

## **TITLE XV: LAND USAGE**

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## CHAPTER 150: BUILDING/CONSTRUCTION REGULATIONS

### Section

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#### **GENERAL PROVISIONS**

##### **§ 150.01 STATE BUILDING CODE ADOPTED.**

(A) *Codes adopted by reference.* The State Building Code, as adopted by the Commissioner of Administration pursuant to M.S. §§ 326B.101 to 326B.194, as it 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 Administration, to the Building Codes and Standards Division is hereby adopted by reference, with the exception of the optional chapters, unless specifically adopted in this section. The State Building Code is hereby incorporated in this section as if fully set out herein.

(B) *Application, administration and enforcement.* The application, administration and enforcement of the code shall be in accordance with the State Building Code. The code shall be enforced within the extra territorial limits permitted by M.S. § 326B.121(d), as it may be amended from time to time. The Code Enforcement Agency of this municipality is the City Building Official, also known as City Building Inspector. This code shall be enforced by the State Certified Building Official designated by this municipality to administer the code (M.S. § 326B.133(1), as it may be amended from time to time).

(C) *Permits and fees.* The issuance of permits and the collection of fees shall be as authorized by M.S. § 326B.121(d), 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 and modified by the city in by resolution as amended from time to time, said resolution on file at the office of City Clerk. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance M.S. § 326B.148, as it may be amended from time to time.

(D) *Violations.* A violation of the code is a misdemeanor (M.S. § 16B.69 , as it may be amended from time to time).

(E) *Building Code option chapters.* The State Building Code, established pursuant to M.S. §§ 326B.101 to 326B.194, as they may be amended from time to time, allows a municipality to adopt by reference and enforce certain optional chapters of the most current edition of the State Building Code. The following optional provisions identified in the most current edition of the State Building Code are hereby adopted and incorporated as part of the Building Code for this municipality: none.  
(Ord. 142, passed 1-7-2008)

## **§ 150.02 PERMIT FEES.**

### **(A) Generally.**

(1) The applicant for a permit shall provide an estimated construction value at the time of application, except for fixed fees.

(2) Permit valuation shall include the total value of all construction work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems.

(3) The Building Official shall make the final determination of value.

(4) Valuation is based on the building valuation data dated May 2008, or the most current valuation provided by the ICC via State Building Codes and Standards Division or contract bid price.

(5) The Building Official shall make the final determination.

(6) Exceptions: building permit valuations for the following structures shall be based on the valuation of on-site work only:

(a) Manufactured homes containing a Housing and Urban Development (HUD) certification label;

(b) Prefabricated buildings with a State Building Codes and Standards Division prefabrication label; and

(c) Industrialized/modular buildings with an Industrialized Building Commission (IBC) label.

(B) *Plan review fees.* When submittal documents are required by the Building Official, a plan review fee shall be paid. The plan review fee shall be 65% of the building permit fee. The plan review fees are separate fees from the permit fees and are in addition to the permit fees. When submittal documents are incomplete or changed so as to require additional plan review, fees shall be charged at a rate shown in Table 1-A, which is on file in the office of the City Clerk. Plan review fees for similar plans falling under Minn. Rules 1300.0160, subd. Part 6, shall be 25% of the building permit fee.

(C) *Fixed fees.*

(1) Demolition: \$50, plus \$1 surcharge.

(2) Other maintenance or minor projects as determined by the Building Official: \$25, plus \$0.50 surcharge.

(3) All other permit fees based on valuation (labor and materials) using the fee schedule.

(4) M.S. § 326B.153, as it may be amended from time to time: \$15 or 5% of the cost of the improvement, installation or replacement, whichever is greater, for the improvement, installation or replacement of a residential fixture or appliance that:

(a) Does not require modification to electric or gas service;

(b) Has a total cost of \$500 or less, excluding the cost of the fixture or appliance; and

(c) Is improved, installed or replaced by the homeowner or licensed contractor.

(D) *Payment of fees.* A permit shall not be issued until the fees prescribed by the municipality have been paid.

(E) *Work commencing before permit issuance.* If work for which a permit is required by the Code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for the work. An investigation fee shall be collected and is in addition to the required permit fee and equal to the permit fee.

(F) *Fee refund.* The Building Official may authorize refunding of any fees paid hereunder which were erroneously paid or collected.

(G) *Building Official.* The Building Official may authorize refunding of not more than 80% of the permit fee or plan review fee paid when no work has been done under a permit issued. The Building Official shall not authorize refunding of any fee paid except on written application followed by the original permit fee not later than 180 days after the date of fee payment.

(H) *Reinspections.* A reinspection fee may be assessed for each inspection or reinspection when the portion of work for which inspection is called for is not complete or when corrections called for are not made. To obtain a reinspection, the permit applicant shall pay the reinspection fee in accordance with Table 1-A in the fee schedule adopted by this municipality, which is on file in the office of the City Clerk. In instances where reinspection fees have been assessed, no additional inspections of the work will be performed until the required fees have been paid.

(I) *Expiration.* Every permit issued by the Building Official shall expire by limitation and become null and void if the building or work authorized by the permit is not commenced within 180 days from the date of the permit, or if the building or work authorized by the permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before the work can be recommenced, a new permit shall be first obtained to do so and the fee therefor shall be one-half the amount required for a new permit for the work, excluding plan review fee, provided no changes have been made or will be made in the original plans and specifications for the work. The Building Official may grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

(J) *Expiration of plan review.* Applications for which no permit is issued within 180 days following the date of application shall expire by limitation and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Building Official. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee. In the event of a hardship and at the discretion of the Building Official, a new plan review fee may be waived. (Ord. 144, passed 6-2-2008) Penalty, see § 10.99

### § 150.03 PERMITS AND SPECIAL REQUIREMENTS FOR MOVING BUILDINGS.

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

**COMBINED MOVING PERMIT.** A permit to move a building on both a street and a highway.

**HIGHWAY.** A public thoroughfare for vehicular traffic which is a state trunk highway, county state-aid highway or county road.

**HIGHWAY MOVING PERMIT.** A permit to move a building on a highway for which a fee is charged which does not include route approval, but does include regulation of activities which do not involve the use of the highway; which activities include, but are not limited to, repairs or alterations to a municipal utility required by reason of the movement.

**MOVING PERMIT.** A document allowing the use of a street or highway for the purpose of moving a building.

**STREET.** A public thoroughfare for vehicular traffic which is not a state trunk highway, county state-aid highway or county road.

**STREET MOVING PERMIT.** A permit to move a building on a street for which a fee is charged which does include route approval, together with use of the street and activities including, but not limited to, repairs or alterations to a municipal utility required by reason of the movement.

(B) *Application.* The application for a moving permit shall state the dimensions, weight and approximate loaded height of the structure or building proposed to be moved, the places from which and to which it is to be moved, the route to be followed, the dates and times of moving and parking, the name and address of the mover, and the municipal utility and public property repairs or alterations that will be required by reason of the movement. In the case of a street moving permit or combined moving permit, the application shall also state the size and weight of the structure or building proposed to be moved and the street alterations or repairs that will be required by reason of the movement. All applications shall be referred to the Public Works Department. All applications for street and combined moving permits shall also be referred to the Police Department and no such permits shall be issued until route approval has been obtained from the Departments.

(C) *Permit and fee.* The moving permit shall state date or dates of moving, hours, routing, movement and parking. Permits shall be issued only for moving buildings by building movers licensed by the state, except that a permit may be issued to a person moving his or her own building, or a person moving a building which does not exceed 12 feet in width, 25 feet in length or 16 feet in loaded height. Fees to be charged shall be separate for each of the following: a moving permit fee to cover use of streets and route approval; and a fee equal to the anticipated amount required to compensate the city for any municipal utility and public property (other than streets) repairs or alterations occasioned by the movement. All permit fees shall be paid in advance of issuance.

(D) *Building permit and code compliance.* Before any building is moved from one location to another within the city, or from a point of origin without the city to a destination within the city, regardless of the route of movement, it shall be inspected and a building permit shall have been issued for at least the work necessary to bring it into full compliance with the State Building Code.

(E) *Unlawful acts.*

(1) It is unlawful for any person to move a building on any street without a moving permit from the city.

(2) It is unlawful for any person to move a building on any highway without a highway moving permit from the city.

(3) It is unlawful to move any building (including a manufactured home) if the point of origin or destination (or both) is within the city, and regardless of the route of movement, without having paid in full all real and personal property taxes, special assessments and municipal utility charges due on the premises of origin and filing written proof of the payment with the city.  
(2003 Code, § 4.04) Penalty, see § 10.99

**§ 150.04 SPECIAL REQUIREMENTS IN NEW CONSTRUCTION.**

(A) *Private sewage disposal systems.* All buildings for which permits are issued after adoption of this section shall be connected to the city sewerage disposal system unless to do so would require the installation of a lift station.

(B) *Roof and surface water, sump pumps and other natural precipitation.* No water from the roof, surface, sump pump or other natural precipitation shall be discharged into the sanitary sewerage system from a building for which a permit is issued after adoption of this section.

(C) *Remote registers on water meters.* All buildings for which permits are issued after adoption of this section shall have remote registers on water meters.  
(2003 Code, § 4.20) Penalty, see § 10.99

**§ 150.05 ADDITIONAL CONSTRUCTION STANDARDS.**

Any structure designed to be used as a dwelling shall have, in addition to all other requirements, the following:

(A) All principal dwellings and principal structures shall be placed on a permanent continuance perimeter foundation of not less than 20 feet in width;

(B) A minimum of 800 square feet for a single-family unit;

(C) Conventional siding, lapping the foundation by minimum of one inch;

(D) Storage in accordance with state statutes; and



(E) A pitched roof with a minimum slope of three inches of rise per each 12 inches of horizontal run, the same covered with shingles, tile or approved metal roofing or other approved material with a minimum of 12-inch eaves.

(2003 Code, § 4.21) (Ord. 92, passed 2-22-2001)

#### **§ 150.06 WALLS, FENCES AND HEDGES ON PRIVATE PROPERTY.**

(A) *Restrictions.* A wall, fence or hedge may occupy part of the required front yard, but no wall or fence more than three feet high shall be constructed without a special use permit. The required front yard of a corner lot shall not contain any wall, fence or other structure, tree, shrub or other growth which may cause danger to traffic on a street or public road by obscuring the view. The required front yard of a corner lot shall be unobstructed above a height of three feet in a triangular area, two sides of which are the lines running along the side streets lined between the street intersection and a point ten feet from the intersection and the third side of which is the line between the latter two points.

(B) *Unlawful act.* It is unlawful for any person to construct walls, fences or other structures, or permit the growth of trees or shrubs contrary to the provisions of this section.

(2003 Code, § 4.22) Penalty, see § 10.99

#### **§ 150.07 CONTIGUOUS TERRITORY.**

The city hereby extends its enforcement of the State Building Code to contiguous unincorporated territory within the extraterritorial limits permitted by M.S. § 326B.121(d), as it may be amended from time to time, in all directions from the corporate limits of the city.

(2003 Code, § 4.23) (Ord. 92, passed 2-22-2001)

#### **§ 150.08 SWIMMING POOL CONSTRUCTION REGULATION.**

(A) *Purpose of section.* The purpose of this section is to provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy and location and maintenance of all swimming pools within the city, and certain equipment specifically regulated herein.

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

**FENCE HEIGHT.** Measured at a point six inches below the top of the supporting posts, or the height of the material between the support posts, whichever is greater.

***STORAGE SWIMMING OR WADING POOLS.*** The pools constructed on or above ground that are capable of holding water to a maximum depth of 42 inches with non-metallic, molded, polymeric walls or inflatable fabric walls, regardless of dimension.

***SWIMMING POOL.*** Includes any enclosure, above or below ground, having water surface area exceeding 100 square feet and a water depth greater than 18 inches at any point.

(C) *Enforcement of section.* The City Building Inspector/Building Official shall be charged with the enforcement of this section, and is hereby authorized to issue citations for violation of or refusal to comply with the provisions of this section.

(D) *Building permit required.*

(1) No swimming pool may be constructed, excavated or erected within the city without first obtaining a building permit, except storable swimming or wading pools, provided that the pools are set up or placed in operation in the spring and taken out of operation and placed in storage during the fall of each year so as to not remain permanently in place. In the event the pools are permanently left in place, all other provisions otherwise applicable to swimming and wading pools shall then apply to the pools.

(2) The application for the building permit shall include:

(a) The type and size of pool; and

(b) A site plan indicating the following: location of pool; location of house, garage, fencing and other improvements on the lot; location of filter unit, pump and wiring indicating the type of the units; location of structure on adjacent lots; location of back flush and drainage outlets; grating plan; finished elevation and final treatment (decking, landscaping and the like) around pool; location of existing overhead or underground wiring, utility easements, trees and similar features; and location of any water heating unit.

(E) *Requirements.*

(1) In all districts, the following shall apply.

(a) The pool shall not be located within ten feet measured horizontally from overhead or underground utility lines of any type.

(b) Pools shall not be located within any private or public utility, walkway, drainage or other easement.

(c) In the case of underground pools, precaution shall be taken during construction to:

1. Avoid damage, hazards or inconvenience to adjacent or nearby property; and



2. Assure that proper care shall be taken in stockpiling excavated materials to avoid erosion, dust or other infringement upon adjacent property.

(d) All access for construction shall be over the owner's land and due care shall be taken to avoid damage to public streets and adjacent private or public property. The owner shall be liable for damage caused to any public or private property.

(e) To the extent feasible, back flush water or water from pool drainage shall be directed onto the owner's property or into approved public drainage ways and shall not drain onto adjacent private land. Drainage onto public streets or other public drainage ways shall require permission of the appropriate city officials.

(f) Pool lighting shall be directed toward the pool and not toward adjacent property.

(g) The pool area shall be enclosed with fencing to effectively prevent the entrance of children and be without hand or foot holds that would enable a child to climb over it or pass through it. The fence shall be at least five feet in height, but not exceeding six feet, to prevent uncontrolled access from the street or adjacent property. For horizontal fence members that are less than 45 inches apart, vertical spacing shall not exceed 1 1/2 inches. Where horizontal members are equal to or more than 45 inches apart, vertical spacing shall not exceed four inches, spaced so that a four-inch sphere cannot pass through. The spacing between the bottom of the fence and grade shall not exceed four inches. Fences shall be completely installed prior to the filling of the pool. Spacing between the bottom of fence gates and grade shall not exceed four inches. The gate latching mechanism shall be placed a minimum of 48 inches above the bottom of the gate. Where the fences enclose only the swimming pool area, adequate screening, including, but not limited to, landscaping, shall be placed between the pool area and adjacent single-family district lot lines.

(h) Retaining walls shall be designed to resist the lateral pressure of the retained material in accordance with accepted engineering practice. Wall retaining drained earth may be designed for pressure equivalent to that exerted by a fluid weighing not less than 30 pounds per cubic foot and having a depth equal to that of the retained earth.

(i) Pool water shall be maintained in a suitable manner to avoid health hazards of any type. The water shall be subject to periodic inspection by the local health officer.

(j) All wiring, insulation, heating units, grading, insulation of pipes and all other installation and construction shall be subject to inspection.

(k) Nuisances such as undue noise, lighting of adjacent property, health and safety hazards, damage to nearby vegetation and the like shall not be permitted.

(l) Any proposed deviation from these standards and requirements shall require a variance in accordance with normal zoning procedures.

(2) Pool and accessory equipment, setbacks, Single-Family Residential Districts: private swimming pools in single-family residential districts shall adhere to the following regulations: pools shall not be located within the setback area for structures applicable to the zoning applicable to the residential property where the pool is located. Pools shall not be located within any required front yard. The filter unit, pump, heating unit and any other noise making mechanical equipment shall be located at least 25 feet from any adjacent or nearby residential structure and not closer than eight feet to any lot line.

(3) Private swimming pools which are intended for and used by the occupants of a multi-family dwelling and the guests of the occupants of the dwelling shall adhere to the following regulations: no part of the water surface of the swimming pool shall be closer than 50 feet to any lot line.

(a) Pumps, filters or other apparatus used in connection with or to service a swimming pool shall be located closer than 40 feet to any lot line.

(b) All deck areas, adjacent patios and other similar areas used in conjunction with the swimming pool shall be located at least 40 feet from any lot line and adjacent single-family residence. (Ord. 115, passed 5-19-2003; Ord. 138, passed 6-18-2007)

#### § 150.09 COMPLETION OF WORK.

(A) Any person or entity constructing, altering, repairing, remodeling or adding to any structure, including single-family, multiple-family dwellings or other structures located within the city limits and areas subject to the provisions of this Code, including an attached or detached garage or accessory structure, shall complete all work with respect to the same within 180 days after the date required for completion of the work as authorized by the terms of the original building permit.

(1) Completion of work includes completing the structure and all interior and exterior finishes, including, but not limited to, siding, windows, roofing, driveways, retaining walls, decks, patios, interior finishes, to include plumbing, wiring and all related matters.

(2) The City Building Official may extend the time for completion upon written request by the permittee establishing that circumstances beyond the control of the permittee prevented the completion of the work for which the building permit was initially authorized.

(3) In the event a building permit has initially been issued and expires or is revoked and the structure remains in the same condition for a period beyond 90 days after the expiration or revocation of the permit and the failure to obtain an extension, then in the event a complaint is filed, the structure may be declared by the City Building Inspector to be a public nuisance and in addition to any and all other remedies as may be provided by law, the structure may then be ordered removed or other actions taken.

(B) The continued violation of this provision shall constitute a separate offense for each and every day that the violation shall continue. In addition to other remedies as may be provided by this Code and the State Building Code for violation, the city shall not be precluded from other criminal, civil or injunctive relief, to include enforcement of each and every day that a violation continues as a misdemeanor pursuant to the terms of this Code.

(Ord. 155, passed 5-3-2010)

#### § 150.10 RENTAL DWELLING LICENSING CODE.

##### *(A) Inspection and licensing of rental dwellings.*

(1) *Rental dwellings license.* No person may operate, let or cause to be let, a rental dwelling unit without first having obtained an operating license or temporary permit to do so from the city as hereinafter provided.

(a) The owner of a rental dwelling unit must obtain a temporary permit if he, she or they have not received an operating license. There is no fee necessary for a temporary permit. The City Building Official may waive the need for an inspection at his or her discretion. A temporary permit is valid until an operating license is obtained or for a period of time after its issuance as authorized in its issuance by the City Building Official, whichever is earlier. In no case shall a temporary permit be issued for a period longer than 24 months, subject, however, to the enforcement officer's authority to extend the permit expiration date in those cases as the enforcement officer/Building Official deems appropriate in his or her sole discretion.

(b) Each operating license shall be valid for a period of five years (60 months) and shall expire at the end of the five years (60 months).

(c) A license renewal application shall be filed at least 60 days prior to license expiration date, unless the city has already renewed that license based upon a scheduled inspection conducted pursuant to division (A)(3)(a) below.

##### *(2) Permit and license exemption.*

(a) The owner of a rental dwelling unit is exempted from the permitting and licensing requirements of this section if the renter of the dwelling unit is related to the owner as a parent, child, sibling, grandparent, grandchild, stepparent, stepchild, step-grandparent or step-grandchild and the owner files an affidavit with the city, stating that the renter is one of these relations. The affidavit required in this division (A)(2)(a) must also state the address of the dwelling and must be renewed at least every five years (60 months).

(b) The owner must notify the city in writing within 30 days of this exemption being lost because the renter is not related to the owner as one of the above referenced relations.

(3) *Rental dwelling inspections.* No operating license may be issued or renewed unless the city determines, following an inspection conducted pursuant to this section, unless otherwise waived by the city enforcement officer for good cause or as otherwise determined by the officer in his or her discretion, that the rental dwelling unit and its premises conform to the Housing Maintenance Code ("HMC"). As more specifically provided below, the enforcement officer and his or her agents may cause inspections, follow up inspections and reinspections on rental dwelling units on all classes of property within the city on a scheduled basis, and on rental dwelling units or owner occupied residential units on all classes of property when reason exists to believe that a violation of an applicable subdivision of the HMC exists, has been or is being committed.

(a) The city enforcement officer and his or her agents are authorized to contact owners, tenants and managers of rental dwellings to schedule inspections of rental dwellings at reasonable times. They are also authorized to conduct those inspections once scheduled. These scheduled inspections will be conducted to determine whether the unit and its premises conform to the HMC so as to inform the city's decision of whether to issue an operating license. The authority to schedule and to conduct these inspections is available even if the owner or owner's agent holds a temporary permit, and without regard to whether the owner or owner's agent has filed an application for an operating license.

(b) In addition, except as herein provided above, upon receipt of a properly executed application for an operating license, the enforcement officer shall cause an inspection to be made of the premises to determine whether the structure is in compliance with the HMC. Inspections performed pursuant to the authority in divisions (A)(3)(a) above or (A)(3)(c) below are hereinafter described as "Licensing Inspections".

(c) In addition, the city enforcement officer and his or her agents are authorized to conduct inspections on rental dwelling units or owner-occupied residential units on all classes of property when reason exists to believe that a violation of an applicable subdivision of the HMC exists, has been or is being committed. A complaint or complaints from a tenant of a rental dwelling unit shall be an adequate basis for a reinspection of a rental dwelling unit.

(d) To increase the awareness by owners of the likely timing of requested inspections and to conserve public resources, the city enforcement officer may schedule and conduct inspections pursuant to division (A)(3)(a) above according to the area of the city in which the unit is located, dividing the city into zones and endeavoring to perform inspections pursuant to division (A)(3)(a) above in one zone before beginning them in a different zone.

(e) If a structure or rental dwelling unit is not in compliance, one or more follow up inspections or reinspections may be conducted to verify that conditions and any corrections conform to the provisions of the HMC.

(f) When the basis for the inspection pursuant to this section is information observed or obtained during a licensing inspection, the reinspection or follow up inspection shall be conducted on a scheduled basis.

(g) Owners of rental dwelling units shall report to the city the full names, telephone numbers and addresses of the principal tenant of all rental dwelling units under their ownership or control, and update information as needed to ensure that it is accurate and current.

(h) When scheduling licensing inspections pursuant to this section, the city enforcement officer or his or her agents will seek the consent of the owner of the property (if not already received) to inspect those areas outside of rental dwelling units that are not accessible to the general public (including any internal rooms that are inaccessible to the public, such as storage or mechanical rooms) and to unrented dwelling units, and the consent of the primary tenant of the rental dwelling unit (if not already received) to inspect that unit. If the property owner demonstrates to the satisfaction of the city enforcement officer or his or her agents that one or more tenants have consented in writing to the inspection of their units, individual contacts by the city with those tenants may be deemed unnecessary.

(i) If the city is unsuccessful in securing consent for an inspection pursuant to this section, the city shall seek permission from a judicial officer through an administrative warrant, for its enforcement officer or his or her agents to conduct an inspection. Nothing in this Code shall limit or constrain the authority of the judicial officer to condition or limit the scope of the administrative warrant.

(j) The scope of a licensing inspection shall be limited to what is necessary to determine in accordance with this division (A)(3)(j), whether the unit and its premises conform to the HMC. This shall not preclude the enforcement officer from relying upon observations from a licensing inspection in seeking one or more of the remedies provided in division (B) below.

(k) A licensing inspection must be scheduled during ordinary business hours (or as otherwise arranged with the owner or tenant). Owners and their agents and tenants may, at their option, request that licensing inspections above take place only when they are present, so long as the request identifies at least one date or time within the two weeks following the date of the request when the requesting party agrees to be present.

(l) During inspections conducted pursuant to an administrative warrant, photographs and video recordings may not be taken of areas inside the building, absent further court permission or consent of the tenant (for areas inside the unit) or the landlord (for areas inside the building but outside a tenant's unit, and areas inside an unoccupied unit).

(m) Inspectors are not authorized to open containers, drawers or medicine cabinets, unless the containers, drawers or medicine cabinets are opened with the consent of the tenant (for areas inside the unit) or the landlord (for areas inside the building but outside a tenant's unit, and areas inside an unoccupied unit). For purposes of this division (A)(3)(m), a medicine cabinet is a covered cabinet located in a dwelling unit's bathroom.



(n) Inspectors are authorized to open cabinets (other than medicine cabinets) or closets only when it is reasonably necessary in order to inspect for the existence of one or more conditions that violates the HMC, or when the cabinets or closets are opened with the consent of the tenant (for areas inside the unit) or the landlord (for areas inside the building but outside a tenant's unit, and areas inside an unoccupied unit).

(o) The information regarding the condition of the unit or its occupants that inspectors retain after recording it in any inspection logs or forms shall be limited to descriptions of conditions constituting a violation of the HMC. Inspectors may record a list of conditions that the landlord or tenant is encouraged to repair or change but which do not constitute a violation of the HMC, if that list is not retained by the inspector or city but is instead simply given to the landlord or tenant.

(p) The city may not upload to a GIS system any data regarding the results of inspections conducted pursuant to this section.

(q) The city will not share information regarding the condition of the unit or its occupants obtained through inspections conducted pursuant to this section with any current member of the City Police Department or any law enforcement agency of another jurisdiction, or enable their discovery by the person or agency, unless:

1. The disclosure is required by law;

2. The disclosure to the person or agency is needed to abate an active or inactive methamphetamine lab, mistreatment of one or more minors in violation of M.S. §§ 609.377 or 609.378, as they may be amended from time to time, mistreatment of one or more vulnerable adults in violation of M.S. §§ 609.23 through 609.233, as they may be amended from time to time, or mistreatment of one or more animals in violation of M.S. § 343.21, as it may be amended from time to time; or

3. If an owner or occupant of a unit has made an express or implied threat of bodily harm, causing the inspector to be concerned for his or her welfare, and the disclosure is made for the purpose of enabling one or more law enforcement officers to accompany the inspector in the completion of the inspection or the full performance of his or her duties.

(4) *Inspection not required.* Inspection for the issuance or renewal of a license may be waived by the city if the owner of a dwelling unit proves that within the previous 12 months the dwelling unit passed an inspection required by the city, state or federal regulations that is at least as stringent as the inspection required under this section. The city has sole discretion to determine when an inspection program is at least as stringent as the inspection required under this section. Inspections conducted as the result of a complaint made to the city may not be waived under this provision.

(5) *Application contents.* Owners of one or more rental dwelling units who have not yet received a temporary permit or operating license are responsible for applying with the city for either a temporary permit or an operating license. Before any portion of a property is used as a rental dwelling unit, the owner must first secure either a temporary permit or an operating license. With either application, the owner must supply:

(a) Name, address and telephone number of dwelling owner, owning partners if a partnership, corporate officers if a corporation;

(b) Name, address and telephone number of designated resident agent, if any;

(c) Name, address and telephone number of vendor, if the dwelling is being sold through a contract for deed;

(d) Legal address of the dwelling;

(e) Number of dwelling units within the dwelling;

(f) At least one emergency telephone number; and

(g) The names, telephone numbers and addresses of principal tenants, if any, are required in division (A)(3) above.

(6) *Following acquisition.* A new owner must register a newly acquired rental residential property within ten days after acquiring it, by applying for either a temporary license or an operating license. The enforcement officer must be notified of any address change within ten days.

(7) *Administrative charge.* Failure to obtain either a temporary permit as required by this section, or an operating license, will subject the owner of a dwelling unit to an administrative service charge up to \$250.

(8) *License and inspection fees.* The license and inspection fees are charged at the time of the issuance of the respective license and are due within 30 days of the date of the invoice; in the cases of newly constructed residential unlicensed rental dwelling units, license fees are due upon issuance of the certificate of occupancy; in the cases of licensing periods of less than two years, license fees will be prorated monthly. A license fee paid later than ten working days after the prescribed date is subject to an additional administrative service charge double the amount of the license. Once issued, a license is nontransferable and the licensee is not entitled to a refund of any license fee upon revocation or suspension, or transfer of ownership. License and inspection fees shall be as established by the City Council by resolution as adopted and/or modified from time to time.

