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Chapter 11: Land Use Regulation (Zoning)

Article One: General Provisions

11.10 How To Use This Document

Subd. 1. Consult the zoning map to identify the base zone district for your property. There are five types of base zone districts: Residential (R), Mixed Use (MU), Commercial (B), Industrial (I), and Parks (P).

Subd. 2. Review the map to see if you are within the Shoreland Overlay zone districts. Section 11.61 in Article 6 outlines the standards related to your property within this overlay district. Of note, these minimum standards are set forth by the North Shore Management Board for consistent development along Minnesota's Lake Superior shoreline.

Subd. 3. Find permitted uses of property. Review the permitted use table in Article 3 to determine whether your proposed use of the property is permitted by right, or available as a conditional use, accessory use, or is prohibited in the base zone district. Article 3 also contains use-specific standards that control how some uses may be developed or operated.

Subd. 4. Review what development standards apply. Review Article 4 to determine what type, size of structure, and where it may be constructed on your property and what other standards will apply to the development. Additional general and district specific development standards may be required as described in Article 5 or Article 6.

Subd. 5. Find what procedures may be required. If your proposed use requires a land use or conditional use permit, you will need to follow the process for obtaining that permit as described in Article 7. If your proposed development requires any other types of approvals (for example, a variance from setback requirements), those procedures are also described in Article 7.

Do not hesitate to contact the Community Development Planner with any questions.

11.11 Purpose

This Chapter establishes comprehensive zoning regulations for the City, and provides for the administration, enforcement, and amendment thereof, in accordance with the provisions of Minnesota Statutes Section 426.357, as may be amended from time to time, and for the repeal of all ordinances in conflict herewith. The City Council deems it necessary that adequate light, pure air, and safety from fire and other dangers may be secured, that the taxable value of land and buildings throughout the City may be conserved, that congestion in the public streets may be lessened or avoided, that the hazards to persons resulting from the accumulation or runoff of storm or flood waters may be lessened or avoided, and that the public health, safety, comfort, and welfare may be otherwise promoted; and, pursuant to the provisions of Section 426.354, Minnesota Statutes, establishes the Planning Commission; and said Planning Commission has given reasonable consideration to the plans and maps prepared as a part of the comprehensive planning process; and Planning Commission has further caused to be prepared, reviewed and transmitted to the Council the provisions of this Zoning Chapter.

11.12 Boundaries Thereof

Subd. 1. The boundaries of these districts are shown upon the map and made a part of this Chapter, which map is designated as the zoning map or district map, which map is on file in the office of the City Clerk. The district map and all the notations, references and other information shown thereon are a part of this Chapter and have the same force and effect as if the district map and all the notations, references and other information shown thereon, were all fully set forth or described herein, which district map is made a part of this Chapter by reference.

Subd. 2. All territories which may hereafter be annexed to the City shall be considered as being in the same district classification as that adjoining the area to be annexed.

Subd. 3. Whenever any street, alley or other public way is vacated by official action of the Council, the zoning districts adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation and all areas included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

Subd. 4. Where uncertainty exists as to the boundaries of districts, as shown on the official zoning or district map, the following rules shall apply:

- A. Boundaries indicated as approximately following the center lines, or right-of-way lines of streets, highways or alleys, shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following platted lot lines, shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following City limits, shall be construed as following the City limits.
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- E. Boundaries indicated as following rivers and streams should be construed to follow the approximate center line of such river or stream, and in the event of change in such river or stream, should be construed as moving with the actual centerline of such river or stream.
- F. Where the street or property layout existing on the ground is at variance with that shown on the official zoning map, or in other circumstances not covered by Subparagraphs A through E, above, the Board of Zoning Appeals shall interpret the district boundaries in accordance with provisions of this Chapter.

11.13 Compliance

Subd. 1. Except as hereinafter provided:

- A. No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used except in conformity with the use, height, area and loading and parking regulations in the district in which the building or land is located.
- B. The minimum yards and other open spaces, including lot area per family, required by this Chapter for each and every building existing on the effective date of this Chapter, or for any building hereafter erected, shall not be encroached upon or considered as yard or open space requirements for any other buildings; nor shall any lot area be reduced beyond the district regulations of this Chapter.
- C. Every building hereafter erected or structurally altered, shall be located on a lot as herein defined and in no case shall there be more than one main building on one lot in any "R" District.

Subd. 2. Building Requirements. No building or other structure shall hereafter be erected or altered which:

- A. Exceeds in height.
- B. Accommodates or houses a greater number of families.
- C. Occupies a greater percentage of lot area.
- D. Has narrower or smaller rear yards, front yards, side yards, or other open spaces.
- E. Is in any other manner contrary to the provisions of this Chapter.

Subd. 3. Dwellings on Any Lot of Record. In any district where dwellings are permitted, a one-family detached dwelling may be erected on any lot of official record on the effective date of this Chapter, irrespective of its area or width, provided the applicable yard and other open-space requirements are satisfied or modified by the Board of Appeals.

