is it the purpose or intent of this chapter to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. Rather, the purpose and intent of this section is as follows:

(1) To provide a quality sign ordinance that promotes greater flexibility and business growth within the community;

(2) To maintain, enhance and improve the aesthetic environment of the city;

(3) To improve the visual appearance of the city while providing for effective means of communication; and

(4) To provide for fair and consistent enforcement of the sign regulations set forth herein under the ordinance of the city.

(C) *Permit requirements.*

(1) No exterior or freestanding sign shall be erected, altered, reconstructed, maintained, or moved in the city without first securing a sign permit from the city. The message contained on the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit except or unless it contains obscene language or actions or to determine commercial or noncommercial content.

(2) An application for a sign permit shall be in writing addressed to the Zoning Administrator and shall contain the following information:

(a) The name, phone number and addresses of the owner of the display structure and property;

(b) The address at which the sign is to be erected;

(c) The legal description of the site at which the sign is to be erected, and the street on which the sign will front;

(d) A complete set of plans showing the necessary elevations, distances, size and details to fully and clearly represent the construction and placement of the sign;

(e) Type of sign for which a permit is requested; and

(f) If the proposed sign is located adjacent to the right-of-way of state trunk highway, the application shall be accompanied by proof that the application has obtained a permit from the Minnesota Department of Transportation for the sign.

(3) If a sign permit is denied, the Zoning Administrator shall prepare a written notice within ten days of its decision, describing the applicant's appeal rights under § 153.170 and send it by certified mail, return requested, to the applicant.

(D) *Exemptions.*

(1) The following kind of sign shall not require a sign permit:

(a) Changing of the display surface on a painted or printed sign only. This shall apply only to poster replacement and/or on-site changes involving sign painting elsewhere than directly on a building;

(b) A sign six square feet or less in size;

(c) A governmental sign which supports the principal use. Governmental signs are authorized by the city, county, or other governmental agency, the state, or the United States for: street direction, destination, hazardous condition, or traffic control purposes;

(d) A directional sign. Signs on private property without commercial messages to give directions such as entrance, exit, or street numbers;

(e) Display of a governmental or religious flag does not need a permit. The Zoning Administrator, in his or her discretion, may require large or numerous governmental flags or religious flags maintained on a single site to be subject to the permit required by this section. Any flagpole used may not exceed a height of 30 feet above grade. A flag that is neither a governmental or religious flag is considered a sign subject to the requirements of obtaining a sign permit under the terms of this chapter, unless otherwise exempt because of its size;

(f) A warning sign exclusively devoted to warning the public of dangerous conditions and unusual hazards on a site are permitted. Warning signs may not exceed three square feet in size unless otherwise required by law;

(g) A temporary sign; and

(h) An interior sign.

(2) Compliance with other provisions of law: an exemption from the requirement of obtaining of a permit shall not relieve the owner of a sign from the responsibility to otherwise comply with any other provisions of this chapter, or any other law or ordinance regulating the same the use of property or maintenance of a sign.

(E) *Fees.* The fee charged for issuance of a sign permit shall be established by resolution of the Council.

(F) *Special event signs.* Signs used on a temporary basis for a community event sponsored by a not-for-profit organization may be permitted at the discretion of the Zoning Administrator.

(G) *Setbacks.* No portion of a permanent freestanding sign, whether above or below grade, shall be located closer than two feet from a property line or boundary of an easement.

(H) *Area.* The message area within the sign frame shall be used to calculate the square footage of the sign. If letters or graphics are mounted directly on a wall or fascia or in such a way as to be without a frame the dimensions for calculating the square footage shall be the area extending six inches beyond the border formed around such letters or graphics. Each surface used to display a message or to attract attention shall be measured as a separate sign and shall be calculated in determining the overall square footage of the sign.

(I) *Illumination.* External illumination for signs shall be so constructed and maintained that the source of light is not visible from the public right-of-way or residential property. Visible means capable of being seen by a person of normal vision (whether legible or not) without visual aid.

(J) *Electronic message signs.*

(1) Such signs may be used only to advertise activities conducted on the premises or to present public service information.

(2) Segmented messages must be displayed for not less than one-half second.

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(3) Signs having animation or video are only permitted by conditional use permit.

(4) Electronic signs are not permitted within 75 feet of a residential district lot line.

(5) Dimmer control: electronic message signs must have an automatic dimmer control such as a photocell or other ambient light sensing mechanism that automatically adjusts the sign’s brightness in direct correlation with the natural ambient light conditions.

(6) Brightness: electronic message signs shall not exceed 0.3 foot candles above ambient light. Such measurements shall be taken using a foot candle (Lux) meter at a preset distance depending on sign area, measured as follows:

<i>Area of Sign Square Feet</i>	<i>Measurement Distance (ft.)</i>	<i>Area of Sign Square Feet</i>	<i>Measurement Distance (ft.)</i>
10	32	55	74
15	39	60	77
20	45	65	81
25	50	70	84
30	55	75	87
35	59	80	89
40	63	85	92
45	67	90	95
50	71	95	97

(K) *Non-commercial speech.* Notwithstanding any other provisions of this chapter, all signs of any size containing non-commercial speech may be posted from August 1 in any general election year until ten days following the general election and 13 weeks prior to any special election until ten days following the special election. Non-commercial speech signs are allowed throughout the year in all zoning districts if they are in compliance with the provisions of this chapter or any other law or ordinance regulating the same.

(L) *Unauthorized signs.* Any of the following is an unauthorized sign:

(1) Any sign, signal, marking, or device which falsely appears to be or is an imitation of, or resembles any official traffic-control device or railroad sign or signal, or emergency vehicle signal, or which attempts to direct the movement of traffic which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal;

(2) A sign that is painted, attached or in any other manner attached to a tree, rock, or similar natural surface; or attached to a public utility pole, bridge, tower, or similar public structure;

(3) A sign that moves mechanically;

(4) A sign that displays obscene language or activities; and

(5) A sign that obstruct a window, door, fire escape, stairway, or opening essential to the provision of light, air, ingress, or egress from any building.

(M) *Permitted signs by district.* Note: for all permitted signs in all districts listed in: divisions (M)(1), (M)(2) and (M)(3), building facade calculations are non-cumulative. Each building face is independent of all others when calculating the maximum square footage of the total site signage allowed.

(1) *Residential districts.* Within residential zoning districts, R-1 (Single-Family Low Density Residential District), R-2 (Multi-Family High Density Residential District), and Ag (Agricultural District) a sign is permitted per site as follows.

(a) *R-1 general rule.* One building sign, and two temporary signs. The total site signage for all signs, permanent or temporary, shall not exceed 24 square feet or 10% of the area of the front face of the building on the site. Illuminated signs, monument signs, and pylon signs are not allowed.

(b) *R-2 general rule.* Schools, religious facilities, agricultural and institutional uses located in residential districts. Special provisions: one monument sign, one building sign, and two temporary signs. The total site signage for all signs, temporary or permanent, shall not exceed 20% of the area of any two faces of the building on the site. The height of the monument sign may not exceed 15 feet above grade externally. Illuminated signs if used, shall be shielded from view, be focused upon the sign to avoid stray lighting, and shall be directed away from adjacent residential areas.

(2) *Commercial Districts (C-1).* Within commercial zoning districts, a sign is permitted as on a site as follows. Refer to Commercial District Map at the end of this section.