(9) *Resident agent required.* An operating license may not be issued or renewed for a nonresident owner of rental dwelling units (one who does not reside within the city limits) unless the owner designates in writing to the enforcement officer the name, address and telephone number of his

or her resident agent (one who does reside within a 50-mile radius of the city limits) who is responsible for maintenance and upkeep and who is legally constituted and empowered to receive service of notice of violation of the provisions of the city code and to receive orders or process pursuant to law. The enforcement officer must be notified in writing of any change of resident agent or agent address or telephone number change within ten days. This requirement may be waived if, in the enforcement officer's determination, the owner not living within the city limits is nonetheless sufficiently accessible for the purposes of the HMC.

(10) *Posting of permit or license.* The current temporary permit or operating license of a multiple dwelling unit, or a legible copy thereof, must be conspicuously posted in the main entry way or a conspicuous exterior location of the respective multiple dwelling unit. In the case of one-family and two-family dwelling units, a legible copy of the current temporary permit or operating license must be given to the renter of each unit.

(11) *License not transferable.* A temporary permit or operating license is not transferable to another person or to another rental dwelling. Every person holding a temporary permit or operating license must give notice in writing to the enforcement officer within 72 hours after having legally transferred or otherwise disposed of the legal control of any permitted or licensed rental dwelling. The notice must include the name and address of the person succeeding to the ownership or control of the rental dwelling or dwellings. The person succeeding to the ownership or control of the rental dwelling or dwellings must obtain a temporary permit or operating license in order to continue operating the rental dwelling or dwellings. An inspection is not required to obtain this temporary permit or operating license unless the rental dwelling or dwellings have not been inspected within five years (60 months) of the transfer of ownership or control.

(12) *Violation.* Any person that maintains a rental dwelling unit without having either a valid temporary permit or a valid operating license, or permits new occupancy in violation of this subdivision, is guilty of a misdemeanor, and upon conviction is subject to a fine and imprisonment as prescribed by state law. In addition to, or in lieu of, charging a misdemeanor, the city may impose an administrative fee in an amount set in the city fee schedule. An administrative fee may be appealed pursuant to division (C) below. Upon the failure to appeal an administrative fee within the period established in division (C) below, the city may post the dwelling unit as illegal for habitation. Thereafter, the dwelling unit may not be occupied by anyone other than the primary homestead owner and that person's immediate family until: the administrative fee has been paid; and a rental license is obtained or the city is satisfied that the dwelling unit will not be used as a rental dwelling unit. Each day of each violation constitutes a separate offense.

(B) *Administration and enforcement.*

(1) *Administration and enforcement.* The enforcement officer and his or her agents administer and enforce the provisions of the HMC. They may enforce the standards of the HMC through the licensing and inspection programs set forth in division (A) above and, where appropriate, through the powers set forth below.



(2) *Authority.* In the absence of a timely appeal under the HMC or any other applicable provision of law, the enforcement officer is the final authority in the determination of a violation under the HMC.

(3) *License suspension and revocation.* A temporary permit or operating license is subject to suspension or revocation by the City Council if the holder fails to operate or maintain permitted or licensed rental dwellings and units therein consistent with the provisions of the city code and the laws of the state. In the event that a permit or license is suspended or revoked by the City Council, or expires without renewal, it is unlawful for the owner or his or her duly authorized agent to thereafter permit any new occupancy of vacant or thereafter vacated rental dwelling units until a time as a valid license may be obtained or restored by the City Council.

(4) *Compliance order.* Whenever an enforcement officer determines that any rental dwelling unit, or the premises surrounding any of these, fails to meet the provisions of the HMC, the officer may issue a compliance order setting forth the violations of the code and ordering the owner, occupant, operator or agent to correct the violations. The compliance order must:

- (a) Be in writing;
- (b) Describe the location and nature of the violations of the HMC;
- (c) Establish a reasonable time, not to exceed 90 days, for the correction of the violations.

1. When a violation of the HMC constitutes an imminent peril to life, health or property, an immediate and exact time for the correction of the violation constitutes a "reasonable time" for correction for purposes of this subchapter. When this is the case, no stay of proceedings in furtherance of action will be granted on appeal.

2. A reasonable time may be longer than 90 days if correction is not possible because of prevailing weather conditions or other mitigating circumstances as determined by the enforcement officer;

(d) Include information regarding the owner's right to appeal the order and the procedure to be followed in filing such an appeal pursuant to division (C) below;

(e) State that in the event the violations are not corrected within the time set in the compliance order, the license may be suspended or that the necessary work may be performed by the city at the expense of the owner and that if the owner does not pay for the expense, the cost of the work will be assessed against the property; and

(f) Be served upon the owner or his or her agent or the occupant, as the case may require. The notice shall be deemed to be properly served upon the owner or agent, or upon any such occupant, if a copy thereof is:

1. Served personally;
2. Deposited in the U.S. Post Office addressed to the owner at his or her last known address with postage prepaid; or
3. Upon failure to affect notice by personal service or by mail, posted at a conspicuous place in or about the dwelling which is affected by the notice.

(5) *Emergency cases.* For purposes of division (B)(4)(c) above, situations which constitute an imminent peril to life, health or property include, but are not limited to the following:

(a) Heating systems that are unsafe as defined in § 150.28, due to burned out or rusted out heat exchanges (fire box); burned out or plugged flues; not being vented; being connected with unsafe gas supplies; or being incapable of adequately heating the living space;

(b) Water heaters that are unsafe as defined in § 150.28, due to burned out or rusted out heat exchanges (fire box); burned out, rusted out or plugged flues; lack of proper venting; being connected with unsafe gas supplies; or lack of temperature and pressure relief valves;

(c) Electrical systems that are unsafe as defined in § 150.28, due to dangerous overloading; damaged or deteriorated equipment; improperly tapped or spliced wiring; improper or overloaded fuses; expose uninsulated wires; distribution systems of extension cords or other temporary methods; ungrounded appliances in a hazardous condition;

(d) Plumbing systems that are unsanitary as defined in § 150.28, due to:

1. Leaking waste systems fixtures and traps;
2. Lack of a water closet;
3. Lack of washing and bathing facilities; and/or
4. Cross-connection of pure water supply with fixtures or sewage lines.

(e) Structural systems, walls, chimneys, ceilings, roofs, foundations and floor systems that are unsafe as defined in § 150.28;

(f) Refuse, garbage, human waste, decaying vermin or other dead animals, animal waste, other materials rendering it that are unsanitary as defined in § 150.28; and

(g) Infestation of rodents, insects and other vermin.

(6) *Follow-up inspection.* At the end of the period allowed for the correction of a violation specified in the compliance order, the enforcement officer shall make, or attempt to make, a follow up inspection of the premises to determine whether corrective actions have been sufficient to bring the violation(s) into compliance.

(a) If the premises are in compliance with the requirements of this section at the time of the follow up inspection, a license may be issued in accordance with the requirements of this section.

(b) If the enforcement officer determines that the violation(s) has not been corrected and the rental unit(s) has not been vacated, the enforcement officer shall suspend any existing license. The enforcement officer also may issue a citation or may file a formal complaint summoning the responsible party into court. The citation shall reiterate the charge and the ordinance section(s) violated. The city may also take action to correct violations under the provisions of division (B)(9) below.

(c) After a suspension, the property owner may pay a re inspection fee and request a re inspection and reinstatement of the license. If the enforcement officer determines that the violation(s) has been corrected and the rental unit(s) and building comply with HMC, the license shall be reinstated. Fees for a reinspection may apply as outlined in the city fee schedule.

(7) *Execution of compliance orders by public authority.* Upon the failure to comply with a compliance order within the time set therein, the rental unit(s) not being vacated, and no appeal having been taken, the criminal penalty established hereunder notwithstanding, the City Council may by resolution direct the enforcement officer to remedy the deficiency (deficiencies) cited in the compliance order. The cost of the remedy shall be a lien against the subject real estate and may be levied and collected as a special assessment in the manner provided by M.S. Chapter 429, as it may be amended from time to time. The action will not be taken, however, without a good faith effort on the part of the city to provide the property owner with advance notice of its intention to proceed with repairs and assessment of the costs of repairs to taxes.

(8) *No warranty by city.* By enacting and undertaking to enforce the HMC neither the city nor its Council, agents or employees warrant or guarantee the safety, fitness or suitability of any dwelling in the city. Owners or occupants should take whatever steps they deem appropriate to protect their interests, health, safety and welfare. A warning in substantially the foregoing language shall be printed on the face of the license.

(C) *Appeals.*

(1) *Right of appeal.* Any person aggrieved by a compliance order may appeal the compliance order to the City Council. The appeals must be in writing, must specify the grounds for the appeal, must be accompanied by a filing fee in cash or cashier's check and must be filed with the City Clerk within ten business days after service of the compliance order. If an appeal is not filed within the timelines and

in the manner specified herein, the enforcement officer's decision shall be final. The filing fee is set by Council resolution. The filing of an appeal shall stay all proceedings in furtherance of the action appealed from, unless such a stay would cause imminent peril to life, health, property or public safety.

(2) *City Council decision.* Upon at least five business days' notice to the appellant of the time and place for hearing the appeal, and within 30 days after the appeal is filed, the City Council or the individual or committee designated by the Council as the appeal body, must hold a hearing thereon, at which the applicant may appear and present evidence as to why the compliance order, or any portion thereof, should not be issued. If an individual or committee other than the City Council hears the appeal, it shall make a recommendation to the City Council. The City Council may reverse, modify or affirm, in whole or in part, the compliance order and shall order return of all or part of the filing fee if the appeal is upheld. The City Council or appeal committee or officer may postpone a meeting and hold hearing at a later date, not to exceed 60 days after the appeal is filed, when it is necessary to do so. (Ord. 163, passed 7-1-2013)

### ***HOUSING MAINTENANCE CODE***

#### **§ 150.25 TITLE.**

This section may be known, cited and referred to as the "City of Granite Falls Housing Maintenance Code" or "HMC".  
(Ord. 163, passed 7-1-2013)

#### **§ 150.26 PURPOSE.**

The purpose of the HMC is to protect, preserve and promote the public health, safety and the general welfare of the people of the city, to prevent housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health, including the physical, mental and social well being of persons occupying dwellings within the city, and to provide, to the extent permitted by state law, for the enforcement of minimum standards for components or systems of residential structures; to provide for the use and location and amount of space for human occupancy; and to preserve the value of land and buildings throughout the city.  
(Ord. 163, passed 7-1-2013)

#### **§ 150.27 DISCRIMINATION AND PRIVACY.**

The HMC is to be enforced in a nondiscriminatory manner and exclusively for the purpose of promoting public as opposed to private welfare. Except as may be specifically provided herein or incidental to the enforcement hereof, the HMC is not intended to interfere with personal privacy or with

private legal rights and liabilities, including, without limitation, landlord/tenant and lessor/lessee relationships, and in enacting and enforcing the HMC, the city neither expressly nor by implication assumes any obligations or liabilities respecting the private rights or disputes, including those which involve or arise out of the nonconformity of any premises in the city to the provisions of the HMC. (Ord. 163, passed 7-1-2013)

#### § 150.28 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. If a term used herein is not defined herein but is defined in an applicable State Building Code, that term shall have the meaning as defined in that Code. Terms that are not defined in this subchapter, or as otherwise referred to in other sections of this Code or not defined in an applicable State Building Code section, shall have their ordinary accepted meanings within the context in which they are used, with reference to the most recent unabridged Webster's Dictionary of the English Language.

**ABANDONMENT.** Unless otherwise defined more strictly within city code, abandonment means the consequence of ceasing to assert or exercise an interest, right or title to that building or structure, with the intent of never again resuming or reasserting it.

**ACCESSORY STRUCTURE.** A structure not greater than 1,400 square feet in floor area and not over two stories in height, the use of which is customarily accessory to and incidental to that of the dwelling(s) and which is located on the same lot.

**ADEQUATE.** Sufficient.

**BASEMENT.** The portion of a building or structure located either totally or partially underground.

**BUILDING.** A constructed edifice designed to stand more or less permanently, covering a space of land, designed for occupancy and intended for use in one place.

**COMMON AREAS.** Halls, corridors, passageways, utility rooms, recreational rooms and extensively landscaped areas in or adjacent to a multiple dwelling, not under the exclusive control of one person or family.

**COMPONENT.** A constituent part.

**CONDOMINIUM.** A form of individual ownership within a multi-family building which entails joint responsibility for maintenance and repairs; in the **CONDOMINIUM** each apartment or townhouse is owned outright by its occupant.

**CORRECTED.** Brought into conformance with all applicable standards of the HMC and all other applicable standards of the city code.

**COOPERATIVE HOUSING.** A multi-family dwelling owned and maintained by the residents: the entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership.

**DAMAGE.** Injury or harm.

**DEGRADATION.** Impairment in respect to some physical property, including damage by weakening or loss of some property, quality or capability.

**DILAPIDATION.** A condition of decay or partial ruin.

**DISASTER.** A sudden or great misfortune.

**DWELLING UNIT.** As defined in § 155.02, a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**EXCLUDE DAMPNESS.** To shut out moisture.

**EXIT.** A continuous and unobstructed means of egress to the outdoors and includes intervening doors, doorways, corridors, ramps, stairways, smoke-proof enclosures, horizontal exits, exit passageways, exit courts and yards.

**EXTERMINATION.** The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination methods approved by the designated city official, and in the absence of a specifically designated health officer.

**FIRE HAZARD.** A thing or condition that might operate against safety from fire, including a possible source of peril, danger, duress or difficulty, or that tends to create or increase the possibility of loss due to fire.

**GARBAGE.** Putrescible animal and vegetable wastes, including those resulting from the handling, preparation, cooking and consumption of food, as well as otherwise defined within the city code, including § 111.06.

**HABITABLE ROOM.** A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, but excluding bathrooms, water closet compartments, laundries, furnace rooms, pantries, utility rooms, foyers, corridors, stairways, closets, storage spaces, workshops, hobby and recreation areas, and basements lacking required ventilation, required electrical outlets or required exit facilities.

**HAZARD.** A thing or condition that might operate against safety, including a possible source of peril, danger, duress or difficulty, or that tends to create or increase the possibility of loss.



**HEALTH OFFICER.** The legally designated health officer of the city, or his or her authorized representative.

**HOTEL or MOTEL.** Except as otherwise defined within the city code, means a building or structure or enclosure, or any part thereof, kept, used as, maintained as or advertised as, or held out to the public to be an enclosure where sleeping accommodations are furnished to the public and furnishing accommodations for periods of less than one week.

**INADEQUATE.** Not adequate.

**INFESTATION.** The presence, within or around a dwelling, of any insects, rodents or pests.

**KITCHEN.** A space used or intended to be used for food preparation, which contains a sink, adequate space for installing cooking and refrigeration equipment, and space for the storage of cooking utensils.

**MAINTAINED.** Preserved from failure or decline.

**MAINTENANCE.** Preservation from failure or decline.

**NUISANCE.**

(1) A public nuisance which may prove detrimental to children, whether in a building, on the premises of a building or upon an unoccupied lot. This includes, but is not limited to, the abandonment of any well, cistern, shaft, basement or excavation; the abandonment of any refrigerator or freezer in a hazardous condition; an unlicensed or inoperable motor vehicle; or any lumber, garbage, rubbish or debris which may become a hazard for inquisitive minors; or

(2) Overcrowding a room or portion of a dwelling with long term storage so as to prevent upkeep, maintenance or regular housekeeping. A room may be considered "overcrowded" when storage covers an excessive amount of the floor area of a room, constitutes a potential excessive fire load, prevents access to windows or doors, prevents access to or obstructs mechanical systems or air movement, effectively eliminates use and access to required electrical devices, impedes access and movement of emergency personnel, blocks hallways or limits the operation of doors or provides potential pest harborage.

**OBSOLESCENCE.** The process of becoming neglected or the condition of being nearly neglected or worn out.

**OCCUPANT.** Any person, over one year of age, (including owner or operator) living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

**OPERATOR** or **RESIDENT AGENT**. The owner or owner's agent who has charge, care, control or management of a building, or part thereof, in which dwelling units or rooming units are let or offered for occupancy.

**OWNER**. A person who alone, jointly or severally with others:

(1) Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

(2) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this subchapter, and of rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner.

**OWNER OCCUPIED DWELLING**. A dwelling unit occupied by the property owner, including for purposes of the HMC, a single-family dwelling or the discrete portion of a two-family or multi-family dwelling where the owner resides in one unit.

**PREMISES**. Platted lot(s) or unplatted parcel(s) of land, or any portion thereof, either occupied or unoccupied by any dwelling or non-dwelling structure, including the building, accessory structure or other structure thereon.

**PUBLIC AREAS**. Those areas which are normally open to the general public or the occupants of more than one dwelling unit of a multi-family dwelling.

**RENTAL DWELLING** or **RENTAL DWELLING UNIT**. Any dwelling unit not occupied by the primary homestead owner of record. Such a unit may be a single-family dwelling, a separate and independent housekeeping unit within a single-family dwelling, a group home, one unit of a two-family dwelling or a portion of a multi-family dwelling, any of which are provided or available for actual or potential occupancy whether occupied or vacant by lease, by use, by rent or for any other good and valuable consideration, excluding the portion of a homestead property occupied by a qualified relative, or residential property seasonally occupied by what is commonly referred to as a "house sitter" while the owner of the property is residing elsewhere for a period not to exceed six months. Manufactured homes that are occupied by the owner of the home do not constitute **RENTAL DWELLING UNITS** even though the underlying lot may be leased by the owner occupant.

**RODENT HARBORAGE**. A place where rodents are living, nesting or seeking shelter, or likely to live, nest or seek shelter.

**RODENT-PROOF**. A condition where a structure and all parts thereof are protected from rodent, insect and vermin Infestation by eliminating ingress and egress openings such as cracks in walls and holes in screens. For the purpose of the HMC, the term **RODENT-PROOF** shall be construed as though it included "insect-proof" and "vermin-proof".



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

**RUBBISH.** Non putrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, grass and shrubbery clippings, wood, glass, brick, plaster, bedding, crockery and similar materials.

**SAFE.** Secure from threat of danger, harm or loss, including, but not limited to, the threat of unsafe conditions as defined below.

**SAFETY.** The condition of being safe.

**SANITARY.** Free from or effective in preventing or checking an agent (such as filth or infection) injurious to health.

**SUPPLIED.** Paid for, furnished or provided, by or under the control of, the owner or operator.

**SYSTEM.** A group of devices or artificial objects or an organization forming a network especially for distributing something or serving a common purpose.

**UNSAFE.** Not safe, and includes, but is not limited to, the following applications:

(1) When referring to a building or structure, one that is structurally unsafe or not provided with adequate egress, that constitutes a fire hazard, or that is otherwise dangerous to human life;

(2) When referring to a use of a building or a structure, a use that constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment; and

(3) When referring to parapet walls, cornices, spires, towers, tanks, statuary or other appendages or structural members that are supported by, attached to or a part of a building, one that is in deteriorated condition or otherwise unable to sustain the design loads that are specified in the Guidelines for Rehabilitation of Existing Structures as modified by Minn. Rules Chapter 1300.

**YARD.** All ground, lawn, court, walk, driveway or other open space constituting part of the same premises.

(Ord. 163, passed 7-1-2013)

#### § 150.29 APPLICABILITY.

(A) A building and its premises used in whole or in part as a residence, or as an accessory structure thereof, except rest homes, convalescent homes, nursing homes, hotels and motels, must conform to the requirements of this subchapter and all other applicable provisions of the city code.

(B) Licensing and inspections of rental dwellings and their premises are governed by § 150.10.

(C) Enforcement action, under the HMC, against owner occupied dwellings is limited to violations of § 150.33(B) through (F).

(D) This limit does not apply to rental dwellings, rented portions of dwellings, common areas or areas that are under the exclusive control of a rental dwelling owner, such as mechanical rooms, storage rooms or vacant rental units.

(E) These rental dwellings, portions of dwellings, common areas, areas under the exclusive control of a rental dwelling owner and vacant rental dwelling units, shall comply with this section in its entirety.

(F) Condominium and cooperative housing public areas shall be subject to the requirements applicable to rental dwellings if one or more dwellings in such a building is a rental dwelling.

(G) Except as otherwise provided in this subdivision, the HMC establishes minimum standards for erected dwelling units, accessory structures and related premises, which may also be subject to other and additional provisions of city code.

(Ord. 163, passed 7-1-2013)

#### **§ 150.30 GENERAL RESPONSIBILITIES OF OWNERS.**

The owner of a structure is responsible for ensuring that it meets the applicable provisions of the HMC. The duty to comply with the HMC cannot be transferred to another person. A contract purporting to transfer the duty of compliance with the HMC to another person does not relieve the owner, operator or occupant of any duty imposed by the HMC.

(Ord. 163, passed 7-1-2013)

#### **§ 150.31 SMOKE AND CARBON MONOXIDE DETECTION.**

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

(1) Those terms defined in M.S. § 299F.362(1), as it may be amended from time to time, shall also carry those meanings when they appear below in smoke detector regulations.

(2) Those terms defined in M.S. § 299F.50, as it may be amended from time to time, shall also carry those meanings when they appear below in carbon monoxide detector regulations.

(3) For purposes of this section only, the phrases *SINGLE-FAMILY HOME* and *SINGLE-FAMILY DWELLING UNIT* mean a dwelling unit occupied by a person living alone, or any of the following groups living together as a single non-profit housekeeping unit and sharing common living, sleeping, cooking and eating facilities:

(a) Any number of people related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship;

(b) Three unrelated people; or

(c) Two unrelated people and any children related to either of them.

(4) When inspecting for compliance with this section, city inspectors shall presume that any dwelling with only one dwelling unit is a single-family home and a single-family dwelling unit for purposes of this subdivision and will not inquire regarding the relationships between occupants, but this presumption may be rebutted by information volunteered by an owner or occupant.

(B) In single-family homes or single-family dwellings.

(1) Single and multiple station smoke alarms shall be installed in the following locations:

(a) In each room used for sleeping purposes;

(b) On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms; and

(c) In each story within a dwelling unit, including basements, but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

(2) Smoke detectors improperly located or mounted may be required to be relocated or remounted; and

(3) The dwelling must have an approved and operational carbon monoxide alarm installed within ten feet of each room lawfully used for sleeping purposes.

(C) In residential structures other than single-family homes:

(1) For every other dwelling unit within an apartment house or within a dwelling that is not a single-family home:

(a) Each dwelling unit must be provided with a smoke detector meeting the requirements of the State Fire Code, Minn. Rules Chapter 7511;

(b) Smoke detectors must be mounted in the location or locations set forth in division (B)(1) above;

(c) When actuated, the detector must provide an alarm in the dwelling unit; and

(d) Where the occupant is not the owner of the dwelling unit, the owner is responsible for maintenance of the smoke detectors. The occupant of a dwelling unit must inform the owner of the dwelling unit of a non-functioning smoke detector within 24 hours of discovering that the smoke detector in the dwelling unit is not functioning.

(2) The following regulations apply to multi-family dwellings:

(a) Subject to the exception in division (C)(2)(b) below, every dwelling unit in a multi-family dwelling must satisfy at least one of these two standards:

1. It must have an approved and operational carbon monoxide alarm installed within ten feet of each room lawfully used for sleeping purposes; or

2. It must have approved and operational carbon monoxide alarms installed between 15 and 25 feet of carbon monoxide producing central fixtures and equipment, provided there is a centralized alarm system or other mechanism for responsible parties to hear the alarm at all times.

(b) An owner of a multi-family dwelling that contains minimal or no sources of carbon monoxide may be exempted from the requirements of division (C)(2)(a) above, provided that the owner has certified to the Commissioner of Public Safety that the multi-family dwelling poses no foreseeable carbon monoxide risk to the health and safety of the dwelling units.  
(Ord. 163, passed 7-1-2013) Penalty, see § 10.99

## **§ 150.32 CONDITIONS OF COMPONENTS OR SYSTEMS OF EXISTING RESIDENTIAL STRUCTURES.**

(A) *Scope.* This section shall govern the conditions of components and systems of existing residential structures.

(B) *Certified historic structures.* In a certified historic structure as defined in Minn. Rules part 1311.0301, the requirements of this section are subject to modifications specifically set forth in Chapter 6 of the *Guidelines for Rehabilitation of Existing Buildings*, as modified by Minn. Rules Chapter 1311.

(C) *Modifications.* Where there are practical difficulties involved in carrying out the provisions of this section, the city may accept compliance alternatives or grant modifications for individual cases, provided the city shall first find that a special individual reason makes the strict compliance impractical and that the compliance alternative or modification is in conformance with the intent and purpose of this subchapter and any and all other applicable code provisions and that the compliance alternative or

modification does not lessen health, life and the intent of any fire safety requirements or any degree of structural integrity of the property. The details of any action granting modification or the acceptance of a compliance alternative shall be recorded and entered in city files.

(D) *Safe and sanitary condition required.* All buildings and structures and all parts thereof shall be maintained in a safe and sanitary condition.

(E) *Additional requirements applicable to electrical components or systems.*

(1) The electrical service, lines, switches, outlets, fixtures and fixture coverings, and supports in every building or structure shall be in good repair.

(2) Broken, loose, frayed, inoperative, defective or missing portions of electrical components or systems shall be repaired or replaced.

(3) All unsafe conditions shall be corrected.

(F) *Additional requirements applicable to plumbing components or systems.*

(1) Leaking drain or supply lines shall be repaired or replaced.

(2) All unsafe conditions shall be corrected.

(3) Any cross connections or siphonage between fixtures shall be corrected.

(G) *Additional requirement applicable to mechanical systems.* Mechanical systems shall have any unsafe conditions corrected.

(H) *Means of egress.* The structure must meet those requirements of §§ 403.1 through 403.18 of GREB as modified by Minn. Rules Chapter 1311 that, by their wording or phrasing, apply to existing structures without regard to whether alteration, repair or other work is being performed on the structure.

(I) *Boiler/central heating plant equipment rooms and storage rooms.* In residential occupancies containing more than two dwelling units (including apartment buildings):

(1) Rooms containing boilers or central heating plants, and storage rooms with floor area exceeding 100 square feet in size, shall be separated from the rest of the building by not less than a one hour occupancy separation.

(a) When approved by a Building Official, existing wood lath and plaster in good condition or two-inch (12.7-mm) gypsum wallboard may be accepted where one hour occupancy separations are required.

(b) In a certified historic structure as defined in Minn. Rules part 1311.0301, where the existing wall and ceiling finish is wood lath and plaster, one hour fire resistant construction is not required and need not be provided.

(2) A separation need not be provided for the rooms with equipment serving only one dwelling unit.

(J) *Structural safety.*

(1) The minimum design loads for the structure shall be the loads applicable at the time the building was constructed, provided that no dangerous condition is created. Structural members that are found to be unsound or dangerous shall comply with the applicable requirements of the State Building Code for new construction.

(2) A building, structure or an individual structural member that has any of the conditions or defects described below, as determined by a licensed design professional, shall be replaced or strengthened when:

(a) The stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one half the working stress or stresses allowed in the State Building Code for new buildings of similar structure, purpose or location;

(b) Any portion of the building, structure or member has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that its structural strength or stability is materially less than it was before the catastrophe and is less than the minimum requirements of the State Building Code for new buildings of similar structure, purpose or location;

(c) Any portion of the building, structure or member has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;

(d) The building or structure, or any portion of it, is likely to partially or completely collapse because of: dilapidation, deterioration or decay; faulty construction; the removal, movement or instability of any portion of the ground necessary for the purpose of supporting the building; the deterioration, decay or inadequacy of its foundation; or any other cause;

(e) The exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base;

(f) The building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its non-supporting members, enclosing or outside walls, or coverings; or

(g) Any building or structure, which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50%, or in any supporting part, member or portion less than 66% of the strength; fire-resisting qualities or characteristics; or weather resisting qualities or characteristics required by law in the case of newly constructed building or like area, height and occupancy in the same location.