Subd. 4. Permits Required. No person shall use land or structures, or erect or modify a structure including buildings, fences, structures under 200 square feet without first receiving any approval or permits required by this chapter including land use permits, conditional use permits, planned unit development, and variance.

Article Two: Zone Districts

11.20 District Establishment and Purpose

Subd. 1. For the purpose of this Chapter, the City is hereby divided into Districts. The use, height and area regulations are uniform in each class of district and said districts shall be known. Each district and its corresponding purpose has been listed below:

B-1 – Highway Business District

The purpose of the Highway Business District is to provide for and regulate commercial uses along major streets and highways. As the gateway to the community the Highway Business District will provide for adequate off-street parking and safe road access. As the gateway to the community site planning will consider the interaction between the development and the public space.

B-2 – Downtown Waterfront Business District

The purpose of the Downtown Waterfront Business District is to enhance and preserve the vitality of the city's downtown waterfront business district. The development and redevelopment of properties is encouraged as is a mix of retail, leisure and hospitality, entertainment, civic, residential, and office uses. Parking, except for residential uses, will be primarily provided on-street and in shared parking areas. Alleys will provide service and parking access. Mixed use development is encouraged.

MUW – Mixed Use Waterfront

The Two Harbors Waterfront is a unique community resource serving as a link to the City's maritime history and Lake Superior and affording the community with diverse economic development and recreation opportunities. The purpose of this district is to encourage the establishment of a mixture of residential and commercial uses that reflect a range of uses and blend harmoniously with the scenic and natural amenities citizens value along Lake Superior.

PR – Parks and Recreation

The purpose of this district is the establishment and preservation of publicly and quasi-publicly owned lands and facilities for purposes of recreation and public accessible open spaces.

PP – Park Preserve

The purpose of this district is the establishment and preservation of publicly and quasi-publicly owned lands and facilities for passive recreation and protection of green space.

R-2 – Low to Medium Residence District

The purpose of this district is the establishment and preservation of traditional residential neighborhoods which are primarily single and two-family homes and lower-density multiple family homes. Non-residential uses permitted will support the primary uses of the neighborhood.

R-3 – High Density Residence District

The purpose of this district is the establishment and preservation of residential neighborhoods which feature a mix of all housing types and a higher concentration of non-residential uses supporting the neighborhood and the City as a whole. Mixed use development providing additional services to the district and surrounding neighborhoods may be achieved through the Planned Unit Development process.

I-1 – Light Industrial District

The purpose of the "I-1" Light Industrial District is to permit modern, high performance, lower impact light industrial uses with co-mingling of production and non-production activities, technology and information uses, and scientific, technical, and professional services uses, while also permitting the continued development of compatible non-industrial uses.

I-2 – General Industrial District

The purpose of the "I-2" General Industrial District to permit industrial activities that are not compatible with light industrial areas due to more intensive use of land and infrastructure, traffic generation, and/or require greater use of site and facility design and devices necessary to mitigate objectionable influences, and industrial uses requiring harbor access.

I-1A – Light Industrial/Adult Use District

the purpose of the "I-1A" Light Industrial/Adult Use District to permit modern, high performance, lower impact light industrial uses with co-mingling of production and non-production activities, technology and information uses, and scientific, technical, and professional services uses, while also permitting the continued development of compatible non-industrial uses. In the interest of general health and welfare, residential and certain institutional uses are not permitted within this district. It is also the purpose of this district to allow "Adult Use, Principal" businesses which are regulated by Section 4.50 of the City Code.

PUD – Planned Unit Development District

The purpose of the Planned Unit Development ("PUD") Overlay District is to implement the goals and policies of the Two Harbors Comprehensive Plan by providing comprehensive procedures and standards intended to allow flexibility in the development of residential, commercial, and mixed residential/commercial development by incorporating design modifications and/or mixture of uses. The PUD process, by allowing deviation from the strict district and performance standards is intended to encourage:

- A. Variety.** Innovations in development to the extent that the growing demands for all styles of economic development expansion may be met by greater variety in type, design, and placement of structures and by the conservation and more efficient use of land in such developments.
- B. Sensitivity.** By departing from the strict application of required performance standards associated with traditional zoning, a PUD can maximize the development potential of land while remaining sensitive to its unique and valuable natural and scenic characteristics.
- C. Efficiency.** The consolidation of areas for recreation and reduction in street lengths and other utility-related expenses.
- D. Density Transfer.** The project density may be clustered, basing density on the number of units per acre instead of specific lot dimensions.
- E. District Integration.** The combination of uses which are allowed in separate zoning districts such as:
 - 1. Mixed residential allows both densities and unit types to be varied within the PUD.
 - 2. Mixed commercial, residential, or institutional land use with the integration of compatible land uses within the PUD.
- F. Infill.** Encourage infill within areas of the City which are characterized by existing development.