(a) *Northwest Commercial District.* One freestanding sign (either monument or pylon), three building signs, one window sign, and two temporary signs. The total site signage for all signs, temporary or permanent, shall not exceed 20% of each building facade that faces a public street on the site. A pylon sign may not exceed 40 feet in height.

(b) *Highway Commercial District (within 400 feet of a highway).* One freestanding sign (either monument or pylon), three building signs, one window sign, and two temporary signs. The total site signage for all signs, temporary or permanent, shall not exceed 20% of each building facade that faces a public street on the site. A pylon sign may not exceed 40 feet in height.

(c) *Downtown Commercial District.* Two building signs, one window sign, and two temporary signs. The total site signage for all signs, temporary or permanent, shall not exceed 30% of each building facade that faces a public street on the site.

(3) *Industrial/Manufacturing Districts (M-1).* A sign is permitted on a site as follows: one freestanding sign (either monument or pylon), two building signs, and two temporary signs. The total site signage for all signs, temporary or permanent, shall not exceed 20% of each building facade that faces a public street on the site. A freestanding sign may not exceed 40 feet in height.

(N) *General requirements.*

- (1) Where feasible, a sign should be constructed of weather resistant durable material.
- (2) A sign shall conform to the latest edition of the applicable building and electrical codes.
- (3) All structural components of a sign must remain safe and secure during the period of use.
- (4) A sign may not be located so as obstruct a fire escape or other form of emergency egress from a structure.
- (5) The site on which any sign is located shall be maintained in a clean and sanitary condition. It shall be free from weeds, rubbish, and flammable material.
- (6) Both the property owner of the site on which a sign is placed and the person who owns the sign structure are each deemed to be fully responsible for the condition and the maintenance of the sign, and the area of the site adjacent to the sign.

(O) *Nonconforming sign: compliance.* It is recognized that signs exist within the zoning districts which were lawful before this chapter was enacted, which would be prohibited, regulated, or restricted under the terms of this chapter or future amendments. It is the intent of this division (O) that a nonconforming sign shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding to a site another sign or use prohibited elsewhere in the same district. It is further the intent of this chapter to permit legal nonconforming signs existing on the effective date of this division (O), or amendments thereto, to continue as legal nonconforming signs provided such signs are safe, are maintained so as not to be unsightly, and have not been abandoned or removed, subject however, to the following provisions:

- (1) No sign shall be enlarged or altered in a way which increases its nonconformity;
- (2) If a sign or sign structure be destroyed by any means to an extent greater than 50% of its replacement cost and no building permit has been applied for within 180 days of when the sign or structure was damaged, it shall not be reconstructed except in conformity with the provisions of this chapter; and any structure remaining shall be completely removed;
- (3) If a sign or sign structure is moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved;
- (4) No existing sign devoted to a use not permitted by the Zoning Code in the zoning district in which it is located shall be enlarged, extended or moved except in changing the sign to a sign permitted in the zoning district in which it is located; and
- (5) When a building loses its nonconforming status all signs devoted to the building shall be removed and all signs painted directly on the structure shall be repainted in a neutral color or a color which will harmonize with the building.

(P) *Repairs.* Any sign located in the city which may now be or hereafter become, out of order, rotten or unsafe, and every sign which shall hereafter be erected, altered, resurfaced, reconstructed, or moved contrary to the provisions of this section shall be removed or otherwise properly secured in accordance with the terms of this section by the owners thereof or by the owners of the site on which said sign shall stand, upon receipt of proper notice so to do, given by the Zoning Administrator. No rotten or other unsafe sign shall be repaired or rebuilt except in accordance with the provisions of this section and upon a permit issued by the Zoning Administrator.

(Q) *Removal.* In the event of the failure of the owner or person, company or corporation having control of any sign, or the owner of the site on which the sign is located, to remove or repair said sign within 60 days after receiving notice from the Zoning Administrator the sign may be removed by the city and the expense of removal shall be assessed to the owner of the site or billed to the owner of the sign.



(Ord. 155, passed 5-25-2017)

§ 153.129 ENVIRONMENTAL PERFORMANCE STANDARDS.

(A) *Compliance required.* No land or building in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable fire, explosion, or

other hazard; noise; vibration; smoke, dust, fumes, odors, or other forms of air pollution; heat; glare; liquid or solid wastes or other substance, condition or element in such a manner, or in such amount, as to adversely affect the surrounding area or adjoining premises; provided that any use permitted or not expressly prohibited by the Zoning Code may be undertaken and maintained if it conforms to the regulations of this section.

(B) *Enforcement.* The Zoning Administrator shall investigate any purported violation of performance standards and if there are reasonable grounds for the same, shall serve the owner with a written notice of violation thereof. Where the state environmental regulations address a purported violation, the Zoning Administrator may report the same to the Minnesota Pollution Control Agency or any other responsible state agency. If it should become necessary for the city to employ the services of any qualified expert in establishing a violation, the fee shall be paid by the violator if said violation is established, otherwise it shall be paid by the city.

(C) *Performance standards.*

(1) *Fire and explosion hazards.* All activities involving storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standard in the industry or commercial use that meet or surpass all minimum Building Code requirements. Burning of waste materials in open fires shall be prohibited at any time. All relevant provisions of state and county laws and regulations shall also apply.

(2) *Noise.* All sound sources, including nonconforming uses, shall comply with the state noise regulations, as administered by the Minnesota Pollution Control Agency.

(3) *Vibration.* No vibration shall be permitted which is discernible without instruments at the property line of said use.

(4) *Smoke.* No emission shall be permitted at any point, from any chimney, or otherwise, of visible smoke greater than 20% opacity for any measured time or a 40% opacity for any four minutes per one hour time period for existing uses and not greater than 20% opacity for any measured times for new uses. Opacity should be measured using U.S. EPA Method 9. All Minnesota Pollution Control Agency regulations shall be met or exceeded.

(5) *Dust, fumes, vapors and gases.* The emission of dust, dirt, fly ash, fumes, vapors, or gases which can cause any damage to human health, to animals, to vegetation, or to property, or which can cause any soiling or staining of persons or property at any point beyond the lot line of the use creating the emission, is herewith prohibited. All Minnesota Pollution Control Agency regulations shall be met or exceeded.

(6) *Odor.* No use other than agriculture related activities shall emit odorous gases or other odorous matter in such quantities as to be offensive at any point on or beyond its lot lines. All applicable Minnesota Pollution Control Agency regulations shall be met or exceeded.

(7) *Glare.* No use shall produce a strong, dazzling light or a reflection of a strong, dazzling light beyond its lot lines.

(8) *Heat.* No use shall produce heat perceptible with instruments beyond its lot lines.

(9) *Liquid or solid wastes.* Refer to § 153.124.

(Ord. 155, passed 5-25-2017)

§ 153.130 TEMPORARY STORAGE.

In residential districts, all lots shall be maintained and kept in a reasonably clear and neat condition. Vehicles which are partially dismantled or do not have a valid state license, and other material or objects which would detract from the open space character of the yard or are a potential health hazard, shall not be stored more than ten days in a front yard or side street side yard in all residential districts, and are subject to § 153.126.

(Ord. 155, passed 5-25-2017)

§ 153.131 LOT LIMITATIONS.

Any platted parcel, lot, or area of land recorded in the County Recorder's office shall have no more than one principal use located thereon.