(K) *Weather protection.*

(1) Every building shall be weather protected to provide shelter for the occupants against the elements and to exclude dampness.

(2) The roof of every building or structure shall provide weather protection for the building.

(3) All devices that were provided or are required to prevent ponding or flooding or to convey the roof water shall be capable of fulfilling that purpose.

(4) All weather exposed surfaces of every existing building or structure shall provide weather protection.

(L) *Maintenance and degradation.*

(1) All systems, devices or safeguards that were required by a State Building Code under which the building was constructed shall be maintained in conformance with the requirements of that Code.

(2) Failure to correct degradation of any system, device or equipment that a State Building Code required at the time of its construction is prohibited.

(Ord. 163, passed 7-1-2013)

**§ 150.33 CONDITIONS OF RESIDENTIAL HOUSING OTHER THAN COMPONENTS AND SYSTEMS.**

(A) *Scope.* This section shall govern the conditions in residential housing other than components and systems of a structure.

(B) *Accumulation of dirt, filth, rubbish or garbage.* An owner, operator or occupant of a dwelling unit may not allow the accumulation of dirt, filth, rubbish or garbage on the premises occupied or controlled in a manner that could create a health hazard to the dwelling occupants or the general public.

(C) *Rodent harborages in occupied areas.*

(1) *Joint responsibility.* An owner, occupant or operator may not allow formation of rodent harborages in or about the premises he or she occupies or controls.



(2) *Occupant responsibility for extermination.* The occupant of a dwelling containing a single dwelling unit is responsible for the extermination of rodents, insects or vermin on the premises. Every occupant of a dwelling unit in a dwelling containing more than one dwelling unit is responsible for the extermination whenever the dwelling unit is the only one infested.

(3) *Owner responsibility for extermination.* Whenever infestation is caused by the failure of the owner to maintain a dwelling in a reasonable rodent-proof condition, extermination is also the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof is also the responsibility of the owner.

(4) *Standard.* Where divisions (C)(2) or (C)(3) above give rise to a duty to undertake extermination, it is a violation of this code if the inspection does not demonstrate that the extermination has been undertaken at least to a degree that is proportionate to the need for it.

(D) *Nuisance.* An owner, operator or occupant of any dwelling unit may not allow the formation or presence of any nuisance in or about the premises.

(E) *Yard cover.* Exposed areas surrounding (or within) a principal or accessory structure, including street boulevards which are not devoted to parking, drives, sidewalks, patios or other such uses, must be landscaped with grass, shrubs, trees or other ornamented landscape material. The landscaping shall be maintained in good condition and free of noxious weeds.

(F) *Snow, ice and stormwater management.*

(1) Property owners and occupants shall be responsible to abate the snow and ice from the public sidewalk located on the city boulevard that abuts or fronts their property within 12 hours after the snow or ice has ceased to be deposited.

(2) In no case may storm water be channeled into the sanitary sewer system. Storm water, ice or snow may not be directed onto, or channeled across walkways or streets where it is likely to be a safety hazard.

(G) *Minimum temperature standards for rental properties.* When the temperature outside the structure is below 60°F, it is the responsibility of the owner that a minimum temperature of 68°F be maintained in a dwelling unit at a point three feet above the floor and two feet from exterior walls in all habitable rooms, unless the occupant of that unit chooses to maintain a lower temperature. The installation of one or more portable space heaters shall not be used to achieve compliance with this section.

(H) *Electrical cords in rental properties.* Temporary wiring, extension cords or drop cords may not be used as permanent wiring.



(I) *Discontinuance of basic services or utilities in rental properties.* An owner, operator or occupant may not permit any service or utility needed for a furnace to provide heat to be shut off from or discontinued for any occupied dwelling or dwelling unit let or occupied, except for the temporary interruptions as may be necessary while actual repairs or alterations are in process, or during temporary emergencies.

(J) *Occupancy standards.* The maximum permissible occupancy of a rental dwelling unit is determined as follows.

(1) *Minimum space.* For the first two occupants, 220 square feet of habitable room floor space and for every additional occupant thereof, at least 100 square feet of habitable room floor space.

(2) *Maximum occupancy.* The total number of occupants may not exceed two times the number of habitable rooms, less kitchen, in the dwelling unit.  
(Ord. 163, passed 7-1-2013)



## CHAPTER 151: FLOODPLAIN MANAGEMENT

### Section

- 151.01 Purpose
- 151.02 Lands to which this chapter applies
- 151.03 Establishment of official zoning map
- 151.04 Regulatory flood protection elevation
- 151.05 Interpretation
- 151.06 Abrogation and greater restrictions
- 151.07 Warning and disclaimer of liability
- 151.08 Definitions
- 151.09 Annexations
- 151.10 Establishment of zoning districts
- 151.11 Floodway District (FW)
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- 151.13 Subdivisions
- 151.14 Public utilities, railroads, roads and bridges
- 151.15 Manufactured homes and manufactured home parks and placement of recreational vehicles
- 151.16 Administration
- 151.17 Nonconforming uses
- 151.18 Violations
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### § 151.01 PURPOSE.

(A) *Statutory authorization.* The legislature of the state has, in M.S. Chapters 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) *Findings of fact.*

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

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

(3) *National Flood Insurance Program Compliance.* This chapter is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 C.F.R. Parts 59 through 78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

(C) *Statement of purpose.* It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize those losses described in division (B)(1) above by provisions contained herein.

(Ord. 161, passed 3-5-2012)

#### **§ 151.02 LANDS TO WHICH THIS CHAPTER APPLIES.**

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

(Ord. 161, passed 3-5-2012)

#### **§ 151.03 ESTABLISHMENT OF OFFICIAL ZONING MAP.**

The official zoning map, together with all materials attached thereto, is hereby adopted by reference and declared to be a part of this chapter. The attached material shall include:

(A) The flood insurance study of the city, Yellow Medicine and Chippewa Counties and the latest flood insurance rate map and flood boundary and floodway map therein, and prepared by the Federal Emergency Management Agency;

(B) The flood insurance study, Yellow Medicine County, Minnesota Unincorporated Areas, dated May 1978, and flood insurance rate maps with Community Panel Numbers 270544 0050 B and 270544 0175 B and the flood boundary and floodway map with Community Panel Number 270544 0002 therein, all of these maps being dated November 15, 1978, and prepared by the U.S. Department of Housing and Urban Development/Federal insurance Administration; and

(C) The flood insurance study, Chippewa County (unincorporated areas) flood boundary and floodway Map Panels 270066 0160 and 270066 0170, dated June 17, 1986. The more restrictive of these sets of maps and supporting data shall take precedence for determining the extent of the floodplain, floodway and flood fringe boundaries, and the regulatory flood protection elevation for the site. The official zoning map shall be on file in the office of the City Clerk and City Manager.

(Ord. 161, passed 3-5-2012)

**§ 151.04 REGULATORY FLOOD PROTECTION ELEVATION.**

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

(Ord. 161, passed 3-5-2012)

**§ 151.05 INTERPRETATION.**

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

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

(Ord. 161, passed 3-5-2012)

**§ 151.06 ABROGATION AND GREATER RESTRICTIONS.**

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

(Ord. 161, passed 3-5-2012)

**§ 151.07 WARNING AND DISCLAIMER OF LIABILITY.**

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

(Ord. 161, passed 3-5-2012)

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

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

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

- (1) Certain conditions as detailed in the zoning ordinance exist; or
- (2) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

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

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

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

**FLOOD FRINGE.** The portion of the floodplain outside of the floodway. **FLOOD FRINGE** is synonymous with the term **FLOODWAY FRINGE** used in flood insurance studies prepared by the U.S. Department of Housing and Urban Development/Federal Insurance Administration or the Federal Emergency Management Agency.

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

**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.

**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**.

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

**OBSTRUCTION.** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or regulatory 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 the water.

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

**REACH.** A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or 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 chapter, the term **RECREATIONAL VEHICLE** shall be synonymous with the term travel trailer/travel vehicle.

**REGIONAL FLOOD.** A flood which is representative of large floods known to have occurred generally in 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 a flood insurance study.

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

**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 § 151.15(C)(1), and other similar items.



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

**SUBSTANTIAL IMPROVEMENT.** Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either:

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

(2) Any alteration of an "historic structure", provided that the alteration will not preclude the structure's continued designation as an "historic structure". For the purpose of this chapter, "historic structure" shall be as defined in 44 C.F.R. Part 59.1.

**VARIANCE.** A modification of a specific permitted development standard required in an official control including this chapter to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.  
(Ord. 161, passed 3-5-2012)

#### § 151.09 ANNEXATIONS.

The flood insurance rate map and flood boundary and floodway map panels adopted by reference into § 151.03 may include floodplain areas that lie outside of the corporate boundaries of the city, at the time of adoption of this chapter. If any of these floodplain land areas are annexed into the city, after the date of adoption of this chapter, the newly annexed floodplain lands shall be subject to the provisions of this chapter immediately upon the date of annexation into the city.  
(Ord. 161, passed 3-5-2012)

#### § 151.10 ESTABLISHMENT OF ZONING DISTRICTS.

(A) *Districts.*

(1) *Floodway District.* The Floodway District shall include those areas designated as floodway on the flood boundary and floodway map and flood insurance rate map panels adopted in § 151.03.

(2) *Flood Fringe District.* The Flood Fringe District shall include those areas designated as floodway fringe on the flood boundary and floodway map panels adopted in § 151.03 and those Zone AE areas on the flood insurance rate map panels adopted in § 151.03 that are located outside of the floodway.

(B) *Compliance.* No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter. Within the Floodway and Flood Fringe Districts, all uses not listed as permitted uses or conditional uses in §§ 151.11 and 151.12, respectively, shall be prohibited. In addition, a caution is provided here that:

(1) New manufactured homes, replacement manufactured homes and certain recreational vehicles are subject to the general provisions of this chapter and specifically § 151.15;

(2) Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this chapter and specifically § 151.17; and

(3) As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this chapter and specifically as stated in § 151.16.

(Ord. 161, passed 3-5-2012)

#### § 151.11 FLOODWAY DISTRICT (FW).

(A) *Permitted uses.*

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

(2) Industrial-commercial loading areas, parking areas and airport landing strips;

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

(4) Residential lawns, gardens, parking areas and play areas.

(B) *Standards for floodway permitted uses.*

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

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

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

*(C) Conditional uses.*

(1) Structures accessory to the uses listed in division (A) above and the uses listed in divisions (C)(2) through (C)(8) below;

(2) Extraction and storage of sand, gravel and other materials;

(3) Marinas, boat rentals, docks, piers, wharves and water control structures;

(4) Railroads, streets, bridges, utility transmission lines and pipelines;

(5) Storage yards for equipment, machinery or materials;

(6) Placement of fill or construction of fences;

(7) Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of § 151.15(C); and

(8) Structural works for flood control such as levees, dikes and flood walls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event.

*(D) Standards for floodway conditional uses.*

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

(2) All floodway conditional uses shall be subject to the procedures and standards contained in § 151.16(D).

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

(4) Fill.

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

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

(c) As an alternative, and consistent with division (D)(4)(b) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the governing body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the Office of the County Recorder.

(5) Accessory structures.

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

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

1. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and

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

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

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

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

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

(6) Storage of materials and equipment:

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

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

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

(8) A levee, dike or flood wall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(Ord. 161, passed 3-5-2012)

**§ 151.12 FLOOD FRINGE DISTRICT (FF).**

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

(B) *Standards for flood fringe permitted uses.*

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

(2) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at its largest projection may be internally flood proofed in accordance with § 151.11(D)(5)(c).

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

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

(5) The provisions of division (E) below shall apply.

(C) *Conditional uses.* Any structure that is not elevated on fill or flood proofed in accordance with divisions (B)(1) and (B)(2) above, and or any use of land that does not comply with the standards in divisions (B)(3) and (B)(4) above shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in divisions (D) and (E) below, and § 151.16(D) below.

(D) *Standards for flood fringe conditional uses.*

(1) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls and the like, or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: the enclosed area is above-grade on at least one side of the structure; it is designed to internally flood and is constructed with flood resistant materials; and it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

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

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

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



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

(2) Basements, as defined by § 151.08, shall be subject to the following:

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

(b) Nonresidential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with division (D)(3) below.

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

(4) When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the governing body. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

(5) Storage of materials and equipment:

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

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

(6) The provisions of division (E) below shall also apply.

(E) *Standards for all flood fringe uses.*

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

(2) Commercial uses - accessory land uses, such as yards, railroad tracks and parking lots may be at elevations lower than the regulatory flood protection elevation; however, a permit for the facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four upon occurrence of the regional flood.

(3) Manufacturing and industrial uses - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in division (E)(2) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.

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

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

(6) Standards for recreational vehicles are contained in § 151.15(C).

(7) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.  
(Ord. 161, passed 3-5-2012)

### § 151.13 SUBDIVISIONS.

(A) *Review criteria.* No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the floodplain districts shall be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this chapter and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

(B) *Removal of special flood hazard area designation.* The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.  
(Ord. 161, passed 3-5-2012)

### § 151.14 PUBLIC UTILITIES, RAILROADS, ROADS AND BRIDGES.

(A) *Public utilities.* All public utilities and facilities such as gas, electrical, sewer and water supply systems to be located in the floodplain shall be flood proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.

(B) *Public transportation facilities.* Railroad tracks, roads and bridges to be located within the floodplain shall comply with §§ 151.11 and 151.12. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where the 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 sewage treatment and water supply systems.*

(1) Where public utilities are not provided:

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

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

(2) Any sewage treatment system designed in accordance with the state's current state-wide standards for on-site sewage treatment systems shall be determined to be in compliance with this section. (Ord. 161, passed 3-5-2012)

**§ 151.15 MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF RECREATIONAL VEHICLES.**

(A) New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by § 151.13.

(B) The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with § 151.12.

(1) If vehicular road access for pre-existing manufactured home parks is not provided in accordance with § 151.12(E)(1), then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the governing body.

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

(C) Recreational vehicles that do not meet the exemption criteria specified in division (C)(1) below shall be subject to the provisions of this chapter and as specifically spelled out in divisions (C)(3) and (C)(4) below.

(1) *Exemption.* Recreational vehicles are exempt from the provisions of this chapter if they are placed in any of the areas listed in division (C)(2) below and further they meet the following criteria:

(a) Have current licenses required for highway use;

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

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

(2) *Areas exempted for placement of recreational vehicles.*

(a) Individual lots or parcels of record.

(b) Existing commercial recreational vehicle parks or campgrounds.

(c) Existing condominium type associations.

(3) *Other.* Recreational vehicles exempted in division (C)(1) above lose this exemption when development occurs on the parcel exceeding \$500 for a structural addition to the recreational vehicle or exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in §§ 151.11 and 151.12. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

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

(a) Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe Districts, provided the recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with § 151.12(E)(1). No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100-year or regional flood; and

(b) All new or replacement recreational vehicles not meeting the criteria of division (4)(a) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of § 151.16(D). The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. The plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of divisions (C)(1)(a) and (C)(1)(b) above will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with § 151.14(C).

(Ord. 161, passed 3-5-2012)

#### § 151.16 ADMINISTRATION.

(A) *City Manager.* The City Manager or other official designated by the governing body shall administer and enforce this chapter. If the City Manager finds a violation of the provisions of this chapter, the City Manager shall notify the person responsible for the violation in accordance with the procedures stated in § 151.18.



(B) *Permit requirements.*

(1) *Permit required.* A permit issued by the City Manager in conformity with the provisions of this chapter shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure or portion thereof; prior to the use or change of use of a building, structure or land; prior to the construction of a dam, fence or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

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

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

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

(5) *Construction and use to be as provided on applications, plans, permits, variances and certificates of zoning compliance.* Permits, conditional use permits or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement and construction set forth in the approved plans and applications, and no other use, arrangement or construction. Any use, arrangement or construction at variance with that authorized shall be deemed a violation of this chapter, and punishable as provided by § 151.18.

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

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



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

(9) *Notification to FEMA when physical changes increase or decrease the 100-year flood elevation.* As soon as is practicable, but not later than six months after the date the supporting information becomes available, the City Manager shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the technical or scientific data.

(C) *Board of Adjustment.*

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

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

(3) *Variances.*

(a) The Board of Adjustment may authorize upon appeal in specific cases the relief or variance from the terms of this chapter as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate.

(b) In the granting of the variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this chapter, any other zoning regulations in the community, and in the respective enabling legislation that justified the granting of the variance.

(c) No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

(d) The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

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

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

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

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

(5) *Decisions.* The Board of Adjustment shall arrive at a decision on the appeal or variance within 30 days. In passing upon an appeal, the Board of Adjustment may, so long as the action is in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the City Manager or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board of Adjustment may prescribe appropriate conditions and safeguards such as those specified in division (D)(6) below, which are in conformity with the purposes of this chapter. Violations of the conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter punishable under § 151.18. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten days of the action.

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

(7) *Flood insurance notice and record keeping.*

(a) The City Manager shall notify the applicant for a variance that: the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and the construction below the 100-year or regional flood level increases risks to life and property.

(b) The notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report the variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

(D) *Conditional uses.* The Planning Commission shall hear and decide applications for conditional uses permissible under this chapter. Applications shall be submitted to the City Manager who shall forward the application to the Planning Commission for consideration.

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

(2) *Decisions.* The Planning Commission shall arrive at a decision on a conditional use within 30 days. In granting a conditional use permit, the Planning Commission shall prescribe appropriate conditions and safeguards, in addition to those specified in division (D)(6) below, which are in conformity with the purposes of this chapter. Violations of the conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this chapter punishable under § 151.18. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten days of the action.

(3) *Procedures to be followed by the Planning Commission in passing on conditional use permit applications within all Floodplain Districts.*

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

1. Plans in triplicate drawn to scale showing the nature, location, dimensions and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel; and

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

(b) Transmit one copy of the information described in division (D)(3)(a) above to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection and other technical matters.

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

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

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

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

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

(d) The susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the individual owner;

(e) The importance of the services provided by the proposed facility to the community;

(f) The requirements of the facility for a waterfront location;

(g) The availability of alternative locations not subject to flooding for the proposed use;

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

(i) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;

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

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

(l) Other factors which are relevant to the purposes of this chapter.

(5) *Time for acting on application.* The Planning Commission shall act on an application in the manner described above within 30 days from receiving the application, except that where additional information is required pursuant to division (D)(3) above. The Planning Commission shall render a written decision within 30 days from the receipt of the additional information.

(6) *Conditions attached to conditional use permits.*

(a) Upon consideration of the factors listed above and the purpose of this chapter, the Planning Commission shall attach the conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this chapter.

(b) The conditions may include, but are not limited to, the following:

1. Modification of waste treatment and water supply facilities;
  2. Limitations on period of use, occupancy and operation;
  3. Imposition of operational controls, sureties and deed restrictions;
  4. Requirements for construction of channel modifications, compensatory storage, dikes, levees and other protective measures; and
  5. Flood proofing measures, in accordance with the State Building Code and this chapter. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.
- (Ord. 161, passed 3-5-2012)

**§ 151.17 NONCONFORMING USES.**

A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions. Historic structures, as defined in § 151.08, shall be subject to the provisions of divisions (A) through (E) below.

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

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

(C) The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50% of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous

and proposed alterations and additions exceeds 50% of the market value of the structure, then the structure must meet the standards of §§ 151.11 or 151.12 for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

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

(E) If any nonconforming use or structure is substantially damaged, as defined in § 151.08, it shall not be reconstructed except in conformity with the provisions of this chapter. The applicable provisions for establishing new uses or new structures in §§ 151.11 and 151.12 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe District, respectively.

(F) If a substantial improvement occurs, as defined in § 151.08, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of §§ 151.11 or 151.12 for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

(Ord. 161, passed 3-5-2012)

#### **§ 151.18 VIOLATIONS.**

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

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

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

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



(3) The City Manager shall notify the suspected party of the requirements of this chapter and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the City Manager may order the construction or development immediately halted until a proper permit or approval is granted by the community. If the construction or development is already completed, then the City Manager may either: issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days; and

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

(Ord. 161, passed 3-5-2012)

#### § 151.19 AMENDMENTS.

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

(B) All amendments to this chapter, including amendments to the official zoning map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the official zoning map must meet the Federal Emergency Management Agency's (FEMA) technical conditions and criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten days' written notice of all hearings to consider an amendment to this chapter and the notice shall include a draft of the ordinance amendment or technical study under consideration.

(Ord. 161, passed 3-5-2012)

## CHAPTER 152: MOBILE HOMES AND MOBILE HOME PARKS

### Section

- 152.01 Definitions
- 152.02 Location outside mobile home parks
- 152.03 Mobile home park
- 152.04 Nonconforming mobile homes and mobile home parks
- 152.05 Building permit
- 152.06 Site requirements
- 152.07 Guidelines for the use and occupancy of "Pre-Code" manufactured (mobile) homes
- 152.08 Administration and enforcement

### § 152.01 DEFINITIONS.

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

**MOBILE HOME, TRAILER, TRAILER COACH, DOUBLE WIDE TRAILERS AND MODULARS OR HOUSE TRAILER.** Any vehicle or structure so designed and constructed to make possible occupancy thereof as sleeping quarters for one or more persons, or the conduct of any business or profession, occupation or trade, and so designed that it is or may be mounted on wheels and used as a conveyance on highways or city streets, propelled or drawn by its own or other motive power, except a device used exclusively upon stationary rails or tracks.

**MOBILE HOME PARK.** Any park, trailer park, trailer court, court, camp, site, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for any mobile home, or trailer, and upon which any mobile home is parked. **MOBILE HOME PARK** shall also include all buildings used or intended for use as part of the equipment thereof whether a charge is made for the use of the mobile home park and its facilities or not. **MOBILE HOME PARK** shall not include automobile or trailer sales lots on which unoccupied trailers are parked for purposes of inspection or sales.

**UNIT.** A section of ground in a mobile home park of not less than 3,600 square feet of unoccupied space in an area designated as the location for one mobile home, off-street parking space for one automobile, and other uses considered pertinent to the establishment and use of a mobile home as permitted by this chapter.

(2003 Code, § 11.01) (Ord. passed 5-24-1968; Ord. 73-1, passed 6-8-1973)

## § 152.02 LOCATION OUTSIDE MOBILE HOME PARKS.

### (A) *Unlawful act.*

(1) It is unlawful for any person to park any mobile home on any street, alley or highway, or other public place, or any tract of land owned by the person, occupied or unoccupied, or to replace any such existing mobile home with a new or different mobile home, whether new or used, and park or use the replacement mobile home at or on any of the above noted places or premises, except as provided in this chapter.

(2) It is also unlawful for any person owning or occupying a mobile home after the effective date of this section, where the mobile home is located outside of a duly designated and lawfully licensed mobile home court or park, to continue to park or use the mobile home outside of such a mobile home park more than five years after the effective date of this section unless either:

(a) Provided for elsewhere by this chapter; or

(b) The mobile home is brought into conformity with all structural and related standards contained elsewhere in this chapter before the expiration of five years after the effective date of this section.

(3) Notwithstanding the above, the present owner or occupant may continue to own and/or occupy such a mobile home indefinitely at its current location, provided it is otherwise maintained in a habitable condition consistent with all other applicable laws.

(4) If the ownership and/or occupancy of the mobile home is changed anytime after the effective date of this section, the mobile home shall then be subject to all of the above noted provisions.

(B) *Emergency stopping.* Emergency or temporary stopping or parking is permitted on any street or alley or highway for not longer than three hours, subject to any other and further prohibitions, regulations or limitations imposed by the traffic and parking regulations or other city code provisions for that street, alley or highway.

(C) *Temporary parking.* It is unlawful for any person to park or occupy any trailer on the premises of any occupied dwelling or any lot which is not a part of the premises of any occupied dwelling either of which is situated outside of any approved mobile home park; except, the parking of only one trailer unoccupied or occupied in any accessory private garage building, or in a rear yard in any district, is

permitted providing no permanent living quarters shall be maintained or any business practiced in the trailer while the trailer is so parked or stored. Permanent living quarters shall be defined as occupancy exceeding ten days.

(D) *Public property parking.* It is unlawful for any person to park a trailer on any public property overnight except in those public areas, specifically designated for overnight stops, en-route stops, camper stops or transient occupancy. In no case shall parking be permitted in those areas for a period exceeding ten days or nights continuously or intermittently within any 30-day period.

(E) *Special permits.* Special permits may be issued by the Council for the use of a trailer as a dwelling or an office by persons directly connected with new construction in the city, providing that the person has obtained a building permit for the construction and is proceeding with the work. Special permits shall be limited to periods of not more than 90 days.

(2003 Code, § 11.10) (Ord. 14, passed 2-9-1990) Penalty, see § 10.99

### § 152.03 MOBILE HOME PARK.

(A) *Applications.* Applications for a special permit to establish, construct and maintain a mobile home park under the provisions of this chapter shall be made to the Council.

(B) *Park Plan.* The application for a permit shall be accompanied by four copies of the park plan, showing the following either existing or proposed:

- (1) The extent and area proposed for mobile home park purposes;
- (2) Roads and driveways;
- (3) Location of sites and units for trailers;
- (4) Location and number of sanitary conveniences;
- (5) Proposed disposition of surface drainage;
- (6) Proposed street surfacing and lighting;
- (7) Location of water and sanitary sewer lines; and
- (8) Any other information requested by the Council.

(C) *Certificate of ownership.* Each application for a special permit shall be accompanied by a certificate of ownership on all the property within 250 feet of any boundary line of the proposed camp site.

(D) *Fee.* Each applicant shall be required to pay a fee of \$25 at the time that the application is filed with the City Clerk. This money shall be used by the City Clerk to defray expenses of processing the application.

(E) *Hearing.* No special permit for any mobile home park shall be issued by the Council until after a public hearing has been held on the matter by the Council. This hearing shall be advertised in the official newspaper of the city at least ten days before the hearing. At least ten days prior to the public hearing, the Council shall mail a notice of the hearing to each of the property owners shown on the certificate of ownership at their last known address so that they might appear and be heard.

(F) *Planning Commission.* The Council may refer the application to the Planning Commission for recommendation. If a recommendation is not received from the Commission within 30 days after the referral, the Council may proceed without the recommendation.

(G) *Voting on application.* After the public hearing, the Council may grant or deny the application for permit by a majority vote of its members.  
(2003 Code, § 11.11) (Ord. passed 5-24-1968)

#### § 152.04 NONCONFORMING MOBILE HOMES AND MOBILE HOME PARKS.

The lawful use of any mobile home park or mobile home existing on the effective date of this section may be continued for a period of 20 years, even if the use does not conform to the regulations of this chapter, except as provided below:

(A) *Nonconforming mobile homes.*

(1) *Alterations.* A nonconforming mobile home or ancillary structure shall not be reconstructed or altered except for normal maintenance and repairs, to an extent exceeding 25 % of its market value for assessment purposes, or \$10,000, whichever is greater, unless the mobile home or ancillary structure is changed to conform with the regulations of this chapter.

(2) *Enlargement.* A nonconforming mobile home or ancillary structure shall not be added to, enlarged in any manner or relocated within the city unless the additions, enlargements or relocations are made so as to bring the nonconforming mobile home or ancillary structure into conformity with the regulations of this chapter.

(3) *Restoration.* A nonconforming mobile home or ancillary structure which is damaged by fire or other cause to the extent of more than 50% of its market value shall not be restored, except in conformity with the regulations of this chapter.

(4) *Abandonment.* The use of a nonconforming mobile home which has been discontinued for a period of 120 days shall not be re-established and any future use shall be in conformity with the regulations of this chapter.

(B) *Nonconforming use of mobile, home or land.*

(1) *Extension.* A nonconforming use of a mobile home may be extended throughout the mobile home provided no structural alterations are made therein except as required by other codes or city code provisions or required for normal maintenance and repairs, but a nonconforming use of land shall not be expanded or enlarged.