S-O – Shoreland Overlay Zone District

The purpose of the Shoreland Overlay is to promote, preserve and enhance the water resources of Lake Superior and environment within the city and protect them from adverse effects caused by poorly sited or incompatible development.

Article Three: Permitted Uses

11.30 Land Use Table

Principal Use Type	P - Permitted		C- Conditional			A - Accessory			Parklands	Specific Standard
	Blank - Prohibited		* - Specific Standards							
Zoning District	R-2	R-3	B-1	B-2	MUW	I-1	I-2	1-1A	PR	PP
Residential										
Household Living										
Accessory Dwelling Unit	C	C								11.31.14
Single Family Dwelling	P	P								
Two Family Dwelling	P	P			C					
Townhouse	C	P			C					11.3.1
Multiple Dwellings, 4-units or less	C	P	P	C	C					
Multiple Dwellings, 4-units or more	C	P	P	C	C					
Residence above first floor, 2 or more units					C					
Live Work Dwelling			C	C	C					
Group Living										
Boarding Home			C	C						
Manufactured Home Park	C	C	C	C	C					
Nursing Home	C	P	P	C						
Licensed Residential Care Facility, 6 or fewer persons	P	P			C					
Housing with Services, 6 or fewer persons	P	P			C					
Licensed Residential Care Facility, 7 to 16 persons	C	C	P	P	C					
Housing with Services, 7-16 persons	C	C	P	P	C					
Commercial Uses										
Accommodations and Food Service										
Bar or Drinking Place			P	P	C					
Brewpub			P	P	C				C	
Caterer			P	P	C					
Hotel and Motel			P	P	C				C	
Restaurant			P	P	C				C	
Retail Bakery			P	P	C					
Short Term Rental	*	*	*	*	*					
Retail Sales and Services										
Adult Use, Principle								C		
Appliance and Consumer Electronics Repair			P	P						
Automotive Parts and Accessories Stores			P	P						
Automotive, light vehicle, and home and garden equipment repair			C			C		C		11.31.2
Contractor/Trade Supply Store			P	P		C	C	C		
Convenience Store, not including Gas			P	P	C					
Dry Cleaning and Laundry Services			P	P						
Furniture and Home Furnishing stores			P	P						
Gasoline Service Station, not including automotive repair			P							
General Merchandise, Apparel, and Shoes			P	P	C					
Gift, Novelty, Souvenir Store			P	P	C					
Grocery Store			P	P						

Two Harbors Chapter 11-Land Use Regulation (Zoning)

Principal Use Type	P – Permitted Blank – Prohibited		C- Conditional * - Specific Standards			A – Accessory			Parklands	Specific Standard
	Residential	Business	Mixed Use	Industrial						
Zoning District	R-2	R-3	B-1	B-2	MUW	I-1	I-2	1-1A	PR	PP
Hardware Store			P	P						
Head Shop								C		
Health and Fitness Facilities			P	P						
Jewelry Store			P	P	C					
Lumber Yard and Building Materials			P			C		C		
Personal and Household Goods Repair			P	P						
Personal Care Services			P	P	C					
Pharmacies and Drug Stores			P	P	C					
Public Market and Market Stands			P	P	P				P	P
Retail uses conducted as an accessory use within existing structures, not to exceed 20% of gross floor area.						C		C		
Automotive, Vehicle, and Recreational Vehicle Sales and Services			C							
Professional and Business Services										
Banks and Other Financial Institutions			P	P						
Business Support Services			P	P						
Data processing, hosting, and related services			P	P		P		P		
Medical or Dental Lab										
Professional and Administrative Offices			P	P	C					
Industrial										
Craft Brewery			C	C	C					
Artisanal Industrial			C	C	C					11.31.3
Bulk Fuel Depots						C	C	C		11.31.4
Commercial and Industrial Machinery and Equipment Repair						P	P	P		
Contractor’s Shop and Storage Yard						P	P	P		
Distribution Center						P	P	P		
Dwellings for caretakers, watchmen, and operators						C	C	C		
Light Manufacturing, Accessory to Retail			C	C						
Manufacturing, General							P			
Manufacturing, Light						P	P	P		
Micro-Alcohol Production			C	C	C					
Mini-warehouses and Self-Storage						C		C		11.31.10
Professional, Scientific, and Technical Services (Industrial Class)						P	P	P		
Railroad Yard							C			
Recycling Collection Point						C	C	C		
Scientific, Research and Development Services						P	P	P		
Shipyards							C			
Specialty Food Service			C	C	C					
Specialized Design Services			C	C	C	P	P	P		
Storage and Handling of Combustible and or Flammable Liquids						C	C	C		11.31.3
Storage of Boats and RVs						C	C	C		11.31.4
Telecommunications Processing and Transmission Services										
Veterinaries, Animal Shelters, Kennels for Boarding Pets and Other Domestic Animals						C		C		11.31.10
Warehousing, and Storage, except hazardous materials, combustible materials and or flammable liquids						P	P	P		
Wholesale Trade, except hazardous materials, combustible materials and or flammable liquids			C			P	P	P		
Water Access Dependent Industrial Use							C			