(Ord. 155, passed 5-25-2017)

§ 153.132 MANUFACTURED HOME PARK AND SUBDIVISION REGULATIONS.

Manufactured homes in all manufactured home parks shall comply with the applicable state laws and regulations on manufactured housing and manufactured home parks. These regulations are intended to provide for manufactured home parks that are designed and improved for a desirable residential environment.

(A) *Park size.* A manufactured home park shall contain not less than 20 lots for manufactured homes.

(B) *Building height.* Building height within a mobile home park shall be limited by the regulations of the R-2 (High Density Residential) district.

(C) *Uses permitted.* Uses permitted within the park shall include only manufactured homes, storm shelters, recreational facilities, and accessory uses to the manufactured homes.

(D) *Yard requirements.*

(1) An open area shall be provided on each manufactured home lot to ensure privacy, adequate natural light, and ventilation to the home and to provide sufficient area for outdoor uses essential to the manufactured home. The minimum lot area shall be 7,200 square feet. The maximum lot coverage for the manufactured home, carport, garage, breezeway, or accessory structures shall be 50%.

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(2) Manufactured homes shall be no closer than 25 feet to adjacent manufactured homes in the side yard area, and not less than 25 feet in the rear yard area. A front yard of 20 feet shall be required between the paved roadway and manufactured home. Each lot shall be clearly defined by permanent markers located in the ground.

(3) No manufactured home shall be located closer than 50 feet to the right-of-way line of T.H. 14 and C.S.A.H. 7, and 25 feet from all other public highways. A manufactured home shall be located no closer to the park boundary than 20 feet.

(E) *Site improvements.*

(1) Off-street parking spaces shall be provided to minimize the disruption of traffic movement. Driveway area shall not be located on the lot and of such size that the remaining open space area of each lot be substantially reduced in size. Each lot shall be required to have one off-street parking space.

(2) (a) Streets shall be provided within the park. The internal street system shall provide convenient and safe circulation and access to each lot. These streets shall be private streets.

(b) The minimum street width (pavement surface) shall be as follows:

<i>Local Street *</i>			
<i>Traffic Direction</i>	<i>One Side</i>	<i>Both Sides</i>	<i>No Parking**</i>
One-way	17 feet	25 feet	10 feet
Two-way	26 feet	34 feet	20 feet
* Travel lanes shall be 9 feet in width and parking lanes 8 feet in width			
** Where no parking on-street is permitted, proper signing shall be required to indicate that no parking is permitted; where no parking is permitted on-street, additional off-street parking shall be required at one additional parking space per lot			

(3) Streets shall be paved to city construction standards for surface and subsurface materials and construction methods. Streets shall be maintained in good condition.

(4) The ground surface of all parts of every manufactured home park shall be graded and equipped to drain all surface water in a safe and efficient manner without risk of erosion or flooding of lots within the park or to lands adjoining or in the vicinity of the manufactured home park.

(5) No manufactured home shall be erected on a lot except upon a manufactured home pad that shall meet all applicable State Building Code (City Building Code) standards. Each pad shall have a minimum dimension equal to the dimensions of the manufactured home to be placed on the lot.

(6) A buffer shall be provided and located along all exterior boundary lot lines not bordering local streets. A buffer shall be required along exterior boundary lot lines that are abutting a county, state, or federal highway (See § 153.136.)

(7) All manufactured homes shall be equipped with an anchoring system that meets the State Building Code.

(8) There shall be provided within each manufactured home park suitable storm shelter facilities constructed completely below ground level and outside all floodplain or flood prone areas to accommodate the following numbers of people:

Shelter Space (No. of People) = 0.75 x No. of Units x 2.5 People/Unit
Shelter Space (No. of People) x 4 square feet = Total Space (floor area) of Storm Shelter

(9) A municipal sanitary sewer and municipal water system shall be installed in accordance with city specifications. Each manufactured home lot shall be equipped with a public water outlet, a public sewer, a telephone outlet, an electrical outlet, a natural gas outlet, and a cable TV outlet, all to be placed underground. Fire hydrants shall be located in accordance with generally accepted practices as determined by the City Council.

(10) Trash and garbage disposal shall be in common disposal areas with adequately sized bins in a walled or fenced area, and be located within 150 feet of each lot, and meet all County Health Department regulations. Individual garbage cans shall not be permitted.

(F) *Manufactured home and lot improvements.*

(1) One carport or garage and one utility shed shall be permitted on a manufactured home lot. Each manufactured home may have a breezeway, constructed independently of the mobile home.

(2) Recreational vehicles, other than snowmobiles and small watercraft and similar vehicles, shall be required to be parked in an area designated for such use on the manufactured home park plan. No on-street parking of recreational vehicles shall be permitted.

(3) Any mobile home or manufactured home to replace an existing home shall be inspected to meet Building Code regulations of state, county, and city.

(G) *Permit required.* A conditional use permit shall be required including site design review, and approval granted prior to the development and operation of a manufactured home park.

(H) *Manufactured home subdivision.* Manufactured home subdivisions shall comply with the adopted subdivision ordinance for the city.

(1) Manufactured home subdivisions shall be required to meet all requirements of the R-2 Zoning District. Subdivisions shall be required to have a minimum lot size of 7,200 square feet.

(2) Manufactured homes shall be the exclusive dwelling type permitted within the subdivision.

(Ord. 155, passed 5-25-2017)

§ 153.133 RECREATIONAL CAMPING VEHICLE PARKS AND CAMPGROUNDS.

The following requirements shall apply to travel trailer and motor home parks and campgrounds in addition to all other zoning district regulations.

(A) The park shall abut a paved public highway or street and have safe access onto such public roadway.

(B) A buffer shall be required along the entire property boundary perimeter as specified in § 153.136.

(C) Each travel trailer parking site or camping site shall be within 200 feet of a community building which shall provide separate toilet facilities for each sex. Drinking water outlets shall be provided throughout the park or campground.

(D) Interior streets or paths for safe vehicle circulation shall be constructed in a manner so as to be usable during any time of the year and kept in a dust-free condition. Recreational travel trailer or other recreational vehicle parking areas shall be similarly constructed so as to be usable and dust-free during any time of year.

(E) The park shall be graded and equipped to drain all surface water in a safe and efficient manner without risk of erosion or flooding of lands adjoining or in the vicinity of the park. All surface area, excluding paved areas, shall be required to maintain vegetative cover of grasses, herbs, or similar vegetative material on the entire park.

(F) Proper waste disposal methods shall be used that meet county and State Department of Health standards.

(G) The applicant shall be required to provide an accurate scaled drawing of the design of the planned park or campground. Information on all requirements of this chapter shall be included on the application by the applicant.

(H) All state laws and regulations and County Department of Health regulations shall be complied with.

(Ord. 155, passed 5-25-2017)

§ 153.134 COMMON OPEN SPACE OWNERSHIP.

At the time of development review the city shall not require dedication of common open space or otherwise obtain such open space unless the city determines that a public purpose will be served by providing open space within the area of the city under development review, where common open space has been proposed as part of a development. Common open space shall remain in private ownership unless the City Council determines that it is in the best interest of the city to obtain the open space and make it available to the public.

(Ord. 155, passed 5-25-2017)

§ 153.135 OWNERSHIP AND MAINTENANCE OF COMMON IMPROVEMENTS.

All developments involving common open space area and other common improvements shall meet the requirements of this section. No development application shall be approved until compliance with this section is established.