(2) *Relocation.* A nonconforming use of a mobile home shall not be moved to any other site within the city or to any part of the parcel of land upon which the same was conducted on the effective date of this section.

(3) *Abandonment.* A nonconforming use of a mobile home or land which has been discontinued for a period of 120 days shall not be re-established and any future use shall be in conformity with the regulations of this chapter.

(4) *Nonconforming uses in the Flood Fringe District.* If any nonconforming mobile home is destroyed by any means, including floods, to an extent of 50% of its market value for assessment purposes, it shall not be reconstructed except in conformity with the provisions of this chapter; however, the Board of Adjustment may issue a special use permit for reconstruction if the mobile home is located outside of the Floodway District and upon reconstruction, is adequately flood proofed, elevated or otherwise protected in conformity with the with the provisions of this chapter. Furthermore, any addition or alteration to any nonconforming mobile home which would result in increasing its flood damage potential shall be protected in accordance with the provisions of this chapter.

(2003 Code, § 11.12) (Ord. 107, passed 12-06-2002)

## § 152.05 BUILDING PERMIT.

(A) *Application for permit.* The applicant for a building permit for the construction of a mobile home park or any part thereof shall comply with all of the provisions of the State Building Code as those provisions may apply.

(B) *Plans.* Each application shall be accompanied by four copies of detailed plans of the proposed construction and improvement of the site.

(C) *Approval of Department of Health.* Each application for a building permit to construct a mobile home park or to expand an existing mobile home park shall be accompanied by plans approved by the State Department of Health, showing that the applicant is complying with all recommendations, suggestions and laws under the jurisdiction of that Department.

(D) *Referral to Planning Commission.* The Council may refer any application to the Planning Commission for recommendations, but the building permit shall be issued by the Building Inspector after it has been approved by a majority of the Council.

(2003 Code, § 11.20)



**§ 152.06 SITE REQUIREMENTS.**

(A) *Well-drained.* Every mobile home site shall be located on a well-drained area and the premises shall be properly graded to prevent the accumulation of storm and other waters.

(B) *Gross area.* Every unit shall have a gross area of not less than 3,600 square feet.

(C) *Minimum width.* Each unit shall have a minimum width of 40 feet measured at right angles to its side lines.

(D) *Minimum distance.* There shall be a minimum distance of ten feet between the trailer and the front of street line of the unit.

(E) *Alleys.* Where an alley is provided adjacent to the back line of the unit, there shall be a minimum setback of seven feet from the back line. Where there is no alley, the setback from the back line of the unit shall be not less than ten feet.

(F) *Side lines.* There shall be not less than seven feet between the trailer and any side line of a unit.

(G) *Space between trailers.* There shall be not less than 14 feet of space between the trailers in all directions.

(H) *Patio.* A concrete slab or patio may be constructed on the ground beside each trailer parking space, this slab shall be not less than 160 square feet and two inches thick.

(I) *Shade tree.* At least one shade tree shall be placed and maintained on each unit.

(J) *Grass.* Except for the areas used for the trailer, patio, sidewalk and off-street parking space, the entire area shall be sodded or seeded and maintained with grass.

(K) *Streets.* Each unit shall abut on and have access to a street which shall be at least 40 feet wide between gutters, except that streets may be 30 feet wide if off-street parking of a minimum of one car space per unit is provided or if parking is permitted on one side of the street only. The construction of the street shall conform to the standards established by the city and specified as a five-ton street. The streets are to be built and maintained by the owners of the mobile home park. All streets and ways established by the mobile home park are hereby declared public to the extent that they shall be under the supervision and control of the police enforcement powers of the city with respect to traffic laws and other laws as may be applicable to public ways and places.

(L) *Curbs.* A curb shall be constructed on each side of the street according to specifications of the city.

(M) *Sidewalks.* A cement sidewalk not less than 30 inches wide shall be constructed adjacent to the concrete slab and on the unit side thereof. This sidewalk shall be connected to the unit patio by a cement walk not less than 24 inches in width.

(N) *Boulevards.* There shall be a boulevard, at least ten feet in width, on each side of any street established hereunder. The width may be included with the sidewalk required under division (M) above. The boulevard shall be sodded and planted.

(O) *Setback.* Every park shall provide for a minimum setback of 30 feet from all exterior property lines. The minimum setback shall be 50 feet from state or federal highways and from abutting residential areas. In the latter case, an adequate buffer zone shall be provided through landscaping and planting of vegetation.

(P) *Parking.* The parking of more than one trailer on any single unit shall not be permitted.

(Q) *Inhabitants.* No mobile home shall be inhabited by a greater number of occupants than that for which it was designed.

(R) *Utilities.* Water facilities, sewage disposal and street lighting shall be installed and maintained by the owner of the mobile home park, and shall be constructed in accordance with the laws of the state, the recommendations of the State Health Department and the city code provisions and policies of the city.

(S) *Fire hydrants.* Fire hydrants shall be placed throughout the area in such a way as to satisfy the District Fire Marshal that adequate fire protection is achieved.

(T) *Extraneous equipment.* All boats, boat trailers, hauling trailers and all other equipment not stored within the mobile homes or the utility enclosure that may have been provided, shall be stored in a separate place provided by the park owners and not upon the plots occupied by mobile homes nor upon the streets within the mobile home park.

(U) *Minimum size.* Every mobile home park shall be at least two acres in size.

(V) *Off-street parking.* Every unit shall contain at least one off-street parking space which space shall be surfaced with a dust-free, durable material and shall be no less than 160 square feet in area.

(W) *Site lighting.* Site lighting shall be provided and used to supplement street lighting and shall be effectively related to public areas, walks, steps, and ramps. Illumination shall be of conservative intensity, but sufficiently distributed to eliminate dark areas.

(2003 Code, § 11.21) (Ord. passed 5-24-1968)

**§ 152.07 GUIDELINES FOR THE USE AND OCCUPANCY OF "PRE-CODE" MANUFACTURED (MOBILE) HOMES.**

(A) *Definition.* "**PRE-CODE" MANUFACTURED (MOBILE) HOMES** are defined as homes built prior to HUD C.F.R. 3280 Standards, effective June 15, 1976, or built prior to state inspection and certification requirements in accordance with ANSI Standards A119.1, July 1, 1972.

(B) *Minimum requirements for pre-code homes.*

(1) *Egress windows and exits.*

(a) Each home shall have at least one egress window in each bedroom that meets the minimum specifications of HUD 3280.106 and .404 for manufactured homes. These standards require that the window be at least 22 inches in the horizontal or vertical least dimension and at least five square feet in area, the bottom of the window opening shall be not more than 36 inches above the floor, and that locks and latches which need to be operated to permit exiting not be located more than 54 inches above the finished floor. If the requirements of the State Building Code and/or ANSI A199.1 1982 are met, the home shall be deemed to be in compliance with this section.

(b) The home shall have two exterior exit doors located remote from each other as required in HUD 3280.105. These standards require single section manufactured homes to have the doors not less than 12 feet center to center from each other and multi-section manufactured home doors to be not less than 20 feet center to center from each other measured in a straight line direction regardless of the length of path of travel between doors. One of the required exit doors must be accessible from the doorway of each bedroom without traveling more than 35 feet. Exterior swing doors shall have a minimum 28-inch by 74-inch clear opening and sliding glass doors shall have a 28-inch by 72-inch clear opening. Each exterior door other than screen/storm doors shall have a key-operated lock that has a deadlocking latch or a key-operated dead bolt with a passage latch, and locks shall not require the use of a key or special tool for operation from the inside of the home.

(2) *Flame spread.*

(a) Walls and ceilings adjacent to or enclosing a furnace or water heater shall have an interior finish with flame spread rating not exceeding 25. Sealants and other trim materials two inches or less used to finish adjacent surfaces within these spaces are exempt from this provision provided all joints are supported by framing members or materials with a 25 or less flame spread rating. Combustible doors providing interior or exterior access to furnace and water heater spaces shall be covered with materials of limited combustion (i.e., 5/16 inch gypsum board and the like) with the surface allowed to be interrupted for louvers ventilating the space; however, the louvers shall not be of materials of greater combustibility than the door itself (i.e., plastic louvers and a wood door). Reference HUD 3280.203.

(b) Exposed interior finished surfaces, including vertical surfaces between range top and overhead cabinets and/or ceiling, shall have a flame spread rating not exceeding 50 as required by HUD 3280.203. Back splashes not exceeding six inches in height are exempted. Vertical clearance above cook tops and ranges shall not be less than 24 inches as required by HUD 3280.709.

(3) *Smoke detectors.*

(a) A smoke detector shall be installed on any wall in the hallway or space communicating with each bedroom area between the living area and the first bedroom as required by HUD 3280.208. Homes with bedroom areas separated by any one or a combination of common-use areas such as a kitchen, dining room, living room or family room (but not a bathroom or utility room) shall be required to have one detector for each bedroom area.

(b) Smoke detectors shall not have switches in the circuit to the detector between the over-current protection device protecting the branch circuit and the detector. The detector shall be attached to an electrical outlet box and connected by a permanent wiring method into a general electrical circuit. The detector shall not be placed on a branch circuit or any circuit protected by a ground fault circuit interrupter.

(4) *Solid fuel burning stoves and fireplaces.*

(a) Solid, fuel-burning factory-built fireplaces and fireplace stoves may be used in manufactured (mobile) homes provided that they are listed for use in manufactured homes and installed as per their listing/ manufacturers' instructions and the minimum requirements of HUD 3280.710.

(b) A solid fuel burning fireplace or fireplace stove shall be equipped with integral doors designed to close the fire chamber opening and shall include complete means for venting through the roof, a combustion air inlet, or hearth extension, and means to securely attach the unit to the manufactured home structure.

1. A listed factory-built chimney designed to be attached directly to the fireplace/fireplace stove and equipped with, in accordance with the listing, a termination device and spark arrester shall be required. The chimney shall extend at least three feet above the part of the roof through which it passes and at least two feet above the highest elevation of any part of the manufactured home within ten feet of the chimney.

2. An air intake assembly shall be installed in accordance with the terms of listings/manufacturers' instructions. A combustion air inlet shall conduct the air directly into the fire chamber and shall be designed to prevent material from the hearth dropping onto the area beneath the manufactured home.

3. The hearth extension shall be of noncombustible material a minimum of three-eighths inch thick, shall extend a minimum of 16 inches in front and eight inches beyond each side of the fireplace-stove opening. The hearth shall also extend over the entire surface beneath a fireplace stove and beneath an elevated or overhanging fireplace.

(5) *Support systems.* Pre-Code homes built prior to June 15, 1976, are required to be installed (set-up) in accordance with the standards of the State Building Code, Chapter 1350.

(6) *Aluminum wiring.* All electrical systems shall be tested for continuity to assure that metallic parts are properly bonded, tested for operation to demonstrate that all equipment is connected and in working order, and undergo a polarity check to determine that connections are proper. The electrical system shall be properly protected for the required amperage load. If the unit is of aluminum conductors, all receptacles and switches rated 20 amperes or less directly connected to the aluminum conductor shall be marked CO/ALR. Exterior receptacles other than heat tape receptacles shall be of the ground fault circuit interrupter (GFI) type. Conductors of dissimilar metals (copper/aluminum or copper-clad aluminum) must be connected in accordance with the National Electrical Code.

(7) *Replacement furnaces and water heaters.*

(a) If the manufactured (mobile) home has had or is to receive a replacement furnace or water heater, it shall be listed for use in a manufactured (mobile) home. Vents, roof jacks and chimneys necessary for the installation shall be listed for use with the furnace or water heater.

(b) The furnace and water heater shall be secured in place to avoid displacement. Every furnace and water heater shall be accessible for servicing and/or replacement.

(c) Furnaces and water heaters shall be installed to provide complete separation of the combustion system from the interior atmosphere of the manufactured home as required by HUD 3280.709.

(d) The floor area in the water heater area shall be free from damage from moisture and the like, to assure that the floor will support the weight of the water heater and water contained within.

(8) *Gas line testing.* The gas piping for each pre-code home shall be tested with the appliance valves removed from the piping and capped at those areas. The piping shall withstand a pressure of at least six inches mercury or 3-psi gauge for a period of not less than ten minutes without showing any drop in pressure. Pressure shall be measured with a mercury manometer or a slope gauge calibrated so as to read in increments of not greater than 1/10 pound or equivalent device. The source of normal operating pressure shall be isolated before the pressure test is made. After the appliance connections are reinstalled, the piping system and connections shall be tested with line pressure of not less than ten inches nor more than 14 inches water column air pressure. The appliance connections shall be tested for leakage with soapy water or bubble solution.

(2003 Code, § 11.22) (Ord. 52, passed 9-29-1995)

**§ 152.08 ADMINISTRATION AND ENFORCEMENT.**

This chapter shall be administered and enforced by the Building Inspector, who is hereby designated as enforcing officer. The Building Inspector may institute in the name of the city any appropriate actions or proceedings against a violator as provided by law.  
(2003 Code, § 11.30) (Ord. passed 5-24-1968)





## CHAPTER 153: SUBDIVISION REGULATIONS

### Section

- 153.01 Introduction
- 153.02 Definitions
- 153.03 Plat presentation procedures/requirements
- 153.04 Design standards
- 153.05 Required improvements
- 153.06 Administration and enforcement

### § 153.01 INTRODUCTION.

(A) *Purpose.* To regulate the subdividing of land within the city so that new additions will be integrated with the Comprehensive Plan and will contribute to an attractive, stable and wholesome community development.

(B) *Legal authority.* Minnesota Laws 1965, Chapter 670, being M.S. §§ 462.351 et seq., as it may be amended from time to time.

(C) *Geographic jurisdiction.* The area within the corporate limits of the city, and the area extending two miles beyond its corporate limits, except within a township which has adopted subdivision regulations.

(D) *Conveyance by metes and bounds.*

(1) No conveyance of land in which the land conveyed is described by metes and bounds, or by reference to an unapproved registered land survey made after the effective date of Laws 1961, Chapter 626, being M.S. § 462.358, at it may be amended from time to time, shall be made or recorded unless the parcel described in the conveyance:

- (a) Was a separate parcel of record on the effective date of this chapter;
- (b) Was the subject of a written agreement to convey entered into prior to that date;
- (c) Was a separate parcel of not less than two and one-half acres in area and 150 feet in width on the effective date of this chapter; or

(d) Is a single parcel of land not less than five acres in area and 300 feet in width.

(2) Building permits shall be withheld for structures on tracts which have been subdivided and conveyed by this method, and the city may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tracts.  
(2003 Code, § 10.01)

## § 153.02 DEFINITIONS.

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

**ALLEY.** A public right-of-way usually 20 feet or less in width which normally affords a secondary means of vehicular access to abutting property.

**ARTERIAL STREET.** A street which provides for the movement of relatively heavy traffic to, from, or within the city. It has a secondary function of providing access to land. An **ARTERIAL STREET** system is designated on the City Comprehensive Plan.

**COMPREHENSIVE PLAN.** That policy document which serves as a guide for the future physical development of the city and entitled "Comprehensive Plan, Granite Falls, Minnesota".

**CUL-DE-SAC.** A short street having but one end open to traffic and the other end being permanently terminated to a vehicular turn around.

**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.

**LOCAL STREET.** A street of little or no continuity designed to provide access to abutting property and leading into arterial streets.

**LOT.** A piece, parcel or plot of land intended for building development or as a unit for transfer of ownership.

**PLAT.** A map, drawing or chart on which the subdivider's plan of subdivision is presented to the Planning Commission and the Council for approval.

### **SUBDIVISION.**

(1) Includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land subdivided.

(2) The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land; provided that:

(a) A division of land for agricultural purposes into lots or parcels of five acres or more and not involving a new street shall not be deemed a subdivision;

(b) The parcel is co-extensive with a separate parcel of record on the effective date of this chapter;

(c) An agreement to convey such a parcel has been entered into prior to such time and the instrument showing the agreement to convey is recorded in the office of the County Recorder within one year thereafter; and

(d) The parcel is co-extensive with a lot unit or units described with reference to a plat or auditor's subdivision duly filed and of record in the office of the Yellow Medicine or Chippewa County Recorder prior to the effective date of this chapter.

(2003 Code, § 10.02) (Ord. passed 2-16-1953)

### § 153.03 PLAT PRESENTATION PROCEDURES/REQUIREMENTS.

No real property within the jurisdiction of this chapter shall be subdivided and offered for sale or a plat recorded until a preliminary plat and a final plat have been reviewed and approved by the Planning Commission as having fulfilled the requirement of this chapter, and until a final plat has been approved by the Council.

#### (A) *Procedures for presenting plats.*

(1) A preliminary plat of the area to be subdivided shall be prepared sketch form and presented by the subdivider or his or her agent to the Planning Commission for review. The Planning Commission may utilize the services of technical personnel, such as engineer and land planner, to aid its review.

(2) Prior to approval of a preliminary plat, the Planning Commission shall hold a public hearing thereon at which time all persons interested in the plat shall be heard.

(3) Upon approval or conditioned approval, a final plat shall be prepared by a registered land surveyor or engineer and presented by the subdivider or his or her agent to the Planning Commission for review. The final plat may constitute only that portion of the preliminary plat, which is to be recorded and developed at the time.

(4) Upon approval of the final plat, the Planning Commission shall transmit the final plat to the Council for its review and action.

(5) If approved by the Council, the subdivider or his or her agent shall file the final plat with the City Clerk and shall record the final plat with the Yellow Medicine or Chippewa County Recorder within 30 days of final plat approval; otherwise, the approval shall be considered void.

(B) *Data required on plats.*

(1) The preliminary plat and final plat shall each contain the following information:

(a) Identification and description:

1. Proposed name of subdivision;
2. Location by section, town, range or by other legal description; and
3. Graphic scale (one inch equals 100 feet), north-point and date of preparation.

(b) Subdivision design features:

1. Layout and width of proposed streets and utility easements showing street names, lots, parks and other public areas; and
2. Proposed use of all parcels, and if zoning change is contemplated, proposed re-zoning.

(c) Plan of the entire area. Where a tract of land is proposed for subdivision that is a part of a larger logical subdivision unit, the Planning Commission may cause to be prepared a "Plan of the Entire Area", the plan to be used by the Commission to aid in judging the proposed plat; and

(d) Location of all floodway and flood fringe areas. No land shall be subdivided which is held unsuitable by the Council for reason of flooding, inadequate drainage or inadequate water supply or sewage treatment facilities. All lots contained in the Floodplain District shall contain a building site and provide for access and water supply and sewage disposal facilities that comply with the provisions of this chapter.

(2) The preliminary plat shall also contain the following:

(a) Preliminary plans for water supply, sewage disposal and drainage; and

(b) Existing conditions in tract and in surrounding area to a distance of 300 feet:

1. Boundary line of proposed subdivision, clearly indicated;
2. Total approximate acreage;

3. Platted streets, railroad right-of-way and utility easements;
4. Boundary lines and ownership of adjoining unsubdivided land;
5. Sewers, water mains, culverts or other underground facilities;
6. Permanent buildings or structures;
7. Topography, showing watercourses, marsh areas and contours at vertical intervals of no more than two feet. All elevation data shall be maintained at sea level; and
8. Other information such as soil tests, if requested by the Planning Commission to aid in its review.

(3) The final plat shall also contain the following:

- (a) Final plans for water supply, sewage disposal and drainage;
  - (b) Data required under regulations by the applicable County Surveyor, i.e., accurate angular and linear dimensions for all lines, angles and curvatures used to describe boundaries, streets, easements and other important features;
  - (c) An identification system for all lots and blocks;
  - (d) The size (in square feet) and dimensions of all lots;
  - (e) Certification by surveyor or engineer certifying to accuracy of survey and plat;
  - (f) Notarized certification by owner, and by any mortgage holder of record, of the adoption of the plat and the dedication of streets and other public areas;
  - (g) If the plat contains areas within the floodplain, restrictive deed covenants shall be filed to provide that the floodplain area be left essentially in the state shown on the plat and that no improvements shall be made in the floodplain areas in violation of the floodplain provisions of the city code; and
  - (h) Certification by the Planning Commission and by the Council of their approval of the plats.
- (2003 Code, § 10.10) (Ord. passed 2-16-1953; Ord. 77-4, passed 4-8-1977)



**§ 153.04 DESIGN STANDARDS.**

Generally, design standards shall assure that layout of the subdivision harmonizes with the existing plans affecting the development and its surroundings, and shall be in conformity with the city's development objectives for the entire area. No plat shall be approved for any subdivision which covers an area within the floodplain unless the subdivider agrees to meet all floodplain zoning provisions and other floodplain regulations; makes improvements which will assure that each lot contains a flood free side for location of structure; designs roads so that the finished surface is not more than two feet below the regulatory flood protection elevation; and locates or designs public utilities, such as sewer, gas, electrical and water systems, to provide protection to the regulatory flood protection elevation.

(A) *Circulation.*

(1) *General street design.*

(a) The design of all streets shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographic conditions, to runoff of storm water and to the proposed uses of the area to be served.

(b) Where new streets extend existing adjoining streets, their projections shall be at the same or greater width, but in no case less than the minimum required width.

(c) Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the proper projection of streets. When a new subdivision adjoins unsubdivided land susceptible to being subdivided, then the new streets shall be carried to the boundaries of the unsubdivided land.

(2) *Street width.* Arterial streets shall have rights-of-way and improved roadway widths of at least 80 and 40 feet, respectively. Similar widths for local streets shall be at least 66 and 36 feet, respectively.

(3) *Maximum vertical grades.* Maximum vertical grades shall be 4% for arterial streets and 6% for local streets.

(4) *Cul-de-sacs.* Maximum length of permanent cul-de-sac (turn around) streets shall be 500 feet measured along the center line from the intersection of origin to end of right of way. Each cul-de-sac shall be provided at the closed end with a turn around having a minimum outside roadway diameter of 100 feet, and a minimum street property line diameter of 120 feet.

(5) *Street jogs.* Street jogs with center line off-sets of less than 125 feet shall be avoided.

(6) *Street intersections.* Insofar as practical, streets shall intersect at right angles and no intersection shall be at an angle of less than 60 degrees. No intersection shall contain more than four "corners".

(7) *Access to arterial streets or highways.* Where a proposed plat is adjacent to an arterial street or highway as designated by the Comprehensive Plan, spacing between access points to the thoroughfares of less than 660 feet for arterials and 1,320 feet for highways shall be avoided, except where impractical or impossible due to existing property divisions or topography.

(8) *Alleys.* Alleys shall be prohibited in residential areas unless special permission is granted by the Council.

(9) *Hardship to owners of adjoining property.* The street arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

(B) *Easements.*

(1) *Utilities.* Easements of at least 12 feet wide centered on rear lot lines shall be provided for utilities where necessary. Easements for storm or sanitary sewers shall be at least 20 feet wide. They shall have continuity of alignment from block to block. Temporary construction easements may be required where installation depths are greater than ten feet. Utility easements shall be kept free of any vegetation which would interfere with the free movement of utility service vehicles.

(2) *Watercourses.* When a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of the watercourses, and with such further width or construction as may be determined to be necessary by the City Engineer.

(C) *Blocks.*

(1) *Length.* Block lengths shall not exceed 1,000 feet and shall not be less than 400 feet.

(2) *Pedestrian walkways.* In blocks longer than 600 feet, a pedestrian crossway with a minimum right-of-way of 20 feet shall be required near the center of the block. Additional accessways to schools, parks and other destinations shall be provided if requested by the Planning Commission at the time of preliminary plat review.

(D) *Lots.*

(1) *Layout.* Where possible, side lot lines shall be at right angles to straight street lines or radial to curved street lines. Lots with frontage on two parallel local streets shall be prohibited.

(2) *Size and dimension.* Minimum lot areas and lateral dimensions shall be as set forth in the Zoning Code.

(3) *Corner lots.* Corner lots shall be platted at least 10% wider than the minimum lot width required.

(4) *Natural features.* In the subdivision of land, due regard shall be shown for all natural features which if preserved will add attractiveness and stability to the proposed development and which may alter normal lot platting.

(5) *Lot remnants.* Lot remnants which are below the minimum lot size must be added to adjacent or surrounding lots rather than be allowed to remain as an unusable outlot or parcel unless the owner can show plans for the future use of the remnant.  
(2003 Code, § 10.20)

### § 153.05 REQUIRED IMPROVEMENTS.

Improvements shall be made in all subdivisions according to the following requirements.

(A) *Monuments.* Steel monuments shall be placed at all block corners, angle points, points of curves in streets and at intermediate points as shown on the final plat. The installation shall be the subdivider's expense and responsibility. All U.S., state, county or other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position.

(B) *Warning signs.* In areas within the floodplain, warning signs shall be placed by means of firmly placed markers of a sufficient size to be easily read from a distance of 20 feet, which signs shall meet the requirements of the floodplain provisions of the city code. The warning signs shall be installed prior to the sale of lots and construction of any buildings or structures.

(C) *Streets.*

(1) *Grading.* Streets shall be graded to the full width of the right-of-way. All street grading will be in accordance with specifications on file in the City Clerk's office. Grading will be complete prior to installation of applicable underground utilities, either private or public in nature.

(2) *Surfacing.* Following City Engineer approval of street grading and after utility installation, streets shall be surfaced and provided with concrete curbs and gutters in accordance with the latest recommended plans and specifications prepared by the City Engineer, approved by the Council and on file in the City Clerk's office.

(D) *Utilities.* All utilities, whether private or public shall be installed underground so as to enhance the visual appearance of the area. Where utilities are to be installed in street or alley rights-of-way, the installation shall take place prior to street surfacing. Water and sewer laterals shall be laid to the property line ending at the corporation cock.

(1) *Sanitary sewer.* Sanitary sewer facilities adequate to serve the subdivision shall be installed in accordance with the latest plans and specifications of the City Engineer.

(2) *Water supply.* Water distribution facilities adequate to serve the subdivision including pipe, fittings, hydrants, valves and the like, shall be installed. All water mains shall be installed in accordance with the latest plans and specifications of the City Engineer.

(E) *Drainage facilities.* Storm sewer and/or other surface drainage facilities shall be installed as determined to be necessary by the City Engineer for the proper drainage of surface waters.

(F) *Sidewalks.* Sidewalks, when provided, shall be of monolithic concrete, four inches in thickness with pitch and surface as approved by the City Engineer, with a required width for sidewalks of at least five feet.

(G) *Specifications/inspections.* Unless otherwise stated, all of the required improvements shall conform to engineering standards and specifications as required by the Council. The improvements shall be subject to inspection and approval by, and shall be made in sequence as determined by the City Engineer.

(H) *Financing.* The above improvements shall be paid for according to the terms of the city's special assessment policy, adopted by the Council by resolution, which is in effect at the time the improvements are ordered, a copy of the policy to remain on file and available for inspection during normal business hours in the office of the City Clerk.

(I) *Review and inspection.* The subdivider shall pay for all costs incurred by the city for subdivision review and inspection. This would include preparation and review of plans and specifications by technical assistants and cost incurred by the City Attorney, as well as other costs of similar nature.

(J) *When improvements required.* The improvements required by this chapter shall be made as the subdivision is developed upon petition of the developer for the improvement or upon Council initiation. (2003 Code, § 10.21) (Ord. passed 2-16-1953; Ord. 80-1, passed 3-14-1980)

#### § 153.06 ADMINISTRATION AND ENFORCEMENT.

(A) *Responsible official.* It shall be the duty of the Council to see that the provisions of this chapter are properly enforced.

(B) *Building permit.* No building permit shall be issued by any governing official for the construction of any building, structure or improvement on any land henceforth subdivided until all requirements of this chapter have been fully complied with.