Two Harbors Chapter 11-Land Use Regulation (Zoning)

Principal Use Type	P – Permitted Blank – Prohibited		C- Conditional * - Specific Standards			A – Accessory			Parklands		Specific Standard
	Residential	Business	Mixed Use	Industrial	Parklands						
Zoning District	R-2	R-3	B-1	B-2	MUW	I-1	I-2	1-1A	PR	PP	
Parks, Recreation, and Entertainment											
Campground					C				P		
Indoor Recreation and Entertainment Facility, Private			P	P	C						
Indoor Recreation and Entertainment Facility, Public	C	C	P	P	C				P		
Outdoor Recreation and Entertainment Facility, Private			C	C	C						
Outdoor Recreation and Entertainment Facility, Public	C	C	C	C	C				P		
Marina and Public Water Access					C				P		
Public Park	C	C			C				P	P	
Passive Recreation	C	C	C	C	C				P	P	
Public, Civic, and Institutional											
Art Gallery			P	P	C						
Cemetery			C								
Childcare Center	C	C	P	P	C						
Clinic, including Medical, Dental, Therapeutic			C	C							
Club or Lodge (Private)		C	P	P							
Community Center, Senior Center, Teen Center	C	C	P	P	C						
Funeral Home or Mortuary			C								
Government Offices	C	C	P	P	C	C	C	C			
Medical Heliport			C								
Hospital			C								
Law Enforcement, Public Safety, and Fire Station	C	C	C	C	C	C	C	C			
Museum			P	P	C						
Philanthropic Institution			P	P	C						
Religious Assembly	C	C	C	C							11.31.15
School, elementary	C	C	P	P							
School, middle or high	C	P	P	P							
Trade, Business, or Art School			P	P							
University of College			C	C							
Meeting or Convention Hall			C	C	C						11.31.15
Accessory Uses											
Adult Use, Accessory			A	A				A			11.31.6
Accessory Structure	A	A	A	A	A	A	A	A	A	A	11.31.12
Offices, Sales Floors, and Showrooms Customarily Incidental to the Primary Use						A	A	A			
Research and Development, Engineering and Design, Marketing and Sales, Customer Support and Other Non-production Activities Clearly Incidental to the Primary Use						A	A	A			
Short-term Living Quarters for Caretakers, Watchmen, and Operators						A	A	A			
Accessory Outdoor Service			A	A	A						11.31.15
Storage Garage		A									
Dwellings for caretakers, watchmen, and operators											
Drive Through and Drive Through Business			A/C	A/C							11.31.8
Temporary Shipping or Storage Container	A	A	A	A		A	A	A			11.31.9
Outdoor Seating			A	A	A						11.31.7
Private Pools	A	A	A	A	A						11.31.13
Residential Fences	A	A	A	A	A						11.31.16
Home Occupation	C	C	C	C	C						11.31.17

11.31 Use Specific Standards

Subd. 1. Access to Townhouses. In the case of multi-building townhome development, vehicular access must be provided from a public street right-of-way to all buildings through a perpetual unobstructed paved easement or parking area of at least twenty (20) feet in width.

Subd. 2. Automotive, light vehicle, home and garden repair and maintenance.

- A. No repair work shall take place outside of the principal structure.
- B. Any damaged or disassembled (partially or wholly) vehicle stored overnight shall be kept in an enclosure screening the vehicle and/or other materials from public view by use of vegetation, berms, fencing, or other means.

Subd. 3. Artisanal Industrial.

- A. Artisanal Industrial uses must maintain at least 10 percent of the gross floor area of the facility for retail purposes.
- B. Outdoor storage shall be fully screened from view.
- C. Artisanal industrial uses shall create little or no adverse impacts on surrounding properties and the environment by virtue of being relatively free from objectionable features, including but not limited to noise, dust, odor, smoke, glare, or vibration or whose objectionable features can be eliminated by design, screening and other appropriate devices, and does not create objectionable amounts of traffic.

Subd. 4. Bulk fuel depot, storage and handling of combustible materials and/or flammable liquids. Storage and handling of any hazardous materials, combustible materials and/or flammable liquids shall be located at least two hundred fifty (250) feet from any residential zone district.

Subd. 5. Adult Use, Accessory. An adult use, accessory is hereby allowed in an I-1A Zone District without a separate Limited Industrial District/Adult Use Permit, provided that a Limited Industrial District/ Adult Use Permit has been issued for the principal business activity to be conducted on the premises on which the adult use accessory is to be conducted.