(A) The applicant or developer shall provide for and establish a nonprofit organization or other legal entity under the laws of the state for the ownership, care and maintenance of common landscaped areas, recreational areas, private streets, parking lots, or other commonly owned facilities.

(B) Such organization shall be created by covenants and restrictions running with the land and shall be composed of all persons having ownership within the development. Such organization shall be responsible for the perpetuation, maintenance, and function of all common lands, uses, and facilities.

(C) If the common areas are deeded to a homeowner's association, the proposed documents governing the association shall be filed with the Zoning Administrator. Such documents shall meet the following requirements.

(1) The homeowner's association must be established before any residences are sold.

(2) Membership in the association must be mandatory for each residence owner.

(3) Common area restrictions must be permanent and not for a period of years.

(4) The homeowner's association must be made responsible for liability insurance, taxes, and maintenance of recreational and other facilities.

(5) The association must have the power to levy assessments which can become a lien on individual premises for the purpose of paying the cost of operating and maintaining common facilities.

(6) The governing board of any such association shall consist of at least three members who shall be owners of property in the development.

(D) All lands and improvements shall be described and identified as to location, size, use, and control in a restrictive covenant, and such covenant shall set forth the method of assessment for the maintenance of such land.

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(E) Such restrictive covenant and organization shall continue in effect so as to control the availability of the facilities and land thereby provided, to maintain the land and facilities for their intended function on, and to protect the development from additional and unplanned densities of use. Such organization shall not be dissolved, nor shall such organization dispose of any common open space by sale or otherwise, except to an organization conceived and organized to own and maintain the common open space, without first offering to dedicate the same to the city or other appropriate governmental agency.

(F) Open space maintenance guarantee.

(1) In the event the organization established to own and maintain common open spaces, recreational areas, communally owned facilities and private streets, or any successor organization, shall at any time fail to maintain the common facilities in responsible order and condition in accordance with the approved plan, the City Council may cause written notice to be served upon such organization or upon the owners of property in the development setting forth the manner in which the common facilities have failed to be maintained in reasonable condition. The notice shall include the demand that the deficiencies noted be cured within 30 days thereafter and shall state the date and place of a hearing to be held within 14 days of the notice.

(2) At the time of hearing, the City Council may modify the terms of the original notice as to deficiencies and may extend the time within which the same may be cured. If the deficiencies set forth in the original notice or modifications are not cured within the time set, the City Council, in order to preserve the taxable values of properties within the development and to prevent the common facilities from becoming a public nuisance, may enter upon such common facilities and maintain the same for a period of six months. Such entry and maintenance shall not vest in the public any right to use the common facilities not dedicated to public use. Before expiration of such six months, the City Council shall, upon its own initiative or upon the written request of the organization therefore responsible for maintenance, call a public hearing and give notice of such hearing to the organization responsible for maintenance or the property owners of the development. At such hearing, the organization responsible for maintenance and/or the residents of the development may show cause why maintenance by the City should not be continued for a succeeding six months. If the City Council determines that it is not necessary for the city to continue such maintenance, the city shall cease such maintenance at the time established by the City Council. Otherwise the city shall continue maintenance for the next succeeding six months subject to a similar hearing and determination at the end of each six months thereafter.

(3) The cost of maintenance by the city shall be a lien against the common facilities of the development and the private properties within the development. The City Council shall have the right to make assessments against properties in the development on the same basis that the organization responsible for maintenance of the facilities could make such assessments. Any unpaid assessment shall be a lien against the property responsible for the same, enforceable the same as a mortgage against such property. The city may further foreclose its lien on the common facility by certifying the same to the County Treasurer for collection as in the case of collection of general property taxes.

(Ord. 155, passed 5-25-2017)

§ 153.136 BUFFERING AND SCREENING.

(A) *Purpose.* Buffering and screening serves to soften the outline of buildings, to screen glare and noise, and to create a visual and/or physical barrier between conflicting land uses. Buffering and screening are required between specified lots in different zoning districts and between land developments and along existing streets. The extent of buffering and screening required shall be determined by the type of use proposed and the adjacent uses and/or zoning surrounding the proposed development. The impact of the proposed use on adjoining properties is the basis for establishing buffering and screening standards.

(B) *Required buffering and screening.* All buffering and screening required by this chapter shall conform to the regulations found in Table 2 below. The applicant proposing the new land use, rezoning or major structural change or expansion shall be responsible for meeting the requirements of this section.

(C) *Determination of buffering and screening class.*

(1) Table 2 below specifies the buffering and screening that shall be required. For each property boundary, the applicant shall determine the existing adjacent land use or zoning where the parcel is vacant or the existing land use is nonconforming. Then, the applicant shall match the proposed land use, whether the land is currently vacant or there is an existing use that is proposing a major structural change or expansion, with the identified adjacent land uses. The letter indicates the buffer class. After determining the buffer class from Table 2 below, the applicant shall select a planting option from Table 3 below.

(2) A major structural change or expansion, for the purposes of this section of the chapter shall be considered to be an expansion of the existing building floor area or land area used of 40% or more.

<i>Table 2: Existing Adjacent Land Use/Zoning</i>					
<i>Proposed Land Use/Rezoning Major Structural Changes Expansion</i>	<i>Agricultural</i>	<i>Low Density Residential</i>	<i>High Density Residential</i>	<i>Commercial (Downtown, Other)</i>	<i>Industrial</i>
Agricultural	-	-	-	-	-
Low Density Residential	-	-	B	A	C
High Density Residential	-	B	-	A	C
Commercial Downtown	-	A	A	-	A
Other	-	B	B	-	A
Industrial	-	D	D	-	-

(3) See planting options (Table 3) for a description of the class options.

(4) Where a street or alley is located between the proposed and adjacent land uses, the required Class (A through D) shall be reduced to the next less restrictive class, such as from Class C to Class B, except industrial uses which shall be required to use the same classes as indicated in Table 2 above.

(5) Special planting option requirements.

(a) Buffering and screening shall be required to be located along the perimeter of all parking areas of nonresidential uses located in the High Density Residential (R-2) District. The buffering and screening planting option required shall be Class B.

(b) Buffering and screening shall be required around the perimeter of manufactured home parks:

1. Where adjacent to low density residential areas, shall require a Class C planting option; and

2. Where adjacent to high density residential areas, shall require a Class B planting option. For travel trailer parks and campgrounds, the buffering and screening planting option shall be Class C.

(c) Buffering and screening shall be required around the perimeter of parking areas serving multi-family, limited uses located in the Low Density Residential (R-1) District. The buffering and screening planting required shall be one deciduous canopy tree per 40 feet, and one under-story tree per 40 feet, or a hedge planted on three-foot centers and meeting all other requirements of this section.

(d) Low or high density residential uses proposed for development adjacent to arterial streets, as designated in the Comprehensive Plan or railroad right-of-way, shall be required to provide buffering and screening to the level specified in planting options, Class B.

(e) Where a railroad right-of-way is located between the proposed industrial and adjacent residential uses/zoning no buffer or screening shall be required adjacent to the railroad right-of-way.

(D) Planting options.

(1) The options below indicate the amount of plant material and fencing that is required. Unless specified, plantings are not required to be aligned on property or right-of-way boundaries, but may be sited on any portion of the property for buffering and screening purposes. The Planning Commission and City Council may permit staggering or grouping of plant materials if a satisfactory buffer is achieved.