(C) *Variances*. The Council shall have the power to vary from the requirements of this chapter when supporting evidence indicates that:

(1) Because of the particular physical surroundings, shape or topographic conditions of the land involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out;

(2) The conditions upon which the petition for a variance is based are unique to the tract of land for which the variance is sought and one not applicable, generally to other property with the same zoning classification;

(3) The purpose of the variance is not based exclusively upon a desire to increase the value of income potential of the parcel of land;

(4) The alleged difficulty or hardship is caused by the provisions of this chapter and has not been created by any persons presently or formerly having an interest in the parcel of land;

(5) The granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the vicinity in which the tract of land is located; and/or

(6) The proposed variance will not substantially increase congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the vicinity.

(D) *Judicial review*. Any person aggrieved by the provisions of this chapter may have the chapter, rule, regulation, decision or order, reviewed by an appropriate remedy in the District Court, subject to the provisions of M.S. § 462.361, as it may be amended from time to time.  
(2003 Code, § 10.30) (Ord. passed 2-16-1953)

## **CHAPTER 154: AIRPORT SAFETY ZONING**

### **Section**

- 154.01 Purpose and authority
- 154.02 Short title
- 154.03 Definitions
- 154.04 Air space obstruction zoning
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- 154.06 Airport maps
- 154.07 Nonconforming uses
- 154.08 Permits
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### **§ 154.01 PURPOSE AND AUTHORITY.**

The City Municipal Airport Joint Airport Zoning Board, created and established by joint action of the City Council, the Board of Commissioners of Yellow Medicine County and the Town Board of Minnesota Falls pursuant to the provisions and authority of M.S. § 360.063, as it may be amended from time to time, hereby finds and declares that:

(A) An airport hazard endangers the lives and property of users of the Granite Falls Municipal Airport, and property or occupants of land in its vicinity; and also if of the obstructive type, in effect reduces the size of the area available for the landing, takeoff and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein;

(B) The creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the Granite Falls Municipal Airport;



(C) For the protection of the public health, safety, order, convenience, prosperity and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards;

(D) The prevention of these airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation;

(E) The prevention of the creation or establishment of airport hazards, and the elimination, removal, alteration, mitigation or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds;

(F) The Granite Falls Municipal Airport is an essential public facility that serves an important public transportation role and provides a public good;

(G) The Transportation Section of Chapter 6: Vision Statements, Goals, Objectives and Strategies of the Yellow Medicine County Comprehensive Plan, April 2006 states in Objective 3 that "The County needs to work in partnership with cities, townships, the Upper Sioux Community, regional counties and cities, the Area Transportation Partnership and Minnesota Department of Transportation (MNDOT) to provide a transportation system and road network that moves people and products economically". The plan identifies a strategy of "work(ing) to ensure that the transportation system and road network encourages employment and growth and opportunities throughout the entire county" (Strategy 3). The airport zoning process is a cooperative effort in part by the City of Granite Falls and Yellow Medicine County and Minnesota Falls Township to allow for growth and opportunities within the region; as such, the goals of the county are advanced; and

(H) This chapter amends and replaces the Granite Falls Municipal Airport Zoning Ordinance dated June 1, 1996.  
(Ord. passed 1-4-2012)

#### **§ 154.02 SHORT TITLE.**

This chapter shall be known as the "Airport Safety Zoning Ordinance for the Granite Falls Municipal Airport". Those sections of land affected by this chapter are indicated in Exhibit "A", which is attached to the ordinance from which this chapter is derived.  
(Ord. passed 1-4-2012)

#### **§ 154.03 DEFINITIONS.**

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

**AIRPORT.** The Granite Falls Municipal Airport located in Section 21, Township 115, Range 39.

**AIRPORT ELEVATION.** The established elevation of the highest point on the usable landing area. The elevation is established to be 1,047 feet above mean sea level while Runway 15-33 is in commission. At a point when Runway 16-34 is constructed and Runway 15-33 is decommissioned, the airport elevation shall be 1,050 feet above mean sea level.

**AIRPORT HAZARD.** Any structure, tree or use of land which obstructs the air space required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land which is hazardous to persons or property because of its proximity to the airport.

**COMMISSIONER.** The Commissioner of the Minnesota Department of Transportation.

**CONFORMING USE.** Any structure, tree or object of natural growth, or use of land that complies with all the applicable provisions of this chapter or any amendment to this chapter.

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

**ESTABLISHED RESIDENTIAL NEIGHBORHOOD IN A BUILT UP URBAN AREA (ERN-BUUA).** An area which, if it existed on or before January 1, 1978 shall be considered a conforming use that shall not be prohibited.

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

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

**LOW DENSITY RESIDENTIAL LOT.** A single lot located in an area which is zoned for single-family or two-family residences and in which the predominant land use is such type of residences.

**LOW DENSITY RESIDENTIAL STRUCTURE.** A single-family or two-family home.

**NONCONFORMING USE.** Any pre-existing structure, tree, natural growth or land use which is inconsistent with the provisions of this chapter or an amendment hereto.

**NONPRECISION INSTRUMENT RUNWAY.** A runway having an existing or planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are planned or indicated on an approved planning document.

**OTHER THAN UTILITY RUNWAY.** A runway that is constructed for and intended to be used by jet aircraft or aircraft of more than 12,500 pounds maximum gross weight; or is 4,900 feet or more in length.

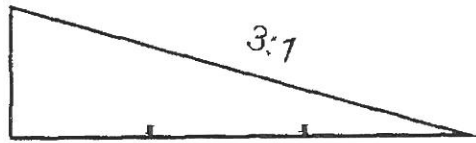
**PERSON.** An individual, firm, partnership, corporation, company, association, joint stock association or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian or other representative.

**PLANNED.** Refers only to those proposed future airport developments that are so indicated on a planning document having the approval of the Federal Aviation Administration, Minnesota Department of Transportation Office of Aeronautics and the city.

**PRECISION INSTRUMENT RUNWAY.** A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), a Microwave Landing System (MLS), or a Precision Approach Radar (PAR), a Transponder Landing System (TLS), or a satellite-based system capable of operating to the same level of precision guidance provided by the other included systems. Also, a runway for which a precision instrument approach system is planned and is so indicated on an approved planning document.

**RUNWAY.** Any existing or planned paved surface or turf covered area of the airport which is specifically designated and used or planned to be used for the landing and/or taking off of aircraft.

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



Slope = 3:1 = 3 feet horizontal to 1 foot vertical

**STRUCTURE.** An object constructed or installed by humans, including, but without limitations, buildings, towers, smokestacks, earth formations and overhead transmission lines.

**TRAVERSE WAYS.** For the purpose of determining height limits as set forth in this chapter, shall be increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; ten feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads; 23 feet for railroads; and for waterways and all other **TRAVERSE WAYS** not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.

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

**UTILITY RUNWAY.** A runway that is constructed for, and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less; and is less than 4,900 feet in length.

**VISUAL RUNWAY.** A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an approved planning document.

**WATER SURFACES.** Has the same meaning as land for the establishment of protected zones.  
(Ord. passed 1-4-2012)

#### § 154.04 AIR SPACE OBSTRUCTION ZONING.

(A) *Air space zones.* In order to carry out the purpose of this chapter, as set forth above, the following air space zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone and Transitional Zone. The locations and dimensions of these air space zones are as follows and as displayed in Exhibits B1, B2 and B3, except as provided for in § 154.17(C), at which time Exhibits C1, C2 and C3 shall illustrate the locations and dimensions of air space.

(1) *Primary zone.*

(a) All that land which lies directly under an imaginary primary surface longitudinally centered on a runway and: extending 200 feet beyond each end of Runway 15-33 until the runway is decommissioned. At that point, there shall be no primary zone for Runway 15-33; extending 200 feet beyond each end of Runway 16-34; and coinciding with each end of Runway 8-26.

(b) The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

(c) The width of the primary surface is: 1,000 feet for Runway 16-34; 500 feet for Runway 15-33 until the runway is decommissioned. At that point, there shall be no primary zone for Runway 15-33; and 250 feet for Runway 8-26.

(2) *Horizontal zone.* All that land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation or a height of 1,197 feet above mean sea level, the perimeter of the Horizontal Zone is constructed by swinging arcs of 10,000 feet from the center of each end of the primary surface of Runway 16-34 and Runway 15-33 and connecting the adjacent arcs by lines tangent to those arcs. At a point when Runway 15-33 is decommissioned, there shall be no 10,000 foot arc associated with Runway 15-33 and the height of the horizontal zone associated with Runway 16-34 shall be 1,200 feet above mean sea level.

(3) *Conical zone.* All that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet as measured outward from the periphery of the horizontal surface.

(4) *Approach zone.* All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of a runway. The inner edge of the approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The approach surface inclines upward and outward at a slope of: 34:1 for Runway 15-33 until the runway is decommissioned. At that point, there shall be no approach zone for Runway 15-33; and 20:1 for Runway 8-26. The approach surface expands uniformly to a width of: 3,500 feet for Runway 15-33 at a distance of 10,000 feet, then continues at the same rate of divergence to the periphery of the conical surface until the runway is decommissioned. At that point, there shall be no approach surface for Runway 15-33; and 1,250 feet for Runway 8-26 at a distance of 5,000 feet, then continues at the same rate of divergence to the periphery of the conical surface.

(5) *Precision instrument approach zone.* All that land which lies directly under an imaginary precision instrument approach surface longitudinally centered on the extended centerline at each end of Runway 16-34, a precision instrument runway. The inner edge of the precision instrument approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The precision instrument approach surface inclines upward and outward at a slope of 50:1 for a horizontal distance of 10,000 feet expanding uniformly to a width of 4,000 feet, then continues upward and outward for an additional horizontal distance of 40,000 feet at a slope of 40:1, expanding uniformly to an ultimate width of 16,000 feet.

(6) *Transitional zone.*

(a) All that land which lies directly under an imaginary surface extending upward and outward at right angles to the runway centerline and centerline extended at a slope of 7:1 from the sides of the primary surfaces and from the sides of the approach surfaces until they intersect the horizontal surface or the conical surface.

(b) Transitional surfaces for those portions of the precision instrument approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the precision instrument approach surface and at right angles to the extended precision instrument runway centerline.

(B) *Height restrictions.* Except as otherwise provided in this chapter, and except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained or allowed to grow in any air space zone created in division (A) above so as to project above any of the imaginary air space surfaces described in division (A) above. Where an area is covered by more than one height limitation, the more restrictive limitation shall prevail.

(C) *Boundary limitations.* The air space obstruction height zoning restrictions set forth in this section shall apply for a distance not to exceed one and one-half miles beyond the perimeter of the airport boundary and in that portion of an airport hazard area under the approach zone for a distance not exceeding two miles from the airport boundary.

(Ord. passed 1-4-2012)

§ 154.05 LAND USE SAFETY ZONING.

(A) *Safety zone boundaries.* In order to carry out the purpose of this chapter, as set forth above, to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Granite Falls Municipal Airport, and, furthermore, to limit population and building density in the runway approach areas, thereby creating sufficient open space to protect life and property in case of an accident, as illustrated in Exhibit D1, except as provided for in § 154.17(C), at which time Exhibit D2 shall illustrate the land use safety zones, there are hereby created and established the following land use safety zones:

(1) *Safety Zone A.* All land in that portion of the approach zones of a runway, as defined in § 154.04(A), which extends outward from the end of the primary surface a distance equal to two-thirds of the planned length of the runway, which distance shall be: 2,900 feet for Runway 15-33 until the runway is decommissioned. At that point, there shall be no Safety Zone A for Runway 15-33. 3,667 feet for Runway 16-34; and 1,667 feet for Runway 8-26;

(2) *Safety Zone B.* All land in that portion of the approach zones of a runway, as defined in § 154.04(A), which extends outward from Safety Zone A a distance equal to one-third of the planned length of the runway, which distance shall be: 1,450 feet for Runway 15-33 until the runway is decommissioned. At that point there shall be no Safety Zone B for Runway 15-33; 1,833 feet for Runway 16-34; 833 feet for Runway 8-26; and

(3) *Safety Zone C.* All land which is enclosed within the perimeter of the horizontal zone, as defined in § 154.04(A), and which is not included in Safety Zone A or Safety Zone B.

(4) *Exceptions; established residential neighborhoods.* There are no areas designated as established residential neighborhoods in built up urban areas based upon the status of development existing on January 1, 1978.

(B) *Use restrictions.*

(1) *General.* Subject at all times to the height restrictions set forth in § 154.04(B), no use shall be made of any land in any of the safety zones defined in division (A) above which creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

(2) *Zone A.* Subject at all times to the height restrictions set forth in § 154.04(B) and to the general restrictions contained in division (B)(1) above, areas designated as Zone A shall contain no buildings, temporary structures, exposed transmission lines or other similar above-ground land use structural hazards, and shall be restricted to those uses which will not create, attract or bring together an



assembly of persons thereon. Permitted uses may include, but are not limited to, the uses as agriculture (seasonal crops), horticulture, animal husbandry, raising of livestock, light outdoor recreation (non-spectator), cemeteries and automobile parking.

(3) *Zone B.* Subject at all times to the height restrictions set forth in § 154.04(B), and to the general restrictions contained in division (B)(1) above, areas designated as Zone B shall be restricted in use as follows.

(a) Each use shall be on a site whose area shall not be less than three acres.

(b) Each use shall not create, attract or bring together a site population that would exceed 15 times that of the site acreage.

(c) Each site shall have no more than one building plot upon which any number of structures may be erected.

(d) A building plot shall be a single, uniform, and non-contrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total site area:

<i>Site Area</i>		<i>Ratio of Building Site Area to Building Plot Area</i>	<i>Max. Site Plot Area (sq. ft.)</i>	<i>Population (15 persons/acre)</i>
<i>At least (acres)</i>	<i>But Less Than (acres)</i>			
3	4	12:1	10,900	45
4	6	10:1	17,400	60
6	10	8:1	32,600	90
10	20	6:1	72,500	150
20	and up	4:1	218,000	300

(e) The following uses are specifically prohibited in Zone B: Churches, hospitals, schools, theaters, stadiums, hotels, motels, trailer courts, campgrounds and other places of frequent public or semi-public assembly.

(4) *Zone C.* Zone C is subject only to height restrictions set forth in § 154.04(B), and to the general restrictions contained in division (B)(1) above.

(5) *Exemptions - established residential neighborhoods.* There are no areas designated as Established Residential Neighborhoods in built up urban areas based upon the status of development existing on January 1, 1978.

(C) *Boundary limitations.* The land use zoning restrictions set forth in this section shall apply for a distance not to exceed one mile beyond the perimeter of the airport boundary and in that portion of an airport hazard area under the approach zone for a distance not exceeding two miles from the airport boundary.

(D) *Boundary assurances.* A certified survey prepared by a licensed land surveyor shall be required to be submitted with a building permit application for properties that are entirely or partially contained within Land Use Safety Zones A and B, unless the Zoning Administrator determines the proposed building site is clearly outside the Safety Zones. For any location within the air space jurisdiction of this chapter, the Zoning Administrator may require a survey that City Municipal Airport Zoning Ordinance shows the elevation of a proposed structure will conform to the air space requirements of this chapter. (Ord. passed 1-4-2012)

#### **§ 154.06 AIRPORT MAPS.**

The several zones herein established are shown in Exhibits B1 Airspace (Runways 15-33, 16-34 and 8-26), 320 B2 Airspace (Runways 15-33, 16-34 & 8-26) South Approach, B3 - Airspace (Runways 15-33, 16-34 and 321 8-26) North Approach, CI Airspace (Runways 16-34 & 8-26), C2 Airspace (Runways 16-34 and 8-26) - 322 South Approach, C3 (Runways 16-34 & 8-26) North Approach, D1 Land Use Safety Zones (Runways 15-323 33, 16-34 & 8-26), and D2 Land Use Safety Zones (Runways 16-34 and 8-26) consisting of eight sheets, and have been prepared by Bolton and Menk, Inc., and dated 4/26/11, attached hereto and made a part hereof, which together with the amendments thereto as may from time to time be made, and all notations, references, elevations, data, zone boundaries and other information thereon, shall be and the same is hereby adopted as part of this chapter. Refer to the local land use authority for underlying land use and zoning designations, as well as § 154.15 for guidance on conflicts between regulations.

(Ord. passed 1-4-2012)

#### **§ 154.07 NONCONFORMING USES.**

(A) Regulations are not retroactive. The regulations prescribed by this chapter shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this chapter, or otherwise interfere with the continuance of any nonconforming use.

(B) Nothing herein contained shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this chapter, and is diligently prosecuted and completed within two years thereof.

(Ord. passed 1-4-2012)

**§ 154.08 PERMITS.**

(A) *Future uses.* Except as specifically provided in divisions (A)(1) and (A)(2) below, no material change shall be made in the use of land and no structure shall be erected, altered or otherwise established in any zone hereby created unless a permit therefor shall have been applied for and granted by the Zoning Administrator, hereinafter, provided for. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to conform to the regulations herein prescribed. If the determination is in the affirmative, the permit shall be granted.

(1) However, a permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway, except when the tree or structure, because of terrain, land contour or topographic features, would extend the height or land use limit prescribed for the respective zone.

(2) Nothing contained in this foregoing exception shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limitations established by this chapter as set forth in § 154.04 and the land use limitations set forth in § 154.05.

(B) *Existing uses.* Before any existing use or structure may be replaced, substantially altered or repaired, or rebuilt within any zone established herein, a permit must be secured authorizing the replacement, change or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of this chapter or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(C) *Nonconforming uses abandoned or destroyed.*

(1) Whenever the Zoning Administrator determines that a nonconforming structure or tree has been abandoned or more than 80% torn down, deteriorated or decayed, no permit shall be granted that would allow the structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(2) Whether application is made for a permit under this division (C) or not, the Zoning Administrator may order the owner of the abandoned or partially destroyed nonconforming structure, at his or her own expense, to lower, remove, reconstruct or equip the same in the manner necessary to conform to the provisions of this chapter. In the event the owner of the nonconforming structure shall neglect or refuse to comply with the order for ten days after receipt of written notice of the order, the Zoning Administrator may, by appropriate legal action, proceed to have the abandoned or partially destroyed nonconforming structure lowered, removed, reconstructed or equipped and assess the cost and expense thereof against the land on which the structure is or was located.

(3) Unless such an assessment is paid within 90 days from the service of notice thereof on the owner of the land, the sum shall bear interest at the rate of 8% per annum from the date the cost and expense is incurred until paid, and shall be collected in the same manner as are general taxes.  
(Ord. passed 1-4-2012)

**§ 154.09 VARIANCES.**

(A) Any person desiring to erect or increase the height of any structure, permit the growth of any tree or use his or her property not in accordance with the regulations prescribed in this chapter may apply to the Board of Adjustment, hereinafter provided for, for a variance from the regulations.

(B) If the Board of Adjustment fails to grant or deny the variance within the time frame established within M.S. § 15.99, as it may be amended from time to time, the variance shall be deemed to be granted by the Board.

(C) When the variance is granted by reason of the failure of the Board to act on the variance, the person receiving the variance shall notify the Board and the Commissioner, by certified mail, that the variance has been granted.

(D) The applicant shall include a copy of the original application for the variance with this notice to the Commissioner.

(E) The variance shall be effective 60 days after this notice is received by the Commissioner subject to any action taken by the Commissioner pursuant to M.S. § 360.063(6)(a), as it may be amended from time to time.

(F) The variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship, and relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this chapter provided any variance so allowed may be subject to any reasonable conditions that the Board or Commissioner may deem necessary to effectuate the purpose of this chapter.

(G) The Zoning Administrator shall forward the request to the Minnesota Department of Transportation Office of Aeronautics for review and comment prior to consideration of the request by the Board of Adjustment.  
(Ord. passed 1-4-2012)

**§ 154.10 HAZARD MARKING AND LIGHTING.**

(A) *Nonconforming uses.* The owner of any nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of the markers and lights as shall be deemed necessary by the Zoning Administrator, to indicate to the operators of aircraft in the vicinity of the airport the presence of the airport hazards. The markers and lights shall be installed, operated and maintained at the expense of the city.

(B) *Permits and variances.* Any permit or variance deemed advisable to effectuate the purpose of this chapter and be reasonable in the circumstances, and granted by the Zoning Administrator or Board, shall require the owner of the structure or tree in question, at his or her own expense, to install, operate and maintain thereon the markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

(Ord. passed 1-4-2012)

**§ 154.11 AIRPORT ZONING ADMINISTRATOR.**

(A) It shall be the duty of the City Zoning Administrator to administer and enforce the regulations prescribed herein.

(B) Applications for permits and variances shall be made to the City Zoning Administrator upon a form furnished by them.

(C) Permit applications shall be promptly considered and granted or denied by them in accordance with the regulations prescribed herein or as provided for within M.S. § 15.99, as it may be amended from time to time.

(D) Variance applications shall be forthwith transmitted by the City Zoning Administrator to the Board of Adjustment for action as hereinafter provided for.

(Ord. passed 1-4-2012)

**§ 154.12 BOARD OF ADJUSTMENT.**

(A) *Establishment.* The City Board of Adjustment, which is also the City Planning Commission, shall serve as the Board of Adjustment for the City Municipal Airport Zoning Ordinance.

(B) *Powers.* The Board of Adjustment shall have and exercise the following powers:

(1) Hear and decide appeals from any order, requirement, decision or determination made by the administrator in the enforcement of this chapter;

(2) Hear and decide special exceptions to the terms of this chapter upon which the Board of Adjustment under the regulations may be required to pass; and

(3) Hear and decide specific variances.

(C) *Procedures.*

(1) A request for a variance or an appeal to the Zoning Administrator's ruling shall be filed with the Zoning Administrator. The Zoning Administrator shall forward the request to the Minnesota Department of Transportation Office of Aeronautics for review and comment prior to consideration of the request by the Board of Adjustment.

(2) Rules governing the Board of Adjustment shall be consistent with those established by the body serving as the Board of Adjustment and the provisions of this chapter. Meetings of the Board of Adjustment shall be held at the call of the Zoning Administrator or Chairperson and at other times as the Board of Adjustment may determine. The Chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Zoning Administrator, and County Recorder's Office and shall be a public record.

(3) The Board of Adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from the facts in reversing, affirming or modifying any order, requirement, decision or determination which comes before it under the provisions of this chapter.

(4) The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient 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 this chapter.

(Ord. passed 1-4-2012)

**§ 154.13 APPEALS.**

(A) Any person aggrieved, or any taxpayer affected by any decision of the Zoning Administrator made in his or her administration of this chapter may appeal to the Board of Adjustment. The appeals may also be made by any governing body of a municipality, county or airport zoning board, which is of the opinion that a decision of the Zoning Administrator is an improper application of this chapter as it concerns the governing body or board.



(B) All appeals hereunder must be commenced within 30 days of the Zoning Administrator's decision, by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken. In addition, any person aggrieved, or any taxpayer affected by any decisions of the Zoning Administrator made in his or her administration of this chapter who desires to appeal the decision shall submit an application for a variance, by certified mail, to the Zoning Administrator in the manner set forth in M.S. § 360.068(2), as it may be amended from time to time.

(C) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustment after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the Zoning Administrator and on due cause shown.

(D) The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person, by agent or by attorney.

(E) The Board of Adjustment may, in conformity with the provisions of this chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make the order, requirement, decision or determination, as may be appropriate under the circumstances, and to that end shall have all the powers of the Zoning Administrator.  
(Ord. passed 1-4-2012)

#### § 154.14 JUDICIAL REVIEW.

(A) Any person aggrieved, or any taxpayer affected by any decision of the Board of Adjustment, or any governing body of a municipality, county or airport zoning board, which is of the opinion that a decision of the Board of Adjustment is illegal may present to the District Court of Yellow Medicine or Chippewa County a verified petition setting forth that the decision or action is illegal, in whole or in part, and specifying the grounds of the illegality.

(B) The petition shall be presented to the court within 30 days after the decision is filed in the office of the Board of Adjustment. The petitioner must exhaust the remedies provided in this chapter before availing himself or herself of the right to petition a court as provided by this section.  
(Ord. passed 1-4-2012)

**§ 154.15 CONFLICTS.**

Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or regulation govern and prevail.

(Ord. passed 1-4-2012)

**§ 154.16 ZONING MAP ADOPTED.**

The zoning maps of this chapter are hereby adopted by reference and incorporated herein as fully as if set out at length herein.

(Ord. passed 1-4-2012)

**§ 154.17 SEVERABILITY.**

(A) In any case in which the provision of this chapter, although generally reasonable, is held by a court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the constitution of this state or the constitution of the United States, the holding shall not affect the application of this chapter as to other structures and parcels of land, and to this end the provisions of this chapter are declared to be severable.

(B) Should any section or provision of this chapter be declared by the courts to be unconstitutional or invalid, the decision shall not affect the validity of this chapter as a whole or any part thereof other than the parts so declared to be unconstitutional or invalid.

(C) At a point when Runway 16-34 is commissioned and Runway 15-33 is decommissioned, the city, as the airport sponsor, shall pass a resolution officially recognizing that Runway 15-33 has been decommissioned. The resolution shall articulate that the regulations associated with the runway shall no longer be in effect. A copy of the approved resolution shall be filed with the Commissioner through the Office of Aeronautics, State of Minnesota and the County Recorder's Office, Yellow Medicine and Chippewa Counties, Minnesota.

(Ord. passed 1-4-2012)



## CHAPTER 155: ZONING CODE

### Section

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**GENERAL PROVISIONS****§ 155.01 GENERAL PROVISIONS.**

(A) *Purpose.* The basic purpose of this chapter is to ensure public health, safety and general welfare in accordance with the adopted development goals, plans and policies as stated in the Proposed Comprehensive Plan. Toward this end, this chapter shall divide the geographic area within its jurisdiction into use districts and shall establish regulations pertaining to the location, erection, construction, reconstruction, alteration and use of structures and land within the area.

(B) *Geographic jurisdiction.* The geographic jurisdiction of this chapter shall be the entire area within the corporate limits of the city.

(C) *Interpretation.* The provisions of this chapter shall be held to be the minimum requirements for the promotion of public health, safety and general welfare.

(D) *Application.* Except as herein provided, no building or land within the city shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with applicable regulations herein specified.

(E) *Essential services exemption.* Essential services and structures such as fire hydrants, utility poles, and substations shall be exempted from the provisions of this chapter.

(F) *Zoning districts.* The city is hereby divided into the following use districts:

- (1) A Agriculture;
- (2) R-1 Low Density Residence;
- (3) R-2 Medium Density Residence;
- (4) C-1 Highway/Auto Commerce;

- (5) C-2 Downtown Commerce;
- (6) I-1 Limited Industry;
- (7) I-2 General Industry;
- (8) R-M Multiple Dwelling Residence;
- (9) FM Floodway; and
- (10) FF Flood Fringe.

(G) *Zoning map.* The location and boundaries of the above use districts are as shown on the zoning districts map, which is incorporated as a part of this chapter.

(H) *Rules for interpretation of district boundaries.* The boundaries of the zoning districts shall be determined by scaling distances on the official zoning districts map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official zoning districts map, as for example where there appears to be a conflict between map boundary and actual field conditions, the Board of Adjustment and Appeals shall make the necessary interpretation. Where interpretation is required within the Floodway or Flood Fringe Districts, the Board of Adjustment and Appeals shall make the necessary interpretation based on elevations on the applicable water surface profile. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his or her case to the Board and to submit technical evidence if he or she so desires.