Subd. 6. Outdoor Seating

1. An outdoor seating area may be established in conjunction with a permitted eating and drinking establishment, micro alcohol production facility, or entertainment venue, provided:
 - A. Parking requirements continue to be met.
 - B. Outdoor seating areas of 500 sq. ft. or less or 15 percent of the gross floor area of the principal use, whichever is less, shall not require additional parking. Seating areas more than 500 sq. ft. or 15 percent shall be required to provide additional parking at the standard parking rate for the principal use.
 - C. Alcoholic beverages may be consumed within an outdoor seating area in conjunction with a restaurant provided the primary restaurant operation is licensed to serve alcoholic beverages.
 - D. Outdoor seating areas shall comply with setback requirements and shall not impede a public right of way or pedestrian or vehicular access.

Subd. 7. Drive Through Facilities and Drive Through Business

- A. Drive Through Facilities shall be designed and located so it does not impede traffic or impair vehicular and pedestrian traffic movement or exacerbate the potential for pedestrian or vehicular conflicts.
- B. The Planning Commission may require screening, buffering, lighting standards to avoid conflict with neighboring commercial, residential, and institutional properties.

Subd. 8. Temporary Shipping or Storage Containers

- A. Temporary Shipping or Storage Containers are allowed on construction sites in any district where there is an active building permit if related to the project.
- B. Are allowed for a period of 15 days in any calendar year in all districts for moving related purposes.

Subd. 9. Mini-warehouses and Self-storage.

- A. The use shall be contained within an enclosed building or buildings with controlled access within a fenced compound.
- B. Hours of public access to mini-storage units adjacent to a residential zone district shall be restricted to the period from 6:00 a.m. to 10:00 p.m.
- C. Up to 50 percent of the site may be used for outdoor storage of items provided the site is fully screened from public view with a fence or wall at least eight feet in height.

Subd. 10. Animal shelters, veterinary, kennels. Any structure or area used for such purposes, including pens and exercise yards, shall be located at least one hundred (100) feet from any residential zone district and that such pens or exercise runs shall be enclosed on four (4) sides by a sight obscuring, unpierced fence or wall at least six (6) feet in height.

Subd. 11. Accessory Structures Yard Space Encroachment, Accessory Buildings.

- A. Accessory buildings attached in Residence Districts: An accessory building including carports attached to the principal building, on a lot, shall be made structurally a part thereof and shall comply in all respects with the requirements of this Chapter applicable to the principal building. Breezeways, for the purpose of this Chapter, as an attachment between the garage or carport and the principal building shall be considered a part of the principal building.
- B. Accessory Buildings Detached, Residence Districts. Detached accessory buildings may be located in side and rear yards and shall not be located in front yards. When located within ten (10) feet of the rear wall of the principal building, compliance with all yard requirements applicable to the principal building in the district is mandatory. Where accessory buildings are located in the rear yard and side yards, greater than ten (10) feet distance from the rear wall of the principal building, they shall not be located nearer than five (5) feet from the side and rear lot lines. A detached accessory building on a corner lot shall not project beyond the front yard setback requirements of the principal building. Detached accessory buildings in Residence Districts shall not occupy more than twenty-five percent of the lot area and shall meet the following criteria:
 - 1. The side walls of the accessory building shall not exceed fourteen feet in height, sixteen (16) feet sidewalls will be allowed if with an additional one foot added to existing setback standards.

2. The highest point of the accessory building shall be equal to the maximum height allowed by the district it is within while allowing an increase side yard setbacks to same as house by 1 foot for every 2 feet over 25' in height.
 3. Adequate safeguards and assurances have been provided to the City that no use or activity not otherwise allowed in the district in which the accessory building at any time.
 4. The accessory building shall be aesthetically consistent with surrounding adjoining properties. Aesthetic factors shall be considered with a view towards the highest possible use of the area in the vicinity of the proposed structure. This determination shall be made by the Zoning Administrator after considering the size, shape, general appearance, structural materials and landscaping of the accessory structure.
- C. **Accessory Uses and Buildings in R-3 Districts.** Accessory buildings and uses customarily incident to any above uses, including storage garages, where the lot is occupied by a multiple dwelling, hospital or institutional building.
- D. **Accessory Buildings, Commercial and Manufacturing Districts.** In commercial and manufacturing districts, accessory buildings and uses may occupy any of the ground area which the principal building is permitted to occupy. Accessory buildings such as buildings for parking attendant, guard shelters, gate houses and transformer buildings may be located in the front or side yards of "I-2" Districts.

Subd. 12. Accessory Dwelling Units

- A. Accessory Dwelling Units (ADUs) shall be allowed on single family residential properties.
- B. ADU's shall not exceed 800 square feet in total floor space.
- C. Attached ADU's shall comply with the standards of all other attached accessory structures.
- D. Detached ADU's shall comply with the standards of all other detached accessory structures.
- E. ADU's shall meet the building and utility code requirements for residential structures.
- F. ADU's shall require one additional off-street parking space.