(2) Determination of the total number of plants shall be made by dividing the dimensions of the area where buffering and screening is required by the specifications given in Table 3 below.

<i>Table 3: Planting Options</i>	
<i>Class</i>	<i>Option</i>

<i>Table 3: Planting Options</i>		
<i>Class</i>	<i>Option</i>	
A	(1)	10 feet wide with 1 hedgerow on lot line (plants on 3-foot centers), and 1 canopy tree per 50 feet
	(2)	7 feet wide with 6 foot high fencing on lot line, and 1 canopy tree per 50 feet
B	(1)	10 feet wide with 1 deciduous canopy tree per 50 feet, and 1 shrub per 4 feet
	(2)	15 feet wide with 1 deciduous canopy tree per 40 feet, 1 under-story tree per 40 feet
	(3)	20 feet wide with 1 deciduous canopy tree per 40 feet, and 1 under-story tree per 50 feet
	(4)	20 feet wide with 1 deciduous canopy tree per 40 feet, 1 coniferous tree per 80 feet
C	(1)	10 feet wide with 1 canopy tree per 40 feet, 1 under-story tree per 20 feet, 1 shrub per 15 feet, and 6 foot high fencing on lot line
	(2)	15 feet wide with 1 deciduous canopy tree per 40 feet, 1 coniferous canopy tree per 40 feet, 1 under-story tree per 30 feet, and 1 shrub per 20 feet
	(3)	20 feet wide with 1 deciduous canopy tree per 40 feet, 1 coniferous canopy tree per 50 feet, 1 under-story tree per 40 feet, and 1 shrub per 30 feet
	(4)	25 feet wide with 1 deciduous canopy tree per 40 feet, 1 coniferous canopy tree per 60 feet, and 1 under-story tree per 40 feet
D	(1)	25 feet wide with 1 deciduous canopy tree per 60 feet, 1 coniferous tree per 40 feet, 1 under-story tree per 50 feet, and 1 hedge on boundary (hedge plants on 3-foot centers)
	(2)	25 feet wide with 1 deciduous canopy tree per 60 feet, 1 coniferous canopy tree per 30 feet, and 1 berm averaging 4 feet in height
	(3)	30 feet wide with 1 deciduous canopy tree per 60 feet, 1 coniferous canopy tree per 50 feet, 1 under-story tree per 30 feet
	(4)	20 feet wide with 1 deciduous canopy tree per 40 feet, 1 coniferous tree per 30 feet, 1 under-story tree per 40 feet, and 1 coniferous shrub per 10 feet or 1 deciduous shrub per 5 feet
	(5)	10 feet wide with 1 deciduous canopy tree per 40 feet, 1 coniferous canopy tree per 40 feet, 1 under-story tree per 30 feet, 1 shrub per 10 feet, and 6 foot high fencing on lot line

(3) All shrubs shall be planted in groupings of shrubs or shrubs and under-story trees. Shrubs may be evergreen or deciduous unless otherwise specified.

(4) Fencing shall be visually solid and constructed of wood that is weather resistant and permanently anchored in the ground.

(E) *General requirements.*

(1) Existing buffer: all existing deciduous and coniferous trees larger than two inches in diameter, six inches above ground level, and/or six feet in height may be considered to contribute to the required buffering and screening. Where the amount of existing plant material of that size or greater equals or contributes to the required number of plants under the appropriate class, an equivalent reduction may be taken in the number and type of required plants. In all cases, existing plant material of the diameter and height shall be preserved in any buffer yard except clearance is required to ensure

adequate sight distance. Any removal shall, where feasible, involve relocation rather than clearing.

(2) The buffer yard may be coterminous with required front, side, or rear yards and in case of conflict the larger yard requirements shall apply.

(3) All buffering and screening areas shall be maintained and kept clean of all debris, rubbish, weeds and tall grass in conformance with existing regulations.

(4) No structure, manufacturing or processing activity, or storage of materials shall be permitted in the buffering and screening areas; however, parking of passenger automobiles shall be permitted in the portion of the buffering and screening area exclusive of the exterior 15 feet adjacent to the lot line, or if the required linear width is less than 15 feet, than the required linear width shall apply.

(5) The buffering and screening areas shall be located on the outer perimeter of the lot, extending to the property line except when there exists a utility easement, in which case the buffering and screening area shall be measured from the inner boundary of the utility easement. No buffer yard shall be located on any portion of an existing or dedicated public or private street right-of-way.

(6) Plant materials.

(a) By this chapter, canopy trees (deciduous or coniferous) shall be considered to be trees that when full-grown will attain a height of over 30 feet in height; under-story trees shall be considered to be trees that when full grown attain a height of between ten and 30 feet; shrubs shall be considered to be woody perennial plants that when full grown attain a height of between three and 15 feet.

(b) Minimum size:

Canopy tree	Deciduous	1-1/2—1-3/4 inches in diameter
	Conifers	6—8 feet in height
Under-story tree		1-1/2—1 3/4 inches in diameter
Shrub	Deciduous and coniferous	2—4 feet in height

(c) Plant materials shall be permanently maintained and any plant material which does not live shall be replaced within one year. All plant material shall be native to Minnesota or have been known to be able to survive and grow in the southeast Minnesota climate. All planting material shall meet the standards of the American Association of Nurserymen.

(d) Planting design: it is encouraged that plant materials in buffering and screening areas be planted in natural clusters that will give privacy but will not block views or vistas. The exception shall be commercial or industrial uses bordering residential uses. Here a dense, visual screen is encouraged.

(e) Prior to the issuance of any zoning permit, complete plans showing the arrangement of all buffering and screening areas; the placement, species, and size of all plant materials; and the placement, size, materials, and type of all fences to be placed in such buffering and screening areas

shall be reviewed by the Zoning Administrator to ascertain that the plans are in conformance with the terms of this chapter.

(Ord. 155, passed 5-25-2017)

§ 153.137 EARTH-SHELTERED BUILDING REQUIREMENTS.

(A) *Purpose.* Earth-sheltered buildings located either below the existing average ground level on a sloping lot or above the existing average ground level prior to construction and covered over 50% of the building by earth, create different development opportunities and problems on a site-by-site basis. Due to major differences between above-grade housing and earth-sheltered buildings, the potential for soil erosion and slope failure and increased stormwater runoff from the development site, development of earth-sheltered buildings shall be reviewed on a site basis as a conditional use (§ 153.193) and be required to comply with the following standards.

(B) *Minimum requirements.*

(1) A landscaping plan shall be required. The purpose of landscaping shall be to ensure maximum compatibility with adjacent above ground housing and to ensure that no soil erosion occurs following the completion of the building. The landscaping plan shall be a part of the application and shall be approved, approved with conditions, or denied.

(2) Following the completion of all construction activities, no soil erosion shall occur. All soil surface laid bare during construction shall be immediately mulched and seeded to prevent erosion. Additional methods of erosion control may be required by the City Council where it is found that mulching and seeding will not be sufficient. Where construction is completed after or before the growing season ends or begins, steps shall be taken by the property owner to protect against all soil erosion and shall be required to seed all bare ground at the beginning of the next growing season.

(3) Where earth-sheltered buildings are developed on a naturally occurring sloped site, the applicant shall evaluate the potential for slope failure. Earth-sheltered buildings located on sloping sites shall not be the cause of slope failure.