(I) *Annexed territory.* Any land which may be annexed to the city shall be placed in the A Agriculture District until special action of the Council shall definitely assign the land to another district. (2003 Code, § 9.01) (Ord. passed 2-16-1953; Ord. 77-4, passed 4-8-1977)

## § 155.02 DEFINITIONS.

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

**ACCESSORY BUILDING OR USE.** A use or building subordinate to the principal use of the land or a building on the same lot and serving a purpose customarily incidental to the principal use or structure. The accessory uses or structures are permitted only when auxiliary to a principal use or structure as permitted in this chapter. An accessory use or structure may not exist as principal use or structure in their own stead. Any permitted accessory structure shall have an architectural design, roof, pitch or lack of it, roof overhang, or lack of it, and exterior material and color similar to and consistent with the principal structure, whether attached to or detached from the principal structure. The structure shall not be primarily made of metal. A detached residential garage shall not be of a pole barn type construction. No **ACCESSORY BUILDING** shall be constructed on any lot prior to the time of



construction of the principal building to which it is its accessory. With the exception of agricultural buildings, no **ACCESSORY BUILDINGS** shall exceed the height of the principal building, be nearer the front lot line than is the principal building of the lot, or failure to otherwise comply with any other setback or side yard restrictions applicable to any other structures on the premises. Detached **ACCESSORY BUILDINGS** shall not exceed 20 feet in height or the height of the principal structure, whichever is greater. When constructed in a residential area, accessory buildings shall be constructed in a manner and arranged so as to conform with and maintain the residential character of the neighborhood. For single-family homes, **ACCESSORY BUILDINGS** include garages and utility buildings, provided they shall not exceed 25% of the rear or side yard wheresoever located. Residential accessory buildings may not be used to carry on commercial activities, other than lawfully permitted home occupations, or store commercial vehicles which exceed a gross weight of 9,000 pounds. There shall be no more than two accessory buildings in addition to one garage, whether attached or detached, per residence or lot which shall be considered the area upon which the residence is located, regardless of number of lots indicated by plat or tax parcel. Notwithstanding that the language hereinabove authorizes **ACCESSORY BUILDINGS** having an area greater than 1,000 square feet, the accessory buildings authorized in addition to the garage shall not exceed the following areas: the total combined square footage of accessory buildings shall not exceed 1,400 square feet. Variances shall not be granted so as to allow **ACCESSORY BUILDINGS** to occupy more than 25% of the rear or side yard wheresoever located, nor in any event shall the total combined square footage of accessory buildings exceed 1,400 square feet so as to prevent an increase in the amount of impervious surface otherwise permitted on the property by this code resulting from the construction of structures, driveways or other duly authorized parking areas.

**AGRICULTURE.** The tilling of the soil, the raising of crops, forestry, horticulture and gardening, including the keeping or raising of domestic animals or fowl.

**BUILDING, NONCONFORMING.** A building so constructed or so located on a lot that it does not comply with the building requirements or with the minimum lot requirements of the district within which it is located.

**BUILDING, PRINCIPAL.** A non-accessory building in which the primary use of the lot on which it is located is conducted.

**COMMERCE, RETAIL SERVICE.** An enterprise that involves the offering of a service or entertainment to the general public for compensation.

**COMMERCE, RETAIL TRADE.** An enterprise that involves the offering of a product to the general public for compensation.

**DWELLING.** A building, or portion thereof, designed or used predominantly for residential occupancy, including one-family dwellings, two-family dwellings and multiple-family dwellings, but not including hotels, motels, boarding or rooming houses, tourist homes or mobile homes.

**DWELLING, ATTACHED.** One which is joined to another dwelling or building at one or more sides by a party wall or walls.

**DWELLING, DETACHED.** One which is entirely surrounded by open space on the same lot.

**DWELLING, MULTIPLE-FAMILY (APARTMENT BUILDING).** A building or portion thereof containing three or more dwelling units but not including a motel, hotel or rooming house.

**DWELLING, ONE-FAMILY.** A residential structure containing one dwelling unit only.

**DWELLING, TWO-FAMILY (DUPLEX).** A residential structure containing two dwelling units only.

**DWELLING UNIT.** One or more rooms containing complete kitchen facilities, permanently installed, which are arranged, designed, used or intended for use exclusively as living quarters for one family and for not more than an aggregate of two roomers or boarders.

**EFFICIENCY UNIT.** A dwelling unit with one primary room which doubles as a living room, dining room and bedroom.

**BILLBOARD.** An advertising sign located off the premises where the advertised product is sold or offered. It is usually, but not necessarily, owned by an advertising company.

**EQUAL DEGREE OF ENCROACHMENT.** A method of determining the location of encroachment lines so that the hydraulic capacity of floodplain lands on each side of a stream are reduced by an equal amount calculating the increases in flood stages due to floodplain encroachments.

**FAMILY.** One or more persons related by blood, marriage or adoption or a group of not more than five persons not so related, maintaining a common household in a dwelling unit.

**FLOOD.** A temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.

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

**FLOOD FRINGE.** The portion of the floodplain outside of the floodway.

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

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

**FLOODWAY.** The channel of the watercourse and those portions of the adjoining floodplains which are reasonably required to carry and discharge the regional flood.

**FLOOR AREA.** The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the centerline of party walls separating two buildings. In particular, **FLOOR AREA** shall include:

- (1) Basement space if at least one-half of the basement story is above established curb level, or where the curb level has not been established, above the average level of the finished grade;
- (2) Elevator shafts and stairwells at each floor;
- (3) Floor space used for mechanical equipment where the structural headroom exceeds seven and one-half feet, except equipment open or enclosed, located on the roof, i.e., bulk needs, water tanks and cooling towers;
- (4) Attic floor space where the structural headroom exceeds seven and one-half feet;
- (5) Interior balconies and mezzanines;
- (6) Enclosed porches, but not terraces and breezeways; and
- (7) Accessory uses, other than floor space devoted exclusively to accessory off-street parking or loading.

**GARAGE.** When used with respect to a private residence, means a garage used only for the storage of power-driven vehicles and which is erected as an accessory building as herein defined.

**HOME OCCUPATION.** An occupation carried on by the occupant of a dwelling in a residential district as a secondary use including, but not limited to, such occupations as dressmaking and alterations and artist's studio.

**INDUSTRY.** An enterprise which involves the production, processing or storage of materials, goods or products.

**LOT.** A piece, parcel or plot of land intended for building development or as a unit for transfer of ownership.

**LOT, CORNER.** A lot situated at the intersection of two streets, the interior angle of the intersection not exceeding 135 degrees.

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

**LOT AREA.** The area of a horizontal plane bounded by the front, side and rear lot lines, measured within the lot boundaries.

**LOT WIDTH.** The horizontal distance between the side lot lines of a lot measured at the building setback line.

**MATERIAL, DURABLE.** As pertaining to ground surfacing: a hard surfaced material such as concrete or asphalt, but not including gravel or crushed rock.

**MOBILE HOME.** As defined in the Chapter 152.

**OBSTRUCTION.** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or regulatory flood hazard area, which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by the water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

**PARKING SPACE, AUTOMOBILE.** A suitable surfaced and permanently maintained area off the public street right-of-way, either within or outside of a building, of sufficient size to store one standard automobile, but in no event less than 200 square feet, exclusive of passageways, driveways or other means of circulation or access.

**PARTICULATE MATTER.** Dust, smoke or any other form of air-borne pollution in the form of minute separate particles.

**PLANNED RESIDENTIAL DEVELOPMENT.** A tract of land containing not less than two acres and which contains or will contain two or more principal buildings, developed or to be developed under unified ownership or control, the development of which is unique and of a substantially different character than that of the surrounding areas.

**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**.

**REGIONAL FLOOD.** 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.

**REGULATORY FLOOD PROTECTION ELEVATION.** A point not less than one foot above the water surface profile associated with the regional flood, plus any increases in flood heights attributable to encroachments on the floodplain. It is elevation to which uses regulated by the flood provisions of this chapter are required to be elevated or flood proofed.

**SETBACK.** The minimum horizontal distance between a building and the street or lot line, (unless specifically related to the street centerline), disregarding steps.

**SIGN.** Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any government or governmental agency, or of any civic, charitable, religious, patriotic, fraternal or similar organization. The device may be either stationary or movable.

**SIGN, FLASHING.** Any illuminated sign on which the artificial light is not maintained stationary and/or constant in intensity and color at all times when the sign is in use. For the purpose of this chapter, any revolving, illuminated sign shall be considered a **FLASHING SIGN**.

**STREET, ARTERIAL.** A street which provides for the movement of relatively heavy traffic, to, from or within the city. It has a secondary function of providing access to abutting land. An **ARTERIAL STREET** system is designated on the City Comprehensive Plan.

**STREET, LOCAL.** A street of little or no continuity, designed to provide access to abutting property and ideally leading into collector streets.

**STRUCTURE.** Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, mobile homes and other similar items.

**TRAVEL TRAILER.** A vehicular portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreation and vacation uses.

**TWIN HOME.** As defined in the R-1 Low Density Residence District.

**USE.** The purpose of activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained.

**USE, ACCESSORY.** A use subordinate to the principal use or building on the same lot and customarily incidental thereto. See **ACCESSORY BUILDING OR USE** for greater detail as to definition).

**USE, INCOMPATIBLE.** A use which is incapable of direct association with certain other uses because it is contradictory, incongruent or discordant.

**USE, NONCONFORMING.** Any lawfully established use of a building or premise which on the effective date of this chapter does not comply with the use regulations of the zoning district in which the building or premises is located.

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

**USE, PRINCIPAL.** The main use of land and buildings as distinguished from a subordinate or accessory use.

**USE, SPECIAL.** A use, either public or private, which, because of the unique characteristics, cannot be properly classified as a permitted use in a particular district. After due consideration in each case, of the impact of the use upon neighboring land, and of the public need for the particular use at the particular location, the **SPECIAL USE** may or may not be granted.

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

**YARD, FRONT.** A yard extending along the full width of the front lot line between side lot lines.

**YARD, REAR.** The portion of the yard on the same lot with the buildings between the rear line of the building and the rear line of the lot for the full width of the lot.

**YARD, SIDE.** A yard extending along a side lot line between the front and rear yards.

**ZONING DISTRICT.** An area or areas for which the regulations and requirements governing use, lot and bulk or buildings and premises are uniform.

**ZONING MAP.** A map setting forth the boundaries of the zoning districts of the city which map is a part of this chapter.

(2003 Code, § 9.02) (Ord. passed 2-16-1953; Ord. 77-4, passed 4-8-1977; Ord. 80-5, passed 5-9-1980; Ord. 59, passed 4-19-1996; Ord. 118, passed 9-15-2003)

### § 155.03 DISTRICT USE REGULATIONS.

It is unlawful to use or permit the use of any buildings or premises within the city for any purpose other than as listed in the following sections.

(2003 Code, § 9.10) Penalty, see § 10.99

### § 155.04 A AGRICULTURE.

#### (A) Intent.

(1) The intent of this section in establishing an Agricultural District is to allow maximum freedom of operation for agricultural uses, and to protect the uses from untimely encroachment by potential conflicting uses.

(2) It is also the intent to protect the natural amenities of the city area from harmful exploitation.



(B) *Uses permitted.*

(1) Farmsteads and agricultural operations including residences of the farm owners, or tenants and their immediate families, subject to any specific reference herein;

(2) One family non-farm dwellings including the keeping of animals such as horses, provided the dwellings are located on soils that are suitable for the use of septic tanks;

(3) Public parks and other recreational uses of a non-commercial nature;

(4) Cemeteries;

(5) The renting of no more than one apartment or two rooms for lodging purposes in a one-family residence;

(6) Customary home occupations, provided that:

(a) Not more than 25 % of the gross floor area of the residence is used for this purpose; and

(b) Only articles made or originating on the premises shall be sold on the premises.

(7) Customary accessory uses incidental to the foregoing principal uses, such as private garages, screen houses, signs and play equipment.

(C) *Uses by special permit.*

(1) Recreation facilities of a commercial or semi-public nature such as golf courses, pistol and rifle ranges, sportsmen's clubs and camping areas;

(2) Nurseries and greenhouses;

(3) Structures for the storage of farm crop products such as grain and corn;

(4) Kennels and veterinary establishments;

(5) Roadside stands for the sale of farm products; and

(6) Other uses similar in nature to the above uses and which, in the opinion of the Council, will not be detrimental to the integrity of the Agriculture District.

(2003 Code, § 9.11)

**§ 155.05 R-1 LOW DENSITY RESIDENCE.**

(A) *Intent.* The intent of this section in establishing a Low Density Residence District is to provide for the normal outward residential expansion of the city according to current standards of development, and to protect the desired quiet living environment from encroachment from potential conflicting uses.

(B) *Uses permitted.*

(1) One- and two-family dwellings;

(2) Farmsteads and agricultural operations including residences of the farm owners or tenants and their immediate families, subject to any specific reference herein;

(3) Public parks, playgrounds, athletic fields and other recreational uses of a non-commercial nature;

(4) Churches and public and parochial schools;

(5) The renting of rooms by a resident family for lodging purposes only, and for not more than two roomers in a one-family dwelling;

(6) Customary home occupations, provided that:

(a) Not more than 25% of the gross floor area of the residence is used for this purpose;

(b) Only articles made or originating on the premises shall be sold on the premises, unless the articles are incidental to a permitted commercial service;

(c) No articles for sale shall be displayed so as to be visible from any street;

(d) No mechanical or electrical equipment shall be used if the operation of the equipment interferes with the desired quiet residential environment of the neighborhood; and

(e) Evidence of the home occupation shall not be visible from the street except by way of a sign not larger than two feet by two feet in area and there shall be no outside storage or sales of supplies, equipment or maintenance items associated with or used in conjunction with the home extended business/home occupation.

(7) Customary accessory uses incidental to the foregoing principal uses such as private garages, screen houses, signs and play equipment; and

(8) Twin homes, which shall be defined for purposes of this chapter as two-family dwellings wherein each separate dwelling unit may be owned by different parties than the owners of the other dwelling unit; provided, the use of twin homes shall comply with all other requirements of this chapter for two-family dwellings, together with the following minimum standards which shall control in the event of inconsistency with the other requirements under this chapter, to-wit:

- (a) The dwelling shall have separate utility service lines;
- (b) The owners shall execute and comply with the terms of a common maintenance agreement which shall provide for, among other things, uniformity of exterior appearance of the dwelling;
- (c) Proper separation or partition of units exist as provided by the State Building Code;
- (d) The dwellings comply with all yard regulations for single- and two-family dwellings contained elsewhere in this chapter, except that no side yard shall be required between the two-dwelling units which constitute a twin home;
- (e) The two-dwelling units constituting a twin home shall not exceed a height of two stories; and
- (f) No unit shall be eligible under this chapter as a twin home unless the division between the two dwelling units constituting the twin home occurs along the vertical plane between the two units.

(C) *Uses by special permit.*

- (1) Fire station, library, hospital, nursing home, old age home, rest home, cemetery and similar uses of a public service nature;
- (2) Nurseries and greenhouses;
- (3) Neighborhood grocery stores; and
- (4) Non-owner occupied daycare facilities, subject to any and all other state statute, rule, regulation or applicable city code, rule or regulation.  
(2003 Code, § 9.12) (Ord. passed 2-16-1953; Ord. 80-5, passed 5-9-1980; Ord. 68, passed 9-20-1996; Ord. 116, passed 7-7-2003; Ord. 148, passed 11-3-2008)

**§ 155.06 R-2 MEDIUM DENSITY RESIDENCE.**

(A) *Intent.* The intent of this section in establishing a Medium Density Residence District is to protect those residential areas within the city that were developed in most part prior to World War II, from encroachment from potential conflicting uses, and to provide for future residential and related development consistent with proper existing development and with minimum standards for the provision of health, light, air and visual appeal.

(B) *Uses permitted.* Same as permitted in the R-1 Low Density Residence District.

(C) *Uses by special permit.*

(1) Multiple-family dwellings;

(2) Mobile home courts, subject to any specific reference herein;

(3) Fire station, library, hospital, nursing home, old age home, rest home, cemetery and similar uses of a public service nature;

(4) Nurseries and greenhouses;

(5) Neighborhood grocery stores;

(6) Townhouses/condominiums;

(7) Non-owner occupied daycare facilities, subject to any and all other state statute, rule, regulation or applicable city code rule or regulation; and

(8) Fitness center, provided that the maximum occupancy of the same at any one time shall not exceed 49, nor shall the same occupy more than 25% of the gross floor area of the residence. For purposes of this division (C)(8), fitness centers shall be defined as a business that provides strength machine and cardiovascular exercise stations within a circuit training program, usually for the benefit of its membership, excluding any and all group classes, hot tubs, saunas and competitive sports facilities.

(D) *Interim use permits.*

(1) Pursuant to the provisions of M.S. § 462.3597, as the same may be amended and supplemented from time to time, interim or special use permits may be issued as determined by the Council consistent with the provisions of the statute(s) and other applicable provisions of the city code as provided herein and elsewhere.

(2) Criteria for consideration in granting or denying requests for conditional use permit and interim use permits: the City Council shall by separate resolution, as the same be amended from time to time, establish criteria to be considered in the issuance or denial of issuance of conditional use permits

and interim use permits. A copy of the resolution shall be kept on file with the City Clerk and shall be available for inspection during normal business hours of the city.

(2003 Code, § 9.13) (Ord. passed 2-16-1953; Ord. 68, passed 9-20-1996; Ord. 89, passed 2-11-2000; Ord. 141, passed 8-22-2007)

#### § 155.07 R-M MULTIPLE DWELLING RESIDENCE DISTRICT.

(A) *Intent.* The intent of this section in establishing a Multiple Dwelling Residence District is to provide for future residential and related development consistent with proper minimum standards for the provision of health, air, light and visual appeal.

(B) *Uses permitted.* In the R-M Residence District, no building structure or land shall be used and no building or structure shall hereafter be erected, structurally altered or converted, or enlarged unless otherwise provided for herein, except or one or more of the following uses:

- (1) All uses permitted in the R-1 District, provided that those uses comply with all use heights, lot areas and yard regulations of the R-M Residence District;
- (2) Multiple dwellings;
- (3) Group and/or row-houses;
- (4) Boarding and lodging houses, not including the conduct of any business other than the convenience of the guests;
- (5) One- and two-family dwellings;
- (6) Farmsteads and agricultural operations including residences of the farm owners or tenants and their immediate families, subject to § 155.35;
- (7) Institutions of a religious, educational, eleemosynary or philanthropic nature;
- (8) Fraternities, sororities, private clubs and lodges excepting those the chief activity of which is a service customarily carried on as a business;
- (9) The renting of rooms by a resident family for lodging purposes only and not more than two roomers in a one-family dwelling;
- (10) Customary accessory uses incidental to the foregoing principal uses such as private garages, screen houses, signs and play equipment; and/or
- (11) Customary home occupations as permitted in the R-1 Low Density Residence District. (Commission and/or Council may wish to prohibit this use.)

(C) *Uses by special permit.*

(1) Mobile home court, subject to Chapter 152; and

(2) Fire stations, library, hospital, nursing home, old age home, rest home, cemetery and other uses of a public nature.

(2003 Code, § 9.14) (Ord. 74-3, passed 6-7-1974)

**§ 155.08 C-1 HIGHWAY/AUTO COMMERCE.**

(A) *Intent.* The intent of this section in establishing a Highway/Auto Commerce District is to provide appropriate areas for commercial establishments which are oriented to the motoring public or which require large sites for off-street parking or display of merchandise.

(B) *Uses permitted.*

(1) Commercial establishments which are oriented to the motorist such as eating places, automobile service stations, auto repair shops, car washes, motels and in addition thereto, TV repair shops, paint stores, grocery stores, barber shops, laundromats, service-related offices such as real estate offices, on and off sale liquor establishments, elevator services, bait shops, nurseries, plumbing shops, antique shops, drug stores, photo finishing establishments, sporting goods stores and discount stores; and

(2) Accessory uses incidental to the foregoing principal uses such as off-street parking and signs.

(C) *Uses by special permit.*

(1) Commercial establishments requiring large sites for off-street parking or for outdoor display and sale, such as farm implement sales, mobile home sales and building material sales; and

(2) Churches.

(2003 Code, § 9.20) (Ord. passed 2-16-1953; Ord. 86-11, passed 12-4-1986; Ord. 128, passed 12-5-2005; Ord. 162, passed 5-21-2012)

**§ 155.09 C-2 DOWNTOWN COMMERCE.**

(A) *Intent.* The intent of this section in establishing a Downtown Commerce District is in recognition of the existing downtown commercial development and the need for its future expansion, rehabilitation and redevelopment.

(B) *Uses permitted.*

(1) Commercial establishments including, but not limited to, the following:

(a) Retail establishments such as grocery, hardware, drug, clothing and furniture stores; eating and drinking places; auto dealers; and automobile service stations;

(b) Personal services such as laundry, barber, shoe repair and photography studio;

(c) Professional services such as medical and dental clinic and attorney's offices;

(d) Repair services such as automobile, jewelry and radio and television repair shops;

(e) Entertainment and amusement services such as motion picture theater and bowling alley;

(f) Lodging services such as hotel and motel;

(g) Finance, insurance and real estate services; and

(h) Manufacturing of clothing apparel and other fabrics, manufacturing of wood furniture and fixtures, and machining of small parts for operation of general machine shop.

(2) Public and semi-public buildings such as post office, fire station and City Hall;

(3) Private clubs;

(4) Apartments provided they are located above the first floor level;

(5) Automobile parking lots; and

(6) Accessory uses incidental to the foregoing principal uses such as off-street parking and loading and unloading areas, signs, storage of merchandise and wholesaling and manufacturing when incidental to a permitted use.

(C) *Uses by special permit.* None.

(2003 Code, § 9.21) (Ord. passed 2-16-1953; Ord. 86-9, passed 11-14-1986)



**§ 155.10 I-1 LIMITED INDUSTRY.**

(A) *Intent.* The intent of this section in establishing a Limited Industry District is in recognition of existing “clean and quiet” industrial development within the community and of the desirability of reserving additional land for possible new, expanded or relocated industries of a similar nature. It is intended that land zoned for limited industry would be minimized. Additionally, this district features greater building setbacks and side yards than required in the I-2 District.

(B) *Uses permitted.*

(1) All fabricating, manufacturing, production or processing of materials, goods and products provided the activity shall be undertaken within completely enclosed buildings, and provided further that any outdoor storage of raw materials or finished products shall be effectively screened by natural or human-made means from adjacent properties and public streets and highways;

(2) Wholesaling, all commodities except live animals; and

(3) Accessory uses incidental to the foregoing principal uses.

(C) *Uses by special permit.* Storage of flammable and explosive material consistent with the provisions of Chapter 94 of this city code.

(2003 Code, § 9.30) (Ord. passed 2-16-1953; Ord. 21, passed 12-28-1990)

**§ 155.11 I-2 GENERAL INDUSTRY.**

(A) *Intent.*

(1) The intent of this section in establishing a General Industry District is in recognition of existing “heavy” industrial development within the community and of the desirability of reserving additional land for possible new, expanded or relocated industries of a similar nature.

(2) It is intended that land zoned for general industry would be located such that conflict with incompatible uses would be minimized.

(B) *Uses permitted.*

(1) All fabricating, manufacturing, processing, production, excavation or storage of materials, goods and products;

(2) Wholesaling; and

(3) Accessory uses incidental to the foregoing principal uses.

(C) *Uses by special permit.* Storage of flammable and explosive material consistent with the provisions of Chapter 94.

(2003 Code, § 9.31) (Ord. passed 2-16-1953; Ord. 21, passed 12-28-1990)

### § 155.12 MINNESOTA RIVER OVERLAY DISTRICT (SCENIC RIVER OVERLAY).

(A) *Policy.* The city hereby establishes a district to provide for the preservation and protection of the Minnesota River within the city, as required by M.S. § 103A.208, as it may be amended from time to time, and Minn. Rules 1983 Parts 6105.0010 - .0250, Parts 6120.2500 - .3900 and Parts 6105.1200 - .1290.

(B) *District application.* The district applies to the shoreland area within the designated Minnesota River Land Use District as identified in Minn. Rules 1983 Part 6105.1290. The district is shown on the zoning map. Where the district's boundaries are 300 feet from the normal high water mark, they will be measured from the top of the natural bank or retaining walls constructed along the river.

(C) *Interpretation.* The Minnesota River Overlay District applies to any underlying zoning district. Where provisions of any statute, city code provision or regulation impose greater restrictions than those required in this district, the statute, city code provision or regulation is controlling. Where definitions of any of the terms of this district are in dispute, the definitions of Minn. Rules 1983 Part 6120.2500 and Part 6105.0040 are controlling.

(D) *Uses.* All permitted uses, conditional uses and prohibited uses of the underlying district shall apply within the Minnesota River Overlay District.

(E) *District provisions.* The following provisions apply within the Minnesota River Overlay District where they are more restrictive than those of the underlying district:

#### (1) *Dimensional requirements.*

	<i>Sewered Areas</i>	
	<i>Riparian Lots</i>	<i>Non-Riparian Lots</i>
1) Lot size (in square feet)	20,000	15,000
2) Lot width at building line	75 feet	N/A
3) Building setback from ordinary high water mark*	75 feet	75 feet
4) Maximum total area of all impervious surfaces on each lot (includes all structures, surfaced roads, parking lots and other surfaced areas)	30%	30%

	<i>Sewered Areas</i>	
	<i>Riparian Lots</i>	<i>Non-Riparian Lots</i>
5) Impervious surface setback from ordinary high water mark (Applies to all surfaced roads or parking lots)	50 feet	50 feet
*Where development exists on both sides of a proposed building site, structural setbacks may be altered to take setbacks of existing structures into account, and provide uniformity.		

(2) *Substandard lots.* Lots of record on the effective date of this section which do not meet the applicable size or width requirements can be allowed as building sites provided that all the sanitary and dimensional standards are complied with, as much as is reasonably practicable, and the lot was in separate ownership on the effective date of this section. Contiguous lots under single ownership must be combined to meet lot width requirements before they can be sold or developed.

(3) *Vegetative alteration.* Between the ordinary high water mark and the applicable building setback line, cutting of trees over four inches in diameter at breast height (four and one-half feet) is restricted as follows.

(a) *Selective cutting.* Selective cutting of trees in excess of four inches in diameter at breast height is permitted provided that cutting is spaced in several cutting operations, a continuous tree cover is maintained and uninterrupted by large openings. In cases where the existing tree cover has been interrupted by large openings in the past, selective cutting must maintain a continuous tree cover in the remaining wooded areas. The above cutting provisions are not meant to prevent:

1. The removal of dead, diseased or insect-infested trees, or of rotten or damaged trees that present safety hazards; or
2. Pruning understory vegetation, shrubs, plants, bushes, grasses or from harvesting crops, or cutting suppressed trees or trees less than four inches in diameter at breast height.

(b) *Clearcutting.* Clearcutting of trees larger than four inches in diameter is prohibited.

(4) *Grading and filling.* Grading and filling in of the natural topography within the district requires a grading and filling permit from the Zoning Administrator prior to initiation of any such work, subject to the following conditions:

(a) Grading and filling in of the natural topography which is accessory to a permitted or conditional use shall be performed in a manner which minimizes earthmoving, erosion, tree clearing and the destruction of natural amenities, and shall be controlled by provisions of the city code; and

(b) Grading and filling in of the natural topography shall meet the following standards:

1. The smallest amount of bare ground is exposed for as short a time as feasible;

2. Temporary ground cover, such as sod, is planted; and
3. Methods to prevent erosion and trap sediment are employed.

(5) *Utility crossings.* All utility transmission crossings of lands under the jurisdiction of the city within the district require a conditional use permit from the city, subject to the standards and criteria of Minn. Rules 1983 Part 6105.0170.

(6) *Road crossings.* In addition to the permits as may be required by M.S. § 393.301, as it may be amended from time to time, for the crossing of public waters, a conditional use permit from the city is required for any construction or reconstruction of new public roads or existing roads within the district subject to the standards and criteria of Minn. Rules 1983 Part 6105.0200.

(7) *Subdivision provisions.*

(a) *Land suitability.* No land shall be subdivided which is determined by the city to be unsuitable by reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage treatment capabilities or any other features likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or the community.

(b) *Inconsistent plats.* All plats which are inconsistent with this section shall be reviewed by the Commissioner of Natural Resources before approval by the city may be granted. The review shall require that the proposed plats be received by the Commissioner at least ten days before a hearing is called by the city for consideration of approval of a final plat.