Subd. 13. Private Swimming Pools. A private swimming pool shall include a pool, pond, lake or open tank not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point, greater than one and one-half feet. No such swimming pool shall be allowed in any district unless it complies with the following conditions and requirements:

- A. It may not be located, including any walks or paved areas or accessory structures adjacent thereto, closer than 5 feet to any property to which it is located.
- B. The swimming pool, or the entire property on which it is located, shall be so walled or fenced as to prevent uncontrolled access by children from the street or adjacent properties.
- C. The pool further shall be screened by, at a minimum, a masonry wall, board fence or compact hedge, 5 feet in height and maintained in good condition.

Subd. 14. Assembly Buildings. On a lot occupied by a church or other building in which persons congregate, or which is designed, arranged, remodeled, or normally used for the congregation of persons; each side or rear yard shall be not less than 25 feet. This Subdivision shall take precedence over other regulations in this Chapter as to width or side and rear yards, insofar as it applies to churches or other public or semi-public buildings in which persons normally congregate in numbers in excess of 25.

Subd. 15. Accessory Outdoor Use. Accessory on-premises outdoor dining and seating, accessory on-premise display of goods for sale by the primary permitted use are allowed. The use of a portion of a public sidewalk for outdoor dining, seating, bicycle rack, temporary display of goods, temporary sign, or other purpose that does not involve the permanent vacation of any part of the public right-of-way may be allowed following the issuance of a Sidewalk Use Permit.

Subd. 16. Residential Fences.

- A. For the purpose of this Section, the term “fence” shall include any enclosed barrier consisting of wood, vinyl, composite, stone or metal intended to prevent ingress or egress.
- B. Fences shall be located so that each side of the fence may be properly maintained by the property owner of the fence while on said owner’s property.
- C. Fences may be located at the property line with written consent of the adjacent property owner.
- D. The finished side of the fence shall face the neighboring property.
- E. Fences exceeding seven feet in height shall also require a building permit.
- F. On a corner lot, no fence or other structure more than three and one half feet (32') in height above the plane of the established grades of the street shall be erected on any part of the front yard or side yard herein established that is included within the street lines of intersecting streets and a line connecting such street lines at a point which is 20 feet from their point of intersection measured along such street lines, and no planting of foliage shall be placed or maintained within such area that, in the judgement of the Zoning Administrator, will materially obstruct the view of a driver of a vehicle approaching the street intersection.
- G. No fence which is more than 6 feet in height above the plane of the finished grade of the lots, at the division line between lots, shall be erected along such division line unless no part of such fence is within 20 feet of any residence building on such lot or abutting lot, and in no instance shall the fence be nearer than 20 feet to any street line.

Subd. 17. Home Occupations

- A. Professional office or studio in the residence of an architect, artist, dentist, lawyer, engineer, physician, teacher or similar professional persons, but not including beauty parlors, barber shops, schools of any kind with organized classes or any businesses; provided that not more than one person, not residing in said dwelling, is employed in said establishment.
- B. Outdoor storage shall not be allowed.
- C. Home Occupations shall create little or no adverse impacts on surrounding properties and the environment by virtue of being relatively free from objectionable features, including but not limited to noise, dust, odor, smoke, glare, or vibration or whose objectionable features can be eliminated by design, screening and other appropriate devices, and does not create objectionable amounts of traffic.

Article Four: Dimensional Standards

11.40 Dimension Table

District Dimensional Standards	B-1	B-2	MUW	B-1 Residential	B-2 Residential	MUW Residential	PR	PP	R-2	R-3	I-1 (A) - Up to 50' height	I-2 - Up to 50' height	I-2 - Up to 70' height
Minimum Lot Area	None	None	5000 sq. ft.	5,000 sq. ft.	5,000 sq. ft.	5,000 sq. ft.	None	None	6,850 sq. ft.	6,750 sq. ft.	None	None	None
Minimum width	None	None	None	None	None	None	None	None	50 ft.	50 ft.	None	None	None
Standard Lot Dimensions	None	None	None	None	None	None	None	None	50 ft. x 137 ft.	50 ft. x 135 ft.	None	None	None
Minimum Front Yard	None	None	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	None	25 ft.	25 ft.	25 ft	25 ft	25 ft
Minimum Side Yard	None, 3 ft. if provided	None	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	None	7 ft.	7 ft. up to 28 ft. height + 1 ft. for every add'l 4 ft. height (11 ft. at max height)	20/35* ft	20/35* ft	20/40* ft
Minimum Rear Yard	10 ft.	None	20 ft.	20 ft.	20 ft.	20 ft.	10 ft.	None	30 ft.	30 ft.	12/25* ft	12/25* ft	25/50* ft
Maximum Height	3 stories + 35 ft.	3 stories + 35 ft.	35 ft + lower than depot if in 1000' of depot	3 stories + 35 ft.	3 stories + 35 ft.	35 ft. + lower than depot if in 1000' of depot	35 ft.	20 ft.	30 ft.	45 ft.	50 ft	50 ft	70 ft