(4) All surface water (stormwater) runoff shall be controlled on-site by proper grading, landscaping, and permanent soil cover.

(5) Earth-sheltered buildings shall be required to meet all minimum requirements of the zoning district in which located. Computations for yard area shall be made from the exterior surface of the building. (The exterior surface shall be the surface opposite from the building wall and ceiling/roof interior surface.)

(6) Maximum lot coverage requirements of the district in which located shall apply only to above-grade buildings and shall cover not more than 15% of the total lot area.

(Ord. 155, passed 5-25-2017)

§ 153.138 HAZARDOUS MATERIAL STORAGE.

(A) *Purpose.* Hazardous materials or materials that may become hazardous if improperly treated, burned or otherwise treated so as to create a hazardous substance are addressed within this section of the chapter. A potential exists, however small, that such materials, if improperly treated or stored and resulting in an accident, will affect the health and safety of a portion of or all of the residents of the city. This section shall specify minimum standards of operation and related requirements to protect the public health, safety, and welfare.

(B) *Minimum requirements.*

(1) Industrial and commercial establishments and the buildings, structures, and land used by such establishments shall be required to comply with all requirements in the State Building Code.

(2) Storage areas shall be fenced and locked or buildings and structures shall be locked or otherwise protected from unauthorized entry.

(3) Property, buildings, or structures on which hazardous materials are stored shall be required to control potential runoff of substances in the case of an accident.

(4) All industrial or commercial establishments handling actual or potential hazardous materials shall report to the Eyota Volunteer Fire Department and Olmsted County Sheriff's Department at least one time each year so they can react to accidents in a safe and timely manner and provide a lock box and access keys at the owners expense for emergencies and/or inspections.

(5) The City Council may require that concentrations of hazardous materials be limited to safe levels to minimize impacts to surrounding properties and require safety personnel to control such impacts.

(6) A conditional use permit shall be required of any proposed land use where materials will be used or stored on-site.

(7) Gas/service stations shall be exempt under this section of the chapter. However, such uses shall be required to meet state laws and regulations and all other requirements of this chapter, including § 153.124.

(8) All related state and federal laws and regulations addressing a hazardous material shall be complied with.

(Ord. 155, passed 5-25-2017)

§ 153.139 PRIVATE SWIMMING POOLS.

No swimming pool shall be allowed in any residential district unless it complies with the following requirements. (See § 153.026 for a definition of a swimming pool.)

(A) The pool is not operated as a business or private club, except when allowed as a permitted home occupation.

(B) Pools shall not be located in any front or side yard, and shall not be closer than ten feet to any property line on which it is located. Pump and filter installations for pools shall not be closer than 20 feet to any property line.

(1) For a below grade swimming pool, the pool or the property upon which said pool is located, shall be enclosed by a fence of a type which effectively controls the entrance by children to the pool area, said fence to be at least six feet in height. Wooden fences with boards placed vertically shall not have any opening wider than four inches per opening and wooden fences with boards placed horizontally shall not have any opening wider than one inch per opening.

(2) Gates installed for access to the property or pool area shall be equipped with an automatic closing and latching device to protect against uncontrolled access to the property.

(3) For an above grade swimming pool, the pool shall be equipped with an automatically retractable ladder, a retractable ladder, or a removable ladder or shall be fenced. Said ladder to be removed or retracted when said pool is not being attended.

(4) If access to the pool is via a deck or porch, then no access from the ground is permitted to the deck area unless the property or the ground access to the deck is fenced.

(5) It shall be the responsibility of the property owner upon where said pool is located to maintain all fences, gates and closure devices in good operating condition.

(6) Failure to maintain fences, failure to have gates closed, or failure to either remove or retract the ladder access to the pool shall constitute a violation of the zoning ordinance and therefore be subject to the penalties contained therein.

(C) Swimming pools shall be considered to be structures for purposes of regulations limiting lot coverage.

(Ord. 155, passed 5-25-2017)

§ 153.140 SOLAR GARDEN/FARMS AND SOLAR STRUCTURES.

Solar garden/farms and structures are subject to the following standards.

(A) *Solar structures.*

(1) Buildings or roof mounted structures shall not exceed above the maximum height requirement for the principal building and shall not extend beyond the exterior perimeter of the building on which the system is mounted or built.

(2) Solar structures must meet the accessory structure setback and locations for the zoning district if not attached to a roof when oriented at minimum design tilt.

(B) *Solar garden/farm.*

Eyota - Land Usage

- (1) The minimum lot size for a solar garden/farm is five acres.
- (2) Screening: solar garden/farm shall be screened from view of adjacent residential zoning districts and public roads to the extent possible without affecting their function.
- (3) Abandonment: any solar garden/farm which is inoperable for 12 successive months shall be deemed abandoned and a public nuisance. The owner shall remove the abandoned system at his or her expense.
- (4) All on-site power and communication lines running between solar panels and buildings shall be buried undergrown on the premises.
- (5) Solar farms that generate capacity of 50 megawatts or more shall fall under the jurisdiction of the Minnesota Public Utilities Commission.
(Ord. 155, passed 5-25-2017)

AMENDMENTS**§ 153.155 PROCEDURE FOR AMENDING.**

(A) The regulations, restrictions, and boundaries set forth in this chapter may from time to time be amended, supplemented, changed, or repealed; provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard.

(B) The Planning Commission shall consider each petition and, after determination of the adequacy of the content of the petition and supplemental data, set a date and prepare the proposed amendment for public hearing; as required by M.S. § 462.357, subd. 3, as it may be amended from time to time. At least ten days' notice of the time and place of such hearing shall be published in a local newspaper. The Planning Commission shall notify by mail all property owners within 350 feet of the property in question at least ten days prior to the date of the public hearing. Failure of any property owner or occupant to receive such notice shall not invalidate the proceedings.

(C) (1) The public hearing shall be held within 30 days after determination of the adequacy of the petition and supplemental data, and a recommendation shall be submitted to the City Council within 120 days from the determination of the adequacy of the petition and supplemental data.

(2) The Planning Commission may recommend modification of a proposed amendment as it affects the comprehensive guide plan and regulations of the city and as it reflects the interest of adjacent property and of the community as a whole.

(D) The City Council shall make disposition of the recommendation within 45 days from receipt of the recommendations from the Planning Commission.
(Ord. 155, passed 5-25-2017)

§ 153.156 VOTE REQUIRED FOR AMENDMENTS.

As required by M.S. § 462.357, subd. 2, as it may be amended from time to time, amendments to the text of this chapter shall be by passage upon a three-fourths vote of the full City Council.
(Ord. 155, passed 5-25-2017)

§ 153.157 PETITIONS PREVIOUSLY DENIED.

A period of not less than one year is required between presentation to the Planning Commission of the same petitions for a change or amendment applying to a specific piece of property where prior petition was denied unless there has been a substantial change of facts.
(Ord. 155, passed 5-25-2017)

§ 153.158 MAP AMENDMENTS.

If, in accordance with this subchapter, changes are made in the district boundaries or other information portrayed on the zoning map, such changes shall be entered on the zoning map within 30 days after the amendment has been approved by the City Council, together with a copy of the application and related written material submitted, gathered, or developed for consideration of the application for amendment of the zoning map, and which shall be kept as a public record by the Zoning Administrator.
(Ord. 155, passed 5-25-2017)

BOARD OF ADJUSTMENT**§ 153.170 POWERS AND DUTIES.**

(A) The Planning Commission shall serve as the Board of Adjustment and shall act upon all questions as they may arise in the administration of this chapter, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator. Such appeal may be taken by any person aggrieved or by any officer, department, board, or commission of the city.