(8) *Planned unit developments.* Altered zoning standards for planned unit developments may be allowed in the district if preliminary plans are first approved by the Commissioner of Natural Resources.

(F) *Notification and certification requirements.*

(1) The Zoning Administrator shall send copies of all notices of hearings, or meetings, and final decisions relating to plats, variances. City code amendments and conditional use permits affecting any land within the district, to the appropriate DNR office at least ten days prior to the hearings and within ten days after the final action. Final decisions on variances, inconsistent plats and city code amendments are not effective until certified by the DNR in accordance with Minn. Rules 1983 Part 6105.0230.

(2) The following summarizes the permit and certification process within the Minnesota River Overlay District designated by this section:

<i>Item</i>	<i>Action Necessary</i>
Building permits	LP
Water supply permits	LP
Conditional use permits	PH-FD
Amendments to ordinance	PH-FD-CC
Amendments to district boundary	PH-FD-CC
Inconsistent plats	PH-FD-CC
Planned unit developments	PH-WA
Variances	PH-CC
Plats	PH-FD
LP	Permit issued by the city in accordance with this section and all other city code provisions
CC	Certification by the Commissioner of Natural Resources prior to final local approval
PH	Public hearing necessary by the city giving ten days' notice of the hearing to the Commissioner of Natural Resources
FD	City forwards any decisions to the Commissioner of Natural Resources within ten days after taking final action
WA	The Commissioner of Natural Resources shall submit, after notice of public hearing and before the city gives preliminary approval, a written review and approval of the project

(2003 Code, § 9.45) (Ord. 86-3, passed 6-6-1986)

## § 155.13 DISTRICT LOT REGULATIONS.

(A) *Unlawful act.* It is unlawful to erect or alter any building within the city, unless the following minimum lot and yard areas are provided and maintained in connection with those buildings.

<i>District</i>	<i>Area (sf)</i>	<i>Width (ft)</i>	<i>Front (b)</i>	<i>Rear</i>	<i>Side (c) Interior (total)</i>	<i>Side (c) Interior (smallest)</i>	<i>St. or Av. Side Corner (k)(l)</i>
A							
One-family dwellings	1 acre (a)	150	25	35	30	15	25
R-1							
One-family dwellings	8,400 (d) over	70 (d)	25	35 (e)	12 (f)	5 (f)	15
Two-family dwellings	Varies (g)	90	25	35 (e)	20 (f)	10 (f)	15
Multiple-family dwelling	Varies (g)	100	25	35 (e)	24	12	15
Other uses	10,000	90	25	15 (h)	30	15	20
R-2							
One-family dwelling	7,000	50	25	35 (e)	10 (f)	3 (f)	7
Two-family dwelling	Varies (i)	60	25	35 (e)	10 (f)	3 (f)	7
Multiple-family dwelling	Varies (i)	75	25	35 (e)	20	10	12
Other uses	8,500	75	25	15 (h)	24	12	15
*One-family dwellings (by variance from Commission or Council)	Varies (i)	less than 50	25	35 (e)	6(f)	3 (f)	7
C-1							
All uses (j)	15,000	100	30	20	30	15	20
C-2							
All uses	2,000	20	None	10	None	None	None
I-1							

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[illegible]



(B) *Minimum lot requirements for R-M District.*

<i>R-M District</i>	<i>Area (sf)</i>	<i>Width (ft)</i>	<i>Front (ft)</i>	<i>Rear (ft)</i>	<i>Side Interior (total)</i>	<i>Side Interior (smallest)</i>	<i>St. or Av. Side CORNER</i>	<i>Height (stories)</i>
One-family dwelling	7,500 (F-1)	70	25 (B-1)	35 (D-1)	12 (C-1)	5	25 (B-2)	2
(small lots/record)	(F-4)	60	25 (" ")	35 (" ")	-	3	25 (" ")	2
Two-family dwellings	12,000 (F-2)	90	25 (" ")	35 (" ")	12 (C-1)	5	25(" ")	2
Multiple dwellings	varies (F-3)	100	25 (" ")	35 (" ")	12 (A-2)	5	25 (" ")	varies (A1, 2)
Other uses	10,000 (SBC)	90	25 (SBC F-4)	35 (" ")	12 (" ") (SBC)	5 (SBC)	25 (SBC)	varies

(C) *General information to be used where applicable.*

(1) "Through lots" shall be prohibited in R-M Districts (a lot having frontage on two parallel or approximately parallel streets).

(2) No "reverse corner lots", as hereinafter defined, shall be allowed in the R-M Districts. A reverse corner lot is a corner lot which does not front on or on which a proposed structure does not front on the same street with the interior lots on the same side of the block, as distinguished from the same end of the block.

(3) In areas that are not sewered. A lot area of less than one acre may be permitted if the owner or developer can show by means of "soil percolation tests" that a lesser area would be sufficient for the proper functioning of septic tanks, but in no case shall a one-family dwelling be built in any district on a lot less than one-half acres in size.

(4) In the event that C-1, I-1 or I-2 Districts are located adjacent to a residential district, a 25-foot buffer-strip shall be provided between these districts and the adjacent residence district boundary lines. The buffer strip shall be landscaped in an appropriate manner, and shall contain additional human-made or natural screening if so directed by the Council.

(5) All other regulations of this chapter which are applicable shall apply to the R-M District.

(D) *Footnotes.*

<i>A. Height regulations.</i>
1. Multiple dwellings shall not exceed six stories or 75 feet in height, provided further that any building exceeding three stories in height shall set back from all yard lines required in this section a distance of one foot for every one foot that the building exceeds the height of 30 feet.
2. Three-story building shall have a side yard of 15 feet wide on each side of the building.
3. Buildings not exceeding two and one-half stories in height shall have the same side yard requirement as R-1 Low Density Residence District.
<i>B. Front yard regulations.</i>
1. Front yard regulations shall be the same as R-1 Low Density Residence District.
2. There shall be a 25-foot front yard on each street side of a corner lot. No building or structure shall project beyond the front yard line on either street.
<i>C. Side yard regulations.</i>
1. See A-3 above.
2. See A-2 above.
<i>D. Rear yard regulations.</i> Rear yard regulations shall be the same as R-1 Low Density Residence District.
<i>E. Special yard regulations.</i>
1. Any storage garage or accessory building that is not a part of the main building shall be located not closer than 60 feet to the front lot line and not closer than five feet to any side or rear lot lines, and not closer than three to any other structure on the same property.
2. All minimum required yard areas shall be perpetually maintained.
<i>F. Lot area requirements.</i> Except as hereinafter provided, every dwelling hereafter erected, enlarged, relocated, altered or reconstructed shall be located on lots containing the following areas:
1. A lot on which there is erected a single-family dwelling shall contain an area of not less than 7,500 square feet, and shall be not less than 60 feet wide.
2. A lot on which there is erected a two-family dwelling shall contain an area of not less than 6,000 square feet per family.
3. A lot on which there is erected a multiple dwelling shall contain an area of not less than 10,000 square feet for the first three-family units, plus 2,000 square feet for each additional family unit in excess of three.
4. Where a lot has less area or width than is required, and was of record on the effective date of this section, that lot may be used only for single family dwelling purposes or any of the other non-dwelling uses permitted in the district. In no event shall a single-family dwelling be erected on a lot of less than 7,000 square feet in area or less than 60 feet in width.

**§ 155.14 SEXUALLY ORIENTED BUSINESSES AND ADULT USES.**

(A) *Definitions.* Subject to the provisions of this section, the uses defined and authorized herein are specifically limited to the C-1 Highway/Auto Commerce and C-2 Downtown Commerce District. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ADULT USES.** Any of the activities and businesses described below constitute sexually oriented businesses which are subject to the regulations of the city code and more specifically to division (B) below.

**ADULT USE - BODY PAINTING STUDIO.** An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent to the body of a patron when the body is wholly or partially nude in terms of specified anatomical areas.

**ADULT USE - BOOKSTORE.** A building or portion of a building used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape or motion picture film if the building or portion of a building is not open to the public generally but only to one or more classes of the public excluding any minor by reason of age and if a substantial or significant portion of the items are distinguished and characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

**ADULT USE - CABARET.** A building or portion of a building used for providing dancing or other live entertainment, if the building or portion of a building excludes minors by virtue of age and if the dancing or other live entertainment is distinguished and characterized by an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas.

**ADULT USE - COMPANIONSHIP ESTABLISHMENT.** An establishment which excludes minors by reason of age, and which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if the service is distinguished and characterized by an emphasis on specified sexual activities or specified anatomical areas.

**ADULT USE - CONVERSATION/RAP PARLOR.** A parlor which excludes minors by reason of age, and which provides the services of engaging in or listening to conversation, talk or discussion, if the service is distinguished and characterized by an emphasis on specified sexual activities or specified anatomical areas.

**ADULT USE - HEALTH/SPORT CLUB.** A club which excludes minors by reason of age, and if the club is distinguished and characterized by an emphasis on specified sexual activities or specified anatomical areas.

***ADULT USE - HOTEL OR MOTEL.*** A hotel or motel from which minors are specifically excluded from patronage and where material is presented which is distinguished and characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

***ADULT USE - MASSAGE PARLOR, HEALTH CLUB.*** A parlor or club which restricts minors by reason of age, and which provides the services of massage, if the service is distinguished and characterized by an emphasis on specified sexual activities or specified anatomical areas.

***ADULT USE - MINI-MOTION PICTURE THEATER.*** A building or portion of a building with a capacity for less than 50 persons used for presenting material if the building or portion of a building as a prevailing practice excludes minors by virtue of age, and if the material is distinguished and characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons therein.

***ADULT USE - MODELING STUDIO.*** An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to the customers, and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by the customers.

***ADULT USE - MOTION PICTURE ARCADE.*** Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished and characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

***ADULT USE - MOTION PICTURE THEATER.*** A building or portion of a building with a capacity of 50 or more persons used for presenting material if the building or portion of a building as a prevailing practice excludes minors by virtue of age, and if the material is distinguished and characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons therein.

***ADULT USE - NOVELTY BUSINESS.*** A business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.

***ADULT USE - SAUNA.*** A sauna which excludes minors by reason of age, and which provides a steam bath or heating bathing room used for the purpose of bathing, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished and characterized by an emphasis on specified sexual activities or specified anatomical areas.

**ADULT USE - STEAM ROOM/BATHHOUSE FACILITY.** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of bathing, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the building or portion of a building restricts minors by reason of age, and if the service provided by the steam room/bathhouse facility is distinguished and characterized by an emphasis on specified sexual activities or specified anatomical areas.

**ESCORT BUREAU.** Any person who offers to furnish an escort for financial consideration.

**ESCORT.** Any person who receives financial consideration for consorting with or escorting another person in any public or private place within the city.

**CHURCH.** A building or structure, or a group of buildings or structures which, by design and construction, are primarily intended for the conducting of organized religious services and associated accessory uses.

**SCHOOL.** A public school as defined by M.S. § 120A.20, as it may be amended from time to time, or a non-public school, or a non-sectarian, non-public school as defined in M.S. § 123.932, as it may be amended from time to time.

***SPECIFIED ANATOMICAL AREAS.***

(a) Less than completely and opaquely covered human genitals, pubic region, buttock, anus or female breast(s) below a point immediately above the top of the areola; and

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

***SPECIFIED SEXUAL ACTIVITIES.***

(a) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or

(b) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence;

(c) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation;

(d) Fondling or touching of nude human genitals, pubic region, buttocks or female breast;

(e) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons;

(f) Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or

(g) Human excretion, urination, menstruation, vaginal or anal irrigation.

**YOUTH FACILITY.** A public playground, playground, public swimming pool, public library or licensed daycare facility.

(B) *Regulation of sexually oriented businesses and adult uses.*

(1) *Purpose and intent.*

(a) The regulations of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials.

(b) It is not the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market.

(c) It is the purpose of this section to regulate sexually oriented businesses and adult uses to promote the health, safety, morals and general welfare of the citizens of the city and to establish reasonable and uniform regulations to:

1. Prevent additional criminal activity within the city;
2. Prevent deterioration of neighborhoods and its consequent adverse effects on real estate values of properties within the neighborhood;
3. Locate sexually oriented businesses away from residential areas, schools, churches and parks and playgrounds;
4. Prevent concentration of sexually oriented businesses within certain areas of the city; and
5. Prevent the spread of sexually transmitted diseases.



(2) *General provisions.* Sexually-oriented businesses or adult uses as defined herein shall be subject to the following general provisions.

(a) Activities defined as obscene by M.S. § 617.241, as it may be amended from time to time, are not permitted and are prohibited.

(b) Sexually oriented businesses and adult uses, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.

(c) Sexually oriented businesses and adult uses, either principal or accessory, shall be prohibited from locating in any place which is also used to dispense, consume or sell alcoholic beverages.

(d) A sexually oriented business or adult use which does not qualify as an accessory use shall be classified as an adult use-principal.

(e) Sexually oriented businesses or adult uses classified as an adult use-principal may not locate or operate within the city without first obtaining a sexually oriented businesses adult use principal license as required by Chapter 114 of this code.

(3) *Adult uses - principal.*

(a) Sexually oriented businesses classified as adult use-principal shall be located at least 500 radial feet, as measured in a straight line from the closest point of the property line of the building upon which the adult use-principal is located to the property line of:

1. Residentially zoned property or residential uses;
2. A licensed daycare center;
3. Public or private educational facilities, including preschools, elementary, junior high or senior high schools;
4. A public library;
5. A public park;
6. Another adult use, principal;
7. An on-sale liquor, wine or beer establishment;
8. Churches;
9. Commercial recreational facilities if the majority of its customers consist of minors;

and



10. Specialty schools if the majority of its students consist of minors.

(b) Adult use-principal activities, as defined herein, shall be classified as one use. Two or more sexually oriented businesses or adult uses-principal shall not be located in the same building or upon the same property.

(c) Sexually oriented businesses shall adhere to the following signage regulations:

1. Sign messages shall be generic in nature and shall only identify the type of business or use which is being conducted;

2. Shall not contain material classified as advertising; and

3. Shall comply with the requirements of size and number for the district in which they are located.

(d) Adult use-principal activities shall be prohibited at any public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition presented to the general public where minors are permitted.

(4) *Adult uses - accessory.*

(a) Adult use-accessory shall:

1. Comprise no more than 10% of the floor area of the establishment in which it is located;

2. Comprise no more than 20% of the gross receipts of the entire business operation; and

3. Not involve or include any activity except the sale or rental of merchandise.

(b) Adult use-accessory shall be restricted from and prohibit access to minors by the physical separation of those items from areas of general public access. The business owner shall make every reasonable precaution to limit access to minors.

1. *Movie rentals.* Display areas shall be restricted from general view and shall be situated in such fashion as to prohibit access of which is in clear view and under the control of the persons responsible for the operation.

2. *Magazines.* Publications classified or qualifying as adult uses shall not be accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.

3. *Other use.* Adult uses-accessory not specifically cited shall comply with the intent of this section subject to the approval of the Council.

(5) *Nonconforming sexually oriented businesses, adult use-principal or accessory.*

(a) Sexually oriented businesses and adult uses which are classified as legal nonconforming uses may continue in accordance with the provisions of this section except that any such nonconforming use shall be terminated and become illegal on and after January 1, 1998. To the extent possible, the city shall attempt to identify all the uses which become classified as nonconforming under the provisions of this division (B)(5) and shall notify the property owners and operators of the uses in writing of the change in status and the terms and conditions which apply.

(b) The owner of any property on which an adult use is located may apply to the Council for an extension of the termination date. Any such application shall be in writing and be received by the city no later than January 1, 1998. Failure to submit a timely extension application shall constitute a waiver of the right to request an extension.

(c) The extension may be granted if the applicant demonstrates that the amortization period is an unreasonable burden upon the business and does not allow adequate time to recover a reasonable return upon the business investment.

(d) The applicant shall have the burden of proof to demonstrate hardship with the established termination date and also the time required for an extension.

(e) In making its decision, the Council may consider any factor relevant to the issue, including, but not limited to:

1. The degree or magnitude of threat to the public health, safety and general welfare posed by the secondary impacts of the operation;
2. The length of time that the adult use has been operating;
3. The ease by which the property could be converted to a conforming use;
4. The nature and character of the surrounding neighborhood;
5. The value and condition of the improvements on the property;
6. The amount of the applicant's investment in the business;
7. The amount of investment already realized; and
8. The cost of relocating the adult use.

(2003 Code, § 9.52) (Ord. 76, passed 12-12-1997)

## § 155.15 NONCONFORMING USES AND STRUCTURES.

The lawful use of any land or buildings existing on the effective date of this section, unless extended by approval of a special use permit, may be continued through repair and maintenance, even if the use does not conform to the regulations of this chapter, except as provided below.

### (A) *Nonconforming buildings.*

(1) *Alterations.* A nonconforming building or structure shall not be reconstructed or altered to an extent exceeding 25% of its market value for assessment purposes, or \$5,000, whichever is greater, unless the building or structure is changed to conform with the regulations of this chapter.

(2) *Enlargement.* A nonconforming building or structure shall not be added to or enlarged in any manner unless the additions or enlargements are made so as to bring the building or structure into conformity with the regulations of this chapter.

(3) *Restoration.* A nonconforming building or structure which is damaged by fire or other cause to the extent of more than 50% of its market value shall not be restored except in conformity with the regulations of this chapter.

### (B) *Nonconforming use of building or land.*

(1) *Extension.* A nonconforming use of a building may be extended throughout the building provided no structural alterations are made therein except as required by other codes or city code provisions, but a nonconforming use of land shall not be expanded or enlarged.

(2) *Relocation.* A nonconforming use shall not be moved to any part of the parcel of land upon which the same was conducted on the effective date of this section.

(3) *Abandonment.* A nonconforming use of a building or land which has been discontinued for a period of one year shall not be re-established and any future use shall be in conformity with the regulations of this chapter.

(4) *Nonconforming uses in the Flood Fringe District.* If any nonconforming structure is destroyed by any means, including floods, to an extent of 50% of its market value for assessment purposes, it shall not be reconstructed except in conformity with the provisions of this chapter; however, the Board of Adjustment may issue a special use permit for reconstruction if the structure is located outside of the Floodway District and, upon reconstruction, is adequately flood-proofed, elevated or otherwise protected in conformity with the provisions of this chapter. Furthermore, any addition or alteration to any nonconforming structure which would result in increasing its flood damage potential shall be protected in accordance with the provisions of this chapter.

(2003 Code, § 9.60) (Ord. passed 2-16-1953; Ord. 77-4, passed 4-8-1977; Ord. 31, passed 5-17-1991; Ord. 106, passed 12-6-2002)

**§ 155.16 TELEVISION, RADIO AND COMMUNICATION ANTENNAS.**

(A) *Purpose and intent.* In order to accommodate the communication needs of the residents, business and industry while protecting the health, safety and general welfare of the city, the following regulations are imposed in order to:

- (1) Facilitate the use of wireless communication services, television and radio antenna, for residents, business and industry of the city;
- (2) Minimize adverse effects of towers through careful design and siting standards;
- (3) Avoid potential damage to adjacent properties from tower or antenna failure through structural standards and setback requirements; and
- (4) Maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.

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

**AMATEUR RADIO ANTENNA TOWERS.** A tower designed and used in accordance with an amateur radio station license issued by the U.S. Federal Communications Commission.

**ANTENNA.** Any structure or device used for the purpose of collecting or radiating electromagnetic signals including but not limited to directional antennas such as panels, microwave dishes, satellite dishes and omni directional antennas, such as whip antennas.

**COMMERCIAL WIRELESS TELECOMMUNICATION SERVICE FACILITY.** A facility that transmits and/or receives electromagnetic signals. It includes antennas, microwave dishes, horns and other types of equipment for transmission or receipt of the signals, telecommunication towers or similar structures supporting the equipment, equipment, buildings, parking areas and other accessory development and related equipment.

**COMMERCIAL WIRELESS TELECOMMUNICATION SERVICES.** Licensed commercial wireless telecommunication services including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

**COMMUNICATION TOWER.** A structure which is designed to support an antenna and all supporting lines, cables, wires and braces.

**MONOPOLE.** A wireless communication facility which consists of a single unit without supporting members structure, erected on the ground to support wireless communication antennas and connecting appurtenances.

**PRIVATE RECEIVING AND/OR TRANSMITTING ANTENNA.** Any antenna erected for non-commercial use of the information.

**PUBLIC UTILITY.** Persons, corporations or governments supplying gas, electric, transportation, water, sewer or land line telephone services to the general public. For the purpose of this section, commercial wireless telecommunications service facilities shall not be considered **PUBLIC UTILITY** uses, and are defined separately.

**TOWER HEIGHT.** The height as determined by measuring the vertical distance from the point of contact with the ground to the highest point of the tower, including all antennae or other attachments.

(C) *Amateur radio antenna and residential television reception/antenna towers.* The construction/erection of towers supporting amateur radio antennas and residential television reception equipment/antennas shall be a permitted use in all zoning districts subject to the following requirements:

- (1) The towers require a building permit;
- (2) The towers shall be allowed only in the rear yard of residentially zoned properties. If there is sufficient space within the rear yard to erect the tower and any related guy wires, then the property owner may apply for a conditional use permit to erect a tower in another yard (front or side);
- (3) The towers shall not exceed 75 feet in height, except by conditional use permit;
- (4) The towers shall conform to the accessory structure setback for the district in which it is located;
- (5) Amateur radio antenna and residential television reception/antenna towers shall be installed in accordance with the instructions furnished by the manufacturer of the tower model. Antennas mounted on a tower may be modified and changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications; and
- (6) The towers shall be exempt from the requirements of divisions (E) through (L) below.

(D) *Tower locations.*

- (1) Antennas on a public structure or existing structures are allowed in all districts by resolution approved by the Council.

(2) Towers not exceeding 75 feet in height may be erected after the issuance of a building permit. All towers shall be of a monopole construction and subject to the regulations listed in the City Airport Zoning Ordinance (Chapter 154 of this code).

(3) Towers exceeding this height shall be allowed only by a conditional use permit in the following zoning districts:

- (a) C-1 Highway/Auto Commerce;
- (b) C-2 Downtown Commerce;
- (c) I-1 Limited Industry; and
- (d) I-2 General Industry.

(E) *Tower setbacks.* The following setbacks shall apply in the listed districts:

(1) C-1 Highway/Auto Commerce, C-2 Downtown Commerce, I-2 Limited Industry and I-2 General Industry. The setback of the tower shall be at a ratio of one foot of setback for every two feet of height tower (i.e., a 100-foot tower would require a 50-foot setback from all property lines and street right-of-way); and

(2) In the event that any portion of the property directly abuts a district zoned R-1 Lower Density Residence, R-2 Medium Density Residence, R-M Multiple Dwelling Residence or A Agricultural; the setback to these districts shall be at a ratio of one foot for every one foot of height of structure (i.e., a 100-foot tower would require a 100-foot setback from any property line which is residentially or agriculturally zoned).

(F) *Tower lighting.* Towers shall be required to meet Federal Aviation Administration (FAA) and Federal Communications Commission (FCC) requirements and shall not be artificially lighted unless required by the Federal Aviation Administration to do so. If the tower does require artificial lighting, a letter stating this need and a description of the lighting shall be provided to the Council prior to approval. The lighting, unless required by the FAA to be otherwise, must be defused.

(G) *Co-location requirements.* All commercial towers erected, constructed or located within the city shall comply with the following requirements:

(1) A proposal for a new commercial tower shall not be approved, unless the applicant has provided proof that the proposed tower cannot be accommodated on an existing or approved tower or building within a one-mile search radius of the proposed tower due to one or more of the following reasons:



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

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

(c) Existing or approved towers and buildings within the search radius cannot accommodate the planned antenna at a height necessary to function reasonably as documented by a qualified and licensed professional engineer; and/or

(d) Other unforeseen reasons that make it unfeasible to locate the planned antenna equipment upon an existing or approved tower or building.

(2) Any proposed commercial tower shall be designed structurally, electronically and in all respects, to accommodate both the applicant's 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 use if the tower is over 75 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.

(H) *Structural and landscaping requirements.* Proposed or modified towers and antennas shall meet the following design requirements.

(1) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.

(2) Commercial towers shall be of monopole design, unless the Council determines that an alternative design would better blend into the surrounding environment.

(3) Landscaping plans for the base of the tower must be submitted with the application of the conditional use permit or building permit, should a conditional use permit not be needed. These plans must be compatible with the surrounding character of the area and must be approved either by the Council or city staff prior to the issuance of the conditional use permit or building permit.

(4) Screening plans for accessory equipment or buildings shall be provided and include a 100% opaque barrier to be constructed of either brick masonry walls or solid wood fencing of a height of not less than six feet.



(I) *Abandoned or unused towers and antennas.* Abandoned or unused towers or portions of towers shall be removed as follows.

(1) All abandoned or unused towers and associated facilities shall be removed within six months of cessation of operations at the site, unless a time extension is approved by the Planning Commission. In the event that a tower is not removed within six months of cessation of operations at a site, the tower and associated facilities may be removed by the city and the costs of removal assessed against the property and/or charged against the property owner or the owner of the tower immediately prior to its abandonment or cessation of usage, at the city's sole discretion.

(2) Unused portions of towers above a manufactured connection shall be removed within six months of the time of antenna location. The replacement of portions of a tower previously removed requires the issuance of a new conditional use permit.

(J) *Public safety telecommunication interference.* Commercial wireless telecommunications services shall not interfere with public safety telecommunications. Before the introduction of new service or changes in existing services, telecommunication providers shall notify the city at least ten days in advance of any changes and allow the city to monitor interference levels during the testing process.

(K) *Signs and advertising.* The use of any portion of a power for signs, other than warning equipment information signs, is prohibited.

(L) *Additional submittal requirements.* In addition to information listed elsewhere in this section, conditional use permit applications for towers shall include the following supplemental information:

(1) A report from a qualified and licensed professional engineer which:

(a) Describes the general tower height and design including a cross section and elevation;

(b) Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas (this information can be general in scope, with specific documentation to be submitted with the building permit application);

(c) Describes the tower's capacity, including the number and type of antennas it can accommodate;

(d) Includes an engineer's stamp and registration number; and

(e) Additional information necessary to evaluate the request.

(2) For all commercial towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use;

- (3) If the tower exceeds 200 feet, a letter of approval from the Federal Aviation Administration;
  - (4) A letter from the Federal Aviation Administration if artificial lighting is deemed necessary;
- and
- (5) Recommendation for approval by the Airport Commission.

(M) *Satellite dishes.* Satellite dishes greater than one meter in diameter shall be allowed only by a conditional use permit in all districts. Design plans shall include provisions for screening and shall be submitted with the conditional use permit application.  
(2003 Code, § 9.62) (Ord. 100, passed 3-8-2002)

#### § 155.17 BED AND BREAKFAST INNS.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**BED AND BREAKFAST.** An owner-managed and owner-occupied single family residential structure used as a lodging establishment where a room or rooms are rented on a nightly basis, and in which only breakfast is included as part of the basic compensation.

(B) *Zoning requirements.* A bed and breakfast inn is permitted only in the R-1 and R-2 zoning districts of the city; provided, however that a special use permit shall be obtained prior to the establishment of the bed and breakfast inn. Bed and breakfast inns are prohibited in all other districts.

(C) *Accessory use.* A bed and breakfast inn must be accessory to the use of a property as a single-family residential home. This means that the individual or family who operates the facility must also occupy the house as their primary residence.

(D) *Maximum size.* Bed and breakfast inns are limited to a maximum of four bedrooms available for rent to guests. All guest rooms shall be contained within the principal structure.

(E) *Employees.* There shall be no more than one person employed by the bed and breakfast inn who is not a resident of the dwelling.