11.41 Accessory Structure Dimensional Table

District Dimensional Standards	B-1	B-2	MUW	B-1 Residential	B-2 Residential	MUW Residential	PR	PP	R-2	R-3	I-1 (A) - Up to 50' height	I-2 - Up to 50' height	I-2 - Up to 70' height
Minimum Front Yard	None	None	None	N/A	N/A	N/A	None	None	N/A	N/A	25 ft	25 ft	25 ft
Minimum Side Yard	None, 3ft if provided	None	None, 3ft if provided	When located within 10 feet of principal structure: 7 ft. Otherwise 5 ft.	When located within 10 feet of principal structure: 7 ft. Otherwise 5 ft.	When located within 10 feet of principal structure: 7 ft. Otherwise 5 ft.	None	None	When located within 10 feet of principal structure: 7 ft. Otherwise 5 ft.	When located within 10 feet of principal structure: 7 ft. Otherwise 5 ft.	20/35* ft	20/35* ft	20/35* ft
Minimum Rear Yard	10 ft	none	10 ft	When located within 10 feet of principal structure: 20 ft. Otherwise 5 ft.	When located within 10 feet of principal structure: 20 ft. Otherwise 5 ft.	When located within 10 feet of principal structure: 20 ft. Otherwise 5 ft.	When located within 10 feet of principal structure: 20 ft. Otherwise 5 ft.	None	When located within 10 feet of principal structure: 30 ft. Otherwise 5 ft.	When located within 10 feet of principal structure: 30 ft. Otherwise 5 ft.	12/25* ft	12/25* ft	12/25* ft
Maximum Height	3 stories + 35 ft.	3 stories + 35 ft.	3 stories + 35 ft.	30 ft	45 ft	45 ft	Signs 10 ft., Shelters and Structures 20 ft.	Signs 10 ft., Shelters and Structures 20 ft.	30 ft	45 ft	50 ft	50 ft	70 ft

11.42 Dimension Related Provisions

Subd. 1. Area Requirements. No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building, except as modified hereinafter. No yard or lot existing on the effective date of this Chapter shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Chapter shall meet at least the minimum requirements established by this Chapter.

Subd. 2. Height Limitations are Applicable. The height limitations stipulated in this Chapter shall not apply to the following:

- A. Church spires, belfries, cupolas and domes, monuments, water towers, fire and hose towers, observation towers, transmission towers, chimneys, smoke stacks, flag poles, radio and television towers, masts and aerials, and parapet walls extending not more than 4 feet above the limiting height of the building.
- B. Places of public assembly in churches, schools, and other permitted public and semi-public buildings, provided that they are located on the first floor of such buildings; provided that for each 2 feet by which the height of such building exceeds the maximum height otherwise permitted in the district, its side and rear yards shall be increased in width or depth by an additional floor over the side and rear yards required for the highest building otherwise permitted in the district, and further provided, that the Board of Appeals shall find that such additional height will not be materially detrimental to surrounding property.
- C. Elevator penthouses, monitors, and scenery lofts provided no linear dimension of any such structure exceeds 50 percent of the corresponding street lot line frontage.

Subd. 3. Yard and Frontage Limitations not Applicable. The yard and frontage limitations stipulated elsewhere in this Chapter shall not apply to the following:

- A. In any district where front yards are required and where 40 percent or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have a front yard that is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established.
- B. Where 40 percent or more of the frontage on one side of a street between two intersecting streets is developed with buildings, that have not observed a front yard as described above, then:
 1. Where a building is to be erected on a parcel of land that is within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent buildings on the two sides, or;
 2. Where a building is to be erected on a parcel of land that is within 100 feet of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.

Subd. 4. Yard Space, General. Any building, structure or use hereafter erected, altered or established shall comply with the yard space requirements of the district in which it is located except as specified below. The required yard space for any building, structure, or use shall be contained on the same lot as the building, structure or use, and such required yard space shall fall entirely upon land in a district or districts in which the principal use is permitted. Any required yard space shall be open from 30 inches above ground to the sky, except as specified herein.

Subd. 5. Yard Space Encroachments. The following projections may be permitted into any front, rear or side yard adjoining a side street lot line:

- A. Cornices, sills, belt courses, eaves and other ornamental features to a distance of not more than 2 feet 6 inches.
- B. Fire escapes to a distance of not more than 4 feet 6 inches.
- C. Uncovered stairways and necessary landings to a distance of not more than 4 feet 6 inches, provided such stair and landings shall not extend above the entrance floor of the building, except for a railing not to exceed 3 feet in height, and not less than 3 feet from the side yard line.
- D. Bay windows and chimneys to a distance of not more than 3 feet, provided that such features do not occupy, in the aggregate, more than one-third (1/3) of the length of the building wall on which they are located.
- E. Terraces and uncovered porches, when constructed more than 6 inches above the ground level at the nearest lot line, to a distance of not more than 2 feet 6 inches, provided said terraces and porches do not extend more than 3 feet above the floor level of the ground story, and not less than 3 feet from the side yard lot line.
- F. Balconies, in the "R" Districts, to a distance of not more than 3 feet into yards of less than 20 feet and to a distance of not more than 6 feet into yards of more than 20 feet; provided that said balconies do not occupy, in the aggregate, more than one-third (1/3) of the length of the building wall on which they are located.
- G. Subject to the limitations for features projecting into front yards, said features may also project into required yards adjoining interior side lot lines, provided that the distance shall not exceed one-fifth (1/5) of the required least width of such side yard and not less than 3 feet from side yard lot line.