(B) Such appeal shall be taken in such time as prescribed under § 153.172 by filing with the Board of Adjustment a notice of appeal specifying the grounds thereon. All appeals shall be properly filed with the Board of Adjustment. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the appellant and the officer from whom the appeal is taken and decide the same within a reasonable time. The Board of Adjustment may, so long as such action is in conformity with the terms of the chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises and to

that end shall have all the powers of the Zoning Administrator from whom the appeal was taken and may issue or direct the issuance of a permit. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in the application of this chapter.

(C) The reason for the Board's decision shall be stated in written findings. Any aggrieved person shall have the right to appeal to the City Council, by filing a written notice of appeal with the City Clerk-Treasurer specifying the grounds for appeal within ten days of the decision of the Board. Appeals of the decision of the City Council may be appealed to the County District Court within 20 days from the date the decision is made by the City Council as provided in M.S. § 462.361, as it may be amended from time to time.

(D) The Board of Adjustment shall have power to vary or adapt the strict application of any of the requirements of this chapter in the case of exceptionally irregular, narrow, or shallow lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty that would deprive the owner of the reasonable use of the land or building involved, but in no other cases except as specifically described in § 153.171.

(Ord. 155, passed 5-25-2017)

§ 153.171 VARIANCES.

(A) A *VARIANCE* is a relaxation of the terms of the zoning chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the lot and not the result of the actions of the applicant, a literal enforcement of the chapter would result in practical difficulties.

(B) Practical difficulties means:

(1) The property owner proposed to use the property in a reasonable manner that is not otherwise permitted;

(2) The plight of the property owner is due to circumstances unique to the property not created by the property owner; and

(3) The variance if granted, will not alter the essential character of the locality.

(C) No variance in the provisions or requirements of this chapter shall be authorized by the Board of Adjustment unless it finds evidence that all the following facts and conditions exist:

(1) There are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district;

(2) Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same district and in the same vicinity. The possibility of increased financial return shall not be deemed sufficient reason to warrant a variance;

(3) The authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this chapter or the public interest and welfare;

(4) That the variance requested is the minimum variance which would alleviate the hardship.

(5) No variance shall permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area;

(6) The variance requested is consistent with the intent of this chapter and the city's Comprehensive Plan;

(7) The variance provides for a reasonable and practical solution that eliminates the practical difficulty; and

(8) Inadequate access to direct sunlight for solar energy systems shall be considered undue hardship. All portions of this section and the chapter shall be complied with.

(D) In granting a variance, the Board of Adjustment may impose conditions to ensure compliance and to protect adjacent properties. The Board of Adjustment may not permit as a variance any use that is not permitted under this chapter for the property in the district where the affected person's land is located. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts, shall be considered grounds for the issuance of a variance.

(E) The Board of Adjustment shall make findings that all of the requirements of division (C) above have been met by the applicant for a variance, and shall further make a finding that the reasons set forth in the application.

(Ord. 155, passed 5-25-2017)

§ 153.172 PROCEDURE.

(A) Within 30 days after receipt of filing of a request for a variance or an appeal from an administrative order or determination, the Board of Adjustment shall hold a public hearing thereon and shall hear such persons as wish to be heard, either in person or by agent or attorney. Notice of such hearing shall be published in the official newspaper of the city at least ten days prior to the date of hearing. In addition, notice of such hearing shall be mailed not less than ten days before the date of hearing to the person or persons who filed the appeal or request and, in the case of a request for a variance, to each owner of property situated wholly or partly within 350 feet of the property to which the appeal or variance relates. A map containing the names and addresses of property owners within 350 feet of the property whereon the variance is requested shall be submitted with and made a part of the application for variance by the Zoning Administrator.

(B) Within 60 days or less after receipt of the completed application, the Board of Adjustment shall make its order deciding the matter and serve a copy of such order upon the appellant or the petitioner by mail.

(C) For all variances to the Floodplain Management District requirements, the Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days' notice of the hearing. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten days of such action.
(Ord. 155, passed 5-25-2017)

§ 153.173 REQUIRED EXHIBITS.

Following exhibits shall be required for all Board of Adjustment proceedings:

(A) A completed application form. For variance requests, the application in whatever form shall include all required information as listed in § 153.171(B). For all other appeals the applicant shall state the ground upon which the appeal is based and furthermore shall state the particular kind of relief the applicant is seeking; and

(B) An accurate boundary survey and site plan.
(Ord. 155, passed 5-25-2017)

ADMINISTRATION AND ENFORCEMENT

§ 153.185 ENFORCEMENT.

The provisions of this chapter shall be administered and enforced by the Zoning Administrator designated by the City Council or his or her authorized representative.
(Ord. 155, passed 5-25-2017)

§ 153.186 ADMINISTRATIVE COMPLIANCE.

The Zoning Administrator shall examine all applications for zoning certificates required for construction, alteration, repair, enlargement; and the proposed use shall comply with the provisions of this chapter and shall endorse thereon the date of his or her approval. Any permit or license issued in conflict with the provisions of this chapter shall be null and void and of no affect whatsoever.
(Ord. 155, passed 5-25-2017)

§ 153.187 ADMINISTRATIVE ACTION FOR VIOLATIONS.

If the Zoning Administrator shall find that any of the provisions of this chapter are being violated, he or she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order discontinuance of illegal

use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.
(Ord. 155, passed 5-25-2017)

§ 153.188 VIOLATIONS.

Any building or structure being erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or sign hereafter erected or maintained, or land use made or permitted in violation of this chapter, is hereby declared unlawful. In the event of a violation or threatened violation of this chapter or other official control adopted under M.S. §§ 394.21 to 394.37, as they may be amended from time to time, in addition to other remedies, the City Council or their designee may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violation or threatened violations, and it shall be the duty of the Zoning Administrator to institute such actions.
(Ord. 155, passed 5-25-2017)

§ 153.189 COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. He or she shall record properly such complaint, investigate in a timely fashion, and take action thereon as provided by this chapter. The person filing the complaint may remain anonymous if the person so chooses and specifically makes such a request to the Zoning Administrator.
(Ord. 155, passed 5-25-2017)

§ 153.190 ZONING CERTIFICATE.

(A) It shall be unlawful to initiate construction, conversions, or whole or partial alterations or enlargements in the use or structure, or other changes as covered by the requirements of this chapter until a zoning certificate shall have been issued by the Zoning Administrator stating that the proposed use of the building or land conforms to the requirements of this chapter; or unless he or she receives a written order from the Board of Adjustment in the form of an appeal or variance as provided by this chapter.

All applications for zoning certificates shall be accompanied by a certificate of survey for new buildings or a legal description and plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon, the exact sizes and locations on the lot of buildings already existing, if any, and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Zoning Administrator, including existing or proposed uses of the building or alteration; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this chapter.

(B) Two copies of the zoning certificate/plans shall be submitted to the city at the time of filing for

a building permit. One copy of the plans shall be returned to the applicant by the Zoning Administrator marked as approved or disapproved. The original of the certificate/plans, similarly marked, shall be retained by the Zoning Administrator.