(F) *Other licenses and code compliance.* Prior to opening to the public of the bed and breakfast inn, the applicant must furnish evidence that all licenses required by the state either have been issued or will be issued before commencing operation and that the structure is in compliance with all applicable building and other state and local codes. Additionally, prior to the commencement of operation, the owner/operator of the facility shall file with the City Clerk a certificate of public liability insurance providing coverage in an amount as may be specified by the City Council in granting the special use permit authorizing operation of the inn.

(G) *Dining facilities.* Dining facilities, except for the purposes of special events described herein, must not be open to the public and must be used exclusively for registered guests. No cooking facilities shall be permitted in any guest room.

(H) *Length of stay.* No guest shall stay in the facility for more than 14 days within any 30-day period of time.

(I) *Commercial activities.* With the exception of recognized home occupations otherwise allowed or provided for under the city code, and with the exception of special events authorized as hereinafter noted, no other commercial enterprises shall be operated in the facility during the period of time that the same is authorized to operate and/or operates as a bed and breakfast. No liquor or alcoholic beverages are to be sold or served to any guests, either at special events or occupying a guest room, on the premises unless the operator has first obtained a prior license for the same from the city.

(J) *Lodging tax.* A lodging tax as otherwise provided pursuant to city code shall be charged to guests staying at the bed and breakfast inn.

(K) *Special events.*

(1) A bed and breakfast inn may host an unlimited number of special events with fewer than 25 non-registered guests, provided however that a guest registered at the time of the event also is a participant in the special event as host or otherwise.

(2) Special events include weddings, business meetings, retreats and other functions at which non-registered guests are present in addition to registered guests who are participating in the special event.

(3) Special events are also subject to the following requirements.

(a) The maximum number of guests allowed at special events shall be limited to the maximum occupancy of the bed and breakfast inn as determined by City Building and Fire Code Inspectors, the occupancy limits to be determined prior to the holding of any such special event with the information provided to the city and the owner of the bed and breakfast by inspectors duly designated and authorized to act by the city.

(b) The events must comply with any noise restrictions or disorderly conduct provisions of the city.

(c) The owner/operator or designated employee must be present during special events and provide adequate supervision of the event.

(d) Food and/or alcoholic beverages may be furnished by and to special event guests, provided all necessary local, state and/or federal permits, license or authorizations have been obtained in advance and verification provided to the city upon request.

(e) Adequate off-street parking or other suitable arrangements have been provided satisfactory to the city so as to not unduly disrupt neighboring properties.

(L) *Signage, lighting, off-street parking and miscellaneous.*

(1) Identifying signs shall be no more than four square feet in total, located on the building, or if free standing, located at least ten feet off any property line and consistent with the character and architectural features of the building. There shall be only one sign per facility and any lighting of the same shall be either screened or indirect so as to not shine onto neighboring properties.

(2) All exterior lighting shall be concealed or screened.

(3) One off-street parking space shall be provided for each bed and breakfast room for rent, not less than two additional off-street parking spaces shall be provided for the owner and an additional off-street parking space shall be provided for any non-owner employee.

(M) *Waiver or modification of special use permit conditions and termination of special use permit.*

(1) *Waiver or modification.* The City Council may grant a special use permit for a bed and breakfast inn that waives or modifies one or more of the requirements herein above set forth; provided, however that the waiver or modification shall be requested by the applicant at the time of application for the special use and may be granted only after a public hearing and upon specific written findings as to the reasons for the waiver or modification. In granting a waiver or modification, the City Council must consider the impact of the same upon the neighborhood in which the inn is to be located.

(2) *Termination of special use permit.* A special use permit under this section shall terminate upon occurrence of any of the following:

(a) Noncompliance with the provisions of this section, including any conditions or restrictions imposed by the Council when the special use permit is initially granted;

(b) Transfer of ownership of the property from the owner/operator; or

(c) The creation of a condition that adversely affects the health, safety, morals or general welfare of the city or its residents.

(Ord. 153, passed 1-19-2010)

***SPECIAL REGULATIONS*****§ 155.30 RESIDUAL FEATURES.**

No activity or operation shall be established or maintained which by reason of its nature or manner of operation will cause the emission of noise, odor, toxic or noxious fumes, smoke, dust and particulate matter in concentrations as to be detrimental to or endanger the public health, welfare, comfort and safety or cause injury to property or business.  
(2003 Code, § 9.51-1)

**§ 155.31 GLARE.**

Any lighting used to illuminate an off-street parking area or sign shall be arranged so as to deflect light away from any adjoining residential property or from the public streets. Direct or sky-reflected glare, whether from flood lights or from high-temperature processes such as combustion or welding, shall not be directed into any adjoining property.  
(2003 Code, § 9.51-2)

**§ 155.32 REFUSE.**

All waste material, debris, refuse or garbage not disposed of through the public sanitary sewage system will be kept in an enclosed building or properly contained in a closed container designed for those purposes. The owner of vacant land shall be responsible for keeping the land free of refuse.  
(2003 Code, § 9.51-3)

**§ 155.33 LANDSCAPING.**

(A) In all but the I-2 and C-2 districts, all developed uses shall provide a landscaped yard along all streets. The yard adjacent to streets shall be kept clear of all structures and storage, except off-street parking. The yard adjacent to streets shall be at least eight feet in depth along all streets measured from the street right-of-way. Except for driveways, the yard shall extend the entire frontage of the lot and along both streets in the case of a corner lot.

(B) In addition to the foregoing, to the extent not otherwise occupied by structures legally placed or erected thereon pursuant to code, or not otherwise defined and allowed pursuant to § 155.40, the remainder of all yards in all but the I-2 and C-2 districts shall have grass or other ground cover landscaping properly installed. No land shall remain distressed and exposed without established grass or other ground cover or landscaping for a period exceeding six months.

(C) In the event that new construction occurs on the premises resulting in the ground being disturbed or exposed, and in the event that the construction is completed after the end of the growing season, the landscaping shall then be installed within 60 days of the start of the next growing season.

(D) If land filling or land reclamation or excavation is done in a residential area, the foregoing requirements for landscaping shall be followed so as to require that the property shall not remain disturbed or exposed for a period longer than six months.

(E) Silt fences and other methods to prevent soil erosion shall be installed and maintained on any portions of a lot that is not covered with growing grass or other proper ground cover or landscaping until a stable ground cover is established or landscaping completed.

(F) All areas disturbed by grading which surround the principal building and accessory buildings on a property which are not driveway, sidewalks or patios shall be landscaped with grass, shrubs, trees or other suitable landscaping materials, except as may be otherwise specifically authorized by § 155.40. (2003 Code, § 9.51-4) (Ord. 154, passed 5-3-2010)

#### **§ 155.34 DRAINAGE.**

No land shall be developed and no use shall be permitted that results in water run-off, flooding or erosion on adjacent properties. The run-off shall be properly channeled into a storm drain, watercourse, ponding area or other public facilities.  
(2003 Code, § 9.51-5)

#### **§ 155.35 FARM OPERATIONS.**

Farm operations in existence on the effective date of this chapter shall be permitted to continue; however, new buildings in which farm animals are to be kept or other similar use of property which may be objectionable to adjacent property owners may be permitted only in the A, R-1 and I-2 Districts and only after written consent of 75% of all property owners within 500 feet of the proposed use. Following this, Council approval shall be required.  
(2003 Code, § 9.51-6)

#### **§ 155.36 DWELLING BELOW GROUND LEVEL.**

No interior space below ground level shall be occupied for dwelling purposes, unless the space is part of a structure having at least one full story above ground level and having its exterior portion in a structurally finished state.  
(2003 Code, § 9.51-8) (Ord passed 2-16-1953)



**§ 155.37 SIGNS.**

(A) *Intent.* The purpose of this section is to protect and promote the public health, safety and general welfare of the citizens of the city through the establishment of a comprehensive and impartial set of regulations governing the erection, display and use of signs serving as a visual media to persons on public or private properties within the city. These regulations are intended to:

(1) Preserve and protect property values and civic duty, and not allow signs which detract from this objective due to excessive size, height, number, visual impact, undesirable location, maintenance or lack thereof, spacing or elimination;

(2) Provide for signs which are compatible with their surroundings and appropriate to the type of activity to which they pertain;

(3) Control signs which invade privacy, constitute a public nuisance or increase the likelihood of accidents by distracting attention or obstructing vision;

(4) Establish standards which will permit businesses a reasonable and equitable opportunity for effective communication, but will avoid excessive and unreasonable visual competition among sign displays;

(5) Allow a reasonable freedom of choice, while promoting a concern for the visual amenities of those persons assigning, displaying, erecting or utilizing signs in the city; and

(6) Assuring that the public health, safety and general welfare of the citizens of the city is preserved.

(B) *Prohibited signs.* The following signs shall be prohibited:

(1) Signs, that by reason of position, shape or color, would interfere with the proper functioning of a traffic sign or signal;

(2) Signs, that resemble any official marker erected by a governmental agency, or that display the words "Stop" or "Danger";

(3) Flashing signs;

(4) Signs or sign structures that obstruct any window, door, fire escape, stairway or opening intended to provide light, air, ingress or egress from any building or structure. Signs painted on windows and doors are excepted;

(5) Billboards. Except as otherwise provided herein, outdoor advertising structures and billboards which advertise products or businesses not connected with the site or building on which they are located shall not be permitted; and



(6) Roof signs.

(C) *Permitted signs.* The following signs shall be permitted:

(1) Residential or business name plate signs;

(2) The temporary signs as authorized by resolution of the Council from time to time;

(3) Except as may be prohibited above, signs specifically advertising the business on the site upon which the sign is located;

(4) Within the C-1 Highway/Auto Commerce, I-1 Limited Industry and I-2 General Industry, only on property located adjacent to U.S. Trunk Highway 212, Minnesota Trunk Highways 23 and 67, and Chippewa County State Highways #38 and #5 within the defined districts, the following types of signs:

(a) Specific service signs used to direct travelers to lodging, campground, resort, restaurant, rural agricultural or other tourism oriented business(es) or place(s) of worship. The signs shall be constructed as slat or stacked groupings of signs;

(b) Directional signs located off the right-of-way which provide directional information about public places owned or operated by governmental entities or public or privately-owned natural phenomena, historic, cultural, scientific, educational and religious sites or areas of natural beauty or outdoor recreation; and

(c) The specific service signs (stacked signs) and directional signs provided for herein shall be non-advertising in nature. The signs shall not exceed four by eight feet in size. The same shall be not closer than 300 feet apart on the same side of the road. The signs shall not be closer than 300 feet from any intersection with cross highways. The minimum setback from the highway right-of-way shall be ten feet. The bottom of any sign shall have a maximum elevation of seven feet above the level of the existing grade of the adjacent highway. The height of the signs shall not exceed 12 feet.

(5) The exposed uprights, super structure and/or backside of all signs shall be painted or of a neutral color such as light blue, gray, brown or white, unless it can be illustrated that the part of the sign designed or painted in another manner is integral to the overall design of the sign. Signs not properly maintained, or which become structurally unsafe, may be removed by the city at the expense of the individual or firm owning the property on which the structure is located. Landscaping adjacent to the sign shall be maintained in a neat and orderly manner, and in a functional yet decorative manner, lending itself to minimum maintenance and the withstanding of vandalism.

(D) *Nonconforming signs; sign removal.*

(1) *Nonconforming signs.* Nonconforming signs which lawfully existed on the effective date of this division (D)(1), and which do not meet the requirements of this division (D)(1), shall be allowed to continue in use for a period of not more than five years thereafter.

(2) *Sign removal.* All conforming signs, and sign structures not used by a tenant or owner shall be removed by the owner of the premises after one year of non-use. The Building Inspector may also, in conjunction with the Council, call for the immediate removal of any sign which is deemed structurally unsafe, or in disrepair. Signs not so removed by the owner as required hereunder shall be removed by the city at the owner's expense.

(E) *Permit.* Signs authorized under this division (E) shall be maintained only upon the securing of a permit from the Planning Commission upon payment of a fee as may be designated by resolution from time to time, and the following of the application process as required by the city and applicable MNDOT signing regulations.

(2003 Code, § 9.51-9) (Ord. 35, passed 6-29-1992)

### § 155.38 PLANNED RESIDENTIAL DEVELOPMENT.

The Council, following review by the Planning Commission, shall have the power to vary from the lot requirements of the R-1 and R-2 Districts in the event a planned residential development as defined herein is proposed which generally would create a more desirable living environment than would be possible through the strict application of lot and yard requirements, and which meets the following development standards.

(A) Maximum density:

(1) Detached dwellings: six dwelling units per net residential acre; and

(2) Attached dwellings: ten dwelling units per net residential acre.

(B) Minimum setback from residential street center line: 60 feet.

(C) Minimum setback from interior lot line: ten feet for walls with windows, six feet for windowless walls.

(D) Minimum spacing between buildings: one-half the sum of the heights of the two buildings.

(E) Minimum area devoted to developed open space for the common use of residents of the development: 10% of total area.

(2003 Code, § 9.51-10)

**§ 155.39 SETBACK FROM HIGHWAYS.**

In addition to requirements contained elsewhere in this chapter, all buildings and structures, however used, shall be set back at least 100 feet from the center line of U.S. Highway 212, and at least 75 feet from the center line of all state highways and of that portion of C.S.A.H. 5 located north of the Milwaukee Railroad main line.

(2003 Code, § 9.51-11)

**§ 155.40 CONSERVATION OF NATURAL FEATURES AND AMENITIES.**

(A) In the development of land, due regard shall be shown for all natural features, which, if preserved, will add attractiveness and stability to the proposed developments.

(B) In the development of hilly areas for residential purposes, minimum lot areas shall be one dwelling per three acres for slopes between 12% and 25%, and structures shall be prohibited on slopes exceeding 25%.

(2003 Code, § 9.51-12)

**§ 155.41 OFF-STREET PARKING REQUIREMENTS.**

All off-street parking shall meet the following requirements:

(A) *Number.* Minimum number of off-street parking spaces required:

(1) None required in C-2 District;

(2) Dwellings: one per dwelling unit;

(3) Churches, auditoriums, mortuaries and other similar places of assembly: one per every four seats;

(4) Sanatoriums, convalescent homes, rest homes, nursing homes: one per every six beds; and

(5) Retail trade commerce other than in C-2 District:

(a) Restaurants: one per every three seats; and

(b) Other retail: one per every 100 square feet of retail floor space, but in no case less than one and one-half (gross parking area) to one (gross building floor area).

(6) Retail service commerce other than in C-2 District:

(a) Motels: one per unit;

(b) Personal and professional offices: one per every 150 square feet of office floor space;  
and

(c) Other service commerce: one per every 200 square feet of gross floor space.

(7) Industrial including wholesale: one per every two persons of maximum employment during any work period.

(B) *Minimum size of parking space*: 250 square feet of standing and maneuvering space. Fractional spaces over one-half count as one space.

(C) *Location*. Parking spaces shall be located in the following ways:

(1) Spaces for dwellings: on the same lot as the dwelling unit;

(2) Spaces for commercial uses not in the C-2 District or for public or semi-public uses: within 300 feet of the main entrance of the building served;

(3) Spaces for industrial uses: within 300 feet of the main entrance of the building being served;  
and

(4) No off-street parking spaces to be located within five feet of any street right-of-way.

(D) *Surfacing and drainage*. Off-street parking areas and accessways other than those for one and two family dwellings shall be surfaced with a durable material to control dust, and shall be graded so as to dispose of all surface water.

(E) *Screening*. All open off-street parking areas having more than six parking spaces shall be effectively screened by a compact hedge or a similar landscaped element along all sides which adjoin or are directly across a street or alley from a property in a residence district.  
(2003 Code, § 9.51-13)

**§ 155.42 OFF-STREET LOADING AND UNLOADING REQUIREMENTS.**

An adequate number of off-street loading spaces shall be provided for all structures which require the receipt and distribution of materials or merchandise by trucks or similar vehicles so as to assure unrestricted movement of both pedestrian and motor vehicles throughout the active areas of the city.

(A) *Size.* Minimum size of off-street loading berths:

- (1) Width: ten feet;
- (2) Length: 25 feet; and
- (3) Vertical Clearance: 14 feet.

(B) *Location.* Off-street loading berths shall be located no closer than 25 feet from the intersection of two street rights-of-way.

(C) *Surfacing and drainage.* Off-street loading berths and accessways shall be hard surfaced to control dust and shall be graded to dispose of all surface water.  
(2003 Code, § 9.51-14) (Ord. passed 2-16-1953)

**ADMINISTRATION AND ENFORCEMENT****§ 155.55 ZONING OFFICER.**

(A) It shall be the duty of the Building Inspector acting as the Zoning Officer to administer and enforce the provisions of this chapter.

(B) The specific duties of the Zoning Officer shall include:

- (1) Providing zoning information upon request;
- (2) Receiving applications for building permits, reviewing the applications to determine if they comply with city code provisions, recommending acceptance or denial to the Council, and issuing or denying permits;
- (3) Receiving applications for special use permits, variances, amendments and appeals, referring the applications to the appropriate agency, notifying affected property owners of required public hearings, and publishing notice of the hearing;
- (4) Conducting inspections;

(5) Investigating violations; and

(6) Keeping the zoning map and text up to date.

(2003 Code, § 9.61-1) (Ord. passed 2-16-1953)

#### § 155.56 BUILDING PERMIT.

(A) Hereafter, no person shall erect, alter, remodel, wreck or move any kind of structure, building or part thereof, no use or change of use of a building, structure or land shall be permitted, nor shall a person be permitted to occupy the premises, no change or extension of a nonconforming use shall be permitted, no placement of fill or excavation of materials shall be permitted within the Floodplain Districts, without first securing a building permit therefor; provided, however, no such permit shall be required for the following, except as the activities may be prohibited or otherwise restricted within the Floodplain Districts as provided elsewhere within this chapter: construction, reconstruction or alteration of a building where the estimated cost of the work does not exceed \$500.

(B) No building permit shall be issued for the construction of any building, structure or improvement on any land henceforth subdivided until all requirements of this chapter have been fully complied with.

(C) Each application for a building permit and for an occupancy permit for the use of land shall be accompanied by the following exhibits unless waived by the Zoning Officer.

(1) Boundary survey of an area including the property in question and 100 feet beyond its outer boundaries showing existing utilities, lot boundaries, and dimensions, building and easements. Foliage, topography, waterways and soil borings to be included if pertinent.

(2) Plot plan indicating location, size and placement of proposed structure and yards, parking and loading facilities, vehicular access and egress, and utility plan including surface drainage.

(3) In the Floodway and Flood Fringe Districts, the applicant will provide the following: plans in duplicate drawn to scale, showing the nature, location, dimensions and elevations of the lot; existing or proposed structures, fill or storage of materials; and the location of the foregoing in relation to the river channel.

(D) Prior to the granting of a building permit (use permit), or processing a special use permit, the Building Inspector shall determine that the applicant has obtained all applicable state and federal permits.

(E) Certificate of zoning compliance for new, altered or nonconforming uses: it is unlawful to use, occupy, or permit the use or occupancy of any building or premises, or both, or part thereof, hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure within either the Floodway or Flood Fringe Districts until a certificate of zoning compliance shall have been issued therefor by the Building Inspector, stating that the use of the building or land conforms to the requirements of this chapter.

(1) Where a nonconforming use or structure is extended or is substantially altered, the certificate of zoning compliance shall specifically state the manner in which the nonconforming structure or use differs from the provisions of this chapter.

(2) Prior to the issuance of a building permit, or certificate of zoning compliance, the applicant for such a permit for a building structure or premises situated within the Floodway or Flood Fringe Districts shall be required to submit certification by a registered professional engineer or architect, as appropriate, that the finished fill and building floor elevations, flood proofing or other flood protection measures, were accomplished in compliance with the provisions of this chapter.

(3) A registered land surveyor may certify fill and building elevations.

(F) Record of first floor elevations: the Building Inspector shall maintain a record of the elevation of the first floor (including basement) of all new structures or additions to existing structures within the Floodway or Flood Fringe Districts. He or she shall also maintain a record of the elevations to which structures or additions to existing structures are flood proofed.

(2003 Code, § 9.61-2) (Ord. passed 2-16-1953; Ord. 77-4, passed 4-8-1977) Penalty, see § 10.99

#### § 155.57 VARIANCES.

(A) *Generally.* Variations from the provisions of this chapter may be granted by the Board of Adjustment and Appeals where practical difficulties or unusual hardships in complying with provisions are determined to exist, but only after a public hearing has been duly advertised and held by the Board, and provided further that no variance granted shall have the effect of allowing in any district uses which are otherwise prohibited in that district.

(1) In those cases involving proposed variances for premises within the Floodway or Flood Fringe Districts, the Board shall submit to the Commissioner of Natural Resources a copy of the application for the proposed variance sufficiently in advance so that the Commissioner will receive at least ten days' notice of the hearing.

(2) A copy of all the decisions granting variances within the Floodway or Flood Fringe Districts shall be forwarded to the Commissioner of Natural Resources within ten days of the action.

(B) *Application.* Applications for variances shall be accompanied by the boundary survey and plot plan as required for building permit applications, unless waived by the Board of Adjustments and Appeals.



(C) *Standards for granting variances.* The Board of Adjustments and Appeals may vary the regulations of this chapter when supporting evidence in each specific case indicates that:

(1) *Shape.* Because of the particular physical surroundings, shape or topographic conditions of the specific parcel of land involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out;

(2) *Conditions.* The conditions upon which the petition for a variance is based are unique to the parcel of land for which the variance is sought and one not applicable, generally, to other property with the same zoning classification;

(3) *Purpose.* The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the parcel of land;

(4) *Hardship.* The alleged difficulty or hardship is caused by the provisions of this chapter and has not been created by any persons presently or formerly having an interest in the parcel of land;

(5) *Not detrimental.* The granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the vicinity in which the parcel of land is located;

(6) *No impairment.* The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the vicinity; and

(7) *Other.* In the Floodway or Flood fringe Districts, no variance shall 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.

(2003 Code, § 9.61-3) (Ord. passed 2-16-1953; Ord. 77-4, passed 4-8-1977)

***Editor's Note:***

*If a mobile home park is converted to another use requiring a variance or zoning change, the Planning Commission must give notice of hearing to each occupant. See M.S. § 327C.095.*

## **§ 155.58 SPECIAL USE PERMITS.**

(A) *Granting.* Before a building or premises is devoted to any use classified under "Uses by Special Permit" in this chapter, a special use permit must be granted by the Council following a public hearing and recommendation by the Planning Commission.

(1) The Council shall submit to the Commissioner of Natural Resources a copy of the application for the proposed special use permit sufficiently in advance of the hearing so that the Commissioner will receive at least ten days' notice of the hearing.

(2) A copy of all decisions of the Council granting special use permit shall be forwarded to the Commissioner of Natural Resources within ten days' of the action.

(B) *Exhibits*. The following exhibits shall be required unless waived by the Planning Commission:

(1) The boundary survey and plot plan as required for building permit applications;

(2) Certification of notification of 100% of owners of property located within 350 feet of property in question demonstrating that the owners have been advised of the time, date and place of the public hearing to be held before the Planning Commission to determine the appropriateness of the issuance of the special use permit sought; and

(3) Upon receiving an application for a special use permit within the Floodway or Flood Fringe Districts involving the use of fill, construction of structures or storage of materials, the Council shall, prior to rendering the decision thereon:

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

1. Plans in triplicate drawn to scale showing the nature, location, dimensions and elevation of the lot, existing or proposed structures, fill/ storage of materials, flood proofing measures, and the relationship of the above to the location of the river channel;

2. A typical valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development and high water information;

3. Plan (surface view) showing elevations, or contouring of the ground; pertinent structure fill, or storage elevation; size, location and special arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; and soil types;

4. Profile showing the slope of the bottom of the channel or flow line of the stream;  
and

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

(b) Transmit one copy of the information described in division (B)(3)(a) above, to a designated engineer or other expert person or agency for technical assistance, where necessary in evaluating the proposed project in relation to flood heights and velocities, the seriousness of the flood damage to the use, the adequacy of the plans for the protection and other technical matters.

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

*(C) Standards for granting special use permits.*

(1) A special use permit may be granted by the Council after demonstration by evidence that:

(a) The establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;

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

(c) The establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;

(d) Adequate utilities, access roads, drainage and necessary facilities have been or will be provided;

(e) Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets;

(f) The special use will, in all other respects, conform to the applicable regulations of the district in which it is located; and

(g) In passing on special use permits in the Floodway and Flood Fringe Districts, the Board shall consider all relevant factors specified elsewhere in this chapter, and in addition thereto, the following factors:

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

2. The danger that materials may be swept onto other lands or downstream to the injury of others;

3. The proposed water supply and sanitary systems and the abilities of these systems to prevent disease, contamination, and unsanitary conditions;

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

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

6. The requirements of a facility for a waterfront location;
7. The availability of alternative locations not subject to flooding for the proposed use;
8. The compatibility of the proposed use with existing development anticipated in the foreseeable future;
9. The relationship of the proposed use to the comprehensive plan and the floodplain management program for the city;
10. The safety of access to the property in times of flood for ordinary and emergency vehicles;
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site; and
12. Other factors which are relevant to the purposes of this chapter.

(2) The Planning Commission may recommend, and the Council may stipulate the conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special use as deemed necessary for the protection of the public interest and to secure compliance with the requirements specified in this chapter.

(3) Within the Floodway or Flood Fringe Districts, the Council shall also stipulate, as an additional condition or restriction, flood proofing measures which are in accordance with the State Building Code. Furthermore, the applicant shall be required to submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

*(D) Revocation of special use permits.*

(1) Where a special use permit has been issued pursuant to the provisions of this chapter, the permit shall become null and void without further action by the Planning Commission or the Council unless work thereon commences within one year of the date of granting the special use.

(2) A special use permit shall be deemed to authorize only one particular use and shall expire if that use shall cease for more than 12 consecutive months.

***Editor's Note:***

*If a mobile home park is converted to another use requiring a variance or zoning change, the Planning Commission must give notice of hearing to each occupant. See M.S. § 327C.095. (2003 Code, § 9.61-4) (Ord. passed 2-16-1953; Ord. 77-4, passed 4-8-1977; Ord. 83-5, passed 8-5-1983)*

**§ 155.59 AMENDMENTS.**

(A) *Adoption.* This chapter may be amended, changed or altered only by a favorable majority vote of the Council and only after a public hearing has been duly advertised and held by the Planning Commission as provided for by M.S. § 394.26, as it may be amended from time to time.

(B) *Kinds of amendments.* An amendment to this chapter may be one of the following:

- (1) A change in a district's boundary (re-zoning);
- (2) A change in a district's regulations; or
- (3) A change in any other provision of this chapter.

(C) *Initiation of proceedings.* Proceedings for amending this chapter shall be initiated by at least one of the following three methods:

- (1) By petition of an owner or owners of property which is proposed to be re-zoned, or for which district regulation changes are proposed;
- (2) By recommendation of the Planning Commission; or
- (3) By action of the Council.

(D) *Required exhibits for re-zoning or district regulations changes initiated by property owners.*

- (1) The boundary survey and plot plan as required for building permit applications.
- (2) Certification of notification of 100% of owners of property located within 350 feet of the property for which re-zoning or district regulation changes is sought demonstrating the owners have been advised of the issue for consideration, and the time, date and place of the public hearing to be held before the Planning Commission and/or the Council as appropriate, to determine the appropriateness of the re-zoning or other changes sought.

(E) *Floodplain designation.* The Floodplain Designation on zoning maps shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the areas are filled to an elevation at or above the flood protection elevation, and are contiguous to other lands lying outside the floodplain districts. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources, if he or she determines that, through other measures, lands are protected adequately for the intended uses. All amendments to this chapter (relating to the Floodway or Flood Fringe Districts), including amendments to the official zoning map, must be submitted to, and approved by the Commissioner of Natural Resources prior to adoption.

(2003 Code, § 9.61-5) (Ord. passed 2-16-1953; Ord. 77-4, passed 4-8-1977; Ord. 83-5, passed 8-5-1983)