Subd. 6. Yard Space Exceptions, Topography: In any "R" District where the natural grade of a lot within the required front yard has an average slope, normal to the front lot line at every point along said line, of such a degree or percent of slope that it is not practicable to provide a driveway with a grade of 12 percent or less to a private garage, a driveway or garage may be located within such front yard, but not in any case closer than 12 feet to the street line.

Subd. 7. Vision Clearance in Residence District.

- A. On a corner lot, no fence or other structure more than three and one-half feet (3-1/2') in height above the plane of the established grades of the street shall be erected on any part of the front yard or side yard herein established that is included within the street lines of intersecting streets and a line connecting such street lines at a point which is 20 feet from their point of intersection measured along such street lines, and no planting of foliage shall be placed or maintained within such area that, in the judgement of the Zoning Administrator, will materially obstruct the view of a driver of a vehicle approaching the street intersection.
- B. No fence which is more than 6 feet in height above the plane of the finished grade of the lots, at the division line between lots, shall be erected along such division line unless no part of such fence is within 20 feet of any residence building on such lot or abutting lot, and in no instance shall the fence be nearer than 20 feet to any street line.

Subd. 8. Public Sanitary Facilities Not Available. In any "R" District where a public sanitary sewer is not accessible, the otherwise specified lot area and frontage requirements shall comply with Lake County Health Department Regulations.

Article Five: General Development Standards

11.50 Landscape Requirements

Subd. 1. Landscape Plan. A landscape plan shall be required for all commercial and industrial developments and for residential developments consisting of more than two units and shall include:

- A. Landscape plans shall be prepared by a registered landscape architect for planned unit development, Mixed Use Waterfront or where there is greater than one acre of site disturbance. The Landscape plan shall cover all areas not used for traffic, parking or buildings and shall not apply to undisturbed areas retained in a natural state.
- B. Preservation of existing vegetation as much as is reasonably possible and in conformance with applicable regulations.
- C. Provision for landscaping compatible with surrounding area.
- D. Screening for parking areas when possible either by placement or by use of vegetation, berms, fencing, or other means. At least 10 feet of screening area of at least six feet in height must be provided for parking areas adjacent to residential property.
- E. Landscaping shall be a combination of canopy trees, ornamental trees, evergreen trees, shrubs, flowers, sod, ground cover, and other site design features and shall use of new plant material that blends with existing vegetation and is hardy and indigenous in this area. Tree replacement levels and species shall be consistent with the City Tree Preservation Ordinance.
- F. Protection of existing watercourses or of water retention areas that may be required for water runoff. Screening of service and storage areas, exterior work areas, refuse storage and removal facilities, and other similar activities incidental to the principal use of the site.
- G. Landscaping and vegetation management consistent with the Shoreland Overlay Ordinance where applicable.

11.51 Parking

Subd. 1. Off-Street Parking and Loading; Screening.

- A. **Off-Street Parking and Loading Spaces in Certain Districts.** Off-street parking and loading spaces shall be provided in accordance with the specifications in this Subdivision when any new use is established or existing use is enlarged in the B-1 Highway Service Business District, the B-2 Central Business District, the I-1 Limited Industrial District, the I-2 Industrial District and the I-W Industrial District Water Related. For any commercial, industrial or institutional use, off-street parking spaces and, where appropriate, loading spaces shall be provided in accordance with the schedule prescribed by rule of the Planning Commission and adopted and confirmed by resolution of the Council. Such schedule shall be based on accepted standards, shall take into account the anticipated demand for parking or loading space by employees and patrons of the use and shall be related to the number of employees, floor space, seats or other measure or combination of measures appropriate to the particular use. Parking and loading spaces shall be adequate in size to accommodate the vehicles expected to use them and shall be properly drained and maintained.
- B. The number of off-street parking spaces provided shall be at least the minimum number provided in the schedule referred to in Subparagraph A, above and included in Section 11.52. When a building is enlarged, off-street parking shall be required only with respect to the additional usable floor area. When computing the square foot area of a building for parking space requirements, only the areas normally open to the public shall be considered.

- C. For the purposes of carrying out the intent of Subparagraph A, above, any use not specifically mentioned in the schedule of off-street parking and loading requirements, the number of spaces required shall be that required for that use named in the schedule which is determined by the Zoning Administrator to be most similar.
- D. **Improvement and Maintenance.** Required parking and loading spaces, together with driveways, aisles and other circulation areas shall be improved in such a way as to provide a durable and dust-free surface. All parking and loading areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties or walkways. The owner of any parking or loading area shall