(C) The Zoning Administrator shall maintain a record of all zoning certificates, and a copy shall be furnished upon request to any person.

(C) Failure to obtain a zoning certificate shall be a violation of this chapter and punishable under § 153.999.

(Ord. 155, passed 5-25-2017) Penalty, see § 153.999

§ 153.191 EXPIRATION OF ZONING CERTIFICATE.

(A) If the work described in any zoning certificate has not begun within 90 days from the date of issuance thereof, said permit shall expire; it shall be cancelled by the Zoning Administrator and written notice thereof shall be given to the persons affected.

(B) If the work described in any zoning certificate has not been substantially completed within 180 days of the date of issuance thereof, said permit shall expire and be cancelled by the Zoning Administrator and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new zoning certificate has been obtained.

(Ord. 155, passed 5-25-2017)

§ 153.192 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS, AND ZONING.

Zoning certificates issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter and punishable as provided by § 153.999 hereof.

(Ord. 155, passed 5-25-2017) Penalty, see § 153.999

§ 153.193 CONDITIONAL AND INTERIM USES: CONDITIONS GOVERNING APPLICATIONS, PROCEDURES.

(A) *Definition and purpose.* Conditional and interim uses are uses that are permitted within the applicable zoning district but may be or could become incompatible under certain conditions with adjacent uses or generally with other uses within the appropriate zoning district. As a result a special review shall be required before the land maybe used for the specified purpose and maybe permitted with appropriate site design, public review, and conditions on the use of the property or lot under consideration.

(B) *Procedures.* Because of their peculiar characteristics, certain uses may have an adverse effect

on a neighborhood, on the use and enjoyment of adjoining property, or on public services and facilities. Therefore, the procedure shall be the same procedure as outlined in § 153.155. Proposed planned unit developments shall be processed under the subdivision platting procedures as outlined in § 153.040(C) if platting is required or as outlined in § 153.155, if platting is not required.

(C) *Requirements.* The Planning Commission may require preliminary architectural drawings and sketches on all buildings or groups of buildings showing front, side, and rear elevations of the proposed building, structure, or other improvements. An accurate property description, a site design plan showing existing or proposed buildings, streets, access, parking spaces and signs, and landscaping and screening plans where necessary shall be required to be submitted along with the application form.

(D) *Planned unit developments.* For planned unit developments, the application shall include all required information established in the subdivision ordinance for subdivision plat approval for development. Also required shall be a statement by a licensed engineer/surveyor setting forth the gross land area, the net land area (gross area minus all right-of-way and floodplain area), the maximum number of lots and dwellings or building size allowable, the total number of lots and dwellings in the proposed development, the minimum lot area, the total area of common open space where required, the location of buildings and dimensions, and the location, dimension, and numbers of parking spaces and area, loading area and on-site roads (public and private). The common open space shall be located and boundaries drawn on a map of the site to indicate the size and access thereto.

(E) *Site design plans.* Site design plans shall be considered to determine if buildings, structures, and other improvements shall be so designed and constructed that they will not be detrimental to or endanger the public health, safety, and general welfare.

(F) *Findings of fact.* Before any use is allowed, the Planning Commission and City Council shall include findings of fact and shall set forth the reasons for the recommendation, specifying in detail why the conditional use would or would not be in the public interest, whether it is in compliance with the Comprehensive Plan, and other specified factors.

(G) *Standards.* The Planning Commission shall recommend a conditional or interim use permit and the City Council order the issuance of such permit only if it finds that such use at the proposed location:

(1) Will be harmonious with the general and applicable specific policies of the Comprehensive Plan of the city and this chapter;

(2) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the surrounding area and will not change the essential character of that area;

(3) Will not be hazardous, unhealthy, or unsafe to existing or future neighboring uses;

(4) Will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems, and schools; or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use;

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(5) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

(6) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare because of excessive production of or offensive traffic, noise, smoke, fumes, dust, glare, vibrations, odors or other pollutants;

(7) Will have vehicular approaches to the property which are so designed as not to create traffic congestion or an interference with traffic on surrounding public thoroughfares;

(8) Will not result in the destruction, loss or damage of a natural, scenic, or historic feature/structure of major importance;

(9) Shall conform to specific standards of this chapter applicable to the particular use and location; and

(10) Will be compatible with surrounding buildings, circulation, open space, landscaping, parking, and compatible with existing natural topography, natural watercourses, vegetation, exposure to sunlight and wind, and views.

(E) *Conditions.* In recommending or approving any conditional and interim use permit, the Planning Commission and the Council may impose conditions which it considers necessary to meet the standards of this chapter and to protect the best interests of the surrounding area or the city as a whole. Such conditions shall bind any successors and shall not be affected by subsequent transfer of ownership. Violation of any such condition is a violation of this chapter. These conditions may include but are not limited to the following:

(1) Ingress and egress to property and proposed structures thereon with particular reference to vehicle and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other catastrophe;

(2) Off-street parking and loading areas where required with particular attention to the related noise, glare, or odor effects on nearby property;

(3) Refuse and service areas, with particular attention to ingress and egress;

(4) Utilities, with reference to location, availability, and compatibility;

(5) Fencing, screening, landscaping, or other facilities to protect or buffer abutting or adjacent property;

(6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, and compatibility and harmony with properties in the district;

(7) Required yards and other open space;

(8) Hours of operation of all or portions of a particular use; and

(9) A date or event which will terminate an interim use permit will be identified on the permit.

(F) *Review of earth-sheltered buildings.* In reviewing a proposal for an earth-sheltered building, the following additional information shall be provided by the applicant, and the Planning Commission and City Council shall make a determination on the adequacy of the applicant's proposal based on the following factors. All provisions of § 153.137 shall be complied with:

(1) Soil conditions shall be identified;

(2) Proper safeguards for erosion control on-site;

(3) On-site slope conditions prior to development and proposed slopes after building construction is completed;

(4) Surface water (stormwater) runoff control; and

(5) Compatibility with adjacent above-grade dwellings including proposed landscaping.

(G) *Application for changes.* Application for changes in the conditions or site design plan of an approved conditional or interim use permit shall be required. The City Council may approve, disapprove, or approve with conditions the application. Approval of the changes by the City Council shall be granted before on-site changes or development are permitted. A public hearing before the City Council shall be held where a public hearing was required for approval of the original proposal and application.

(H) *Denial for noncompliance.* If the Planning Commission recommends denial of a conditional or interim use permit or the Council orders such denial, it shall include in its recommendations or determination findings as to the ways in which the proposed use does not comply with the standards required by this chapter.

(I) *Expiration.* If substantial construction has not taken place within 90 days after the date of a conditional or interim use permit, the permit is void except that, on application, the City Council, after receiving the recommendation of the Planning Commission, may extend the permit for an additional period not to exceed six months. A conditional or interim use permit authorizes only the use specified in the permit and expires if, for any reason, the authorized use ceases for more than one year or the date or event terminates the interim use.

(Ord. 155, passed 5-25-2017)

§ 153.999 PENALTY.

(A) Any person, firm, corporation or entity who violates any of the provisions of this chapter shall be guilty of a misdemeanor.

(B) Each day that a violation is committed or permitted to exist shall constitute a separate offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this chapter, and the city may pursue, by appropriate actions or proceedings, any or all additional other remedies.

(Ord. 155, passed 5-25-2017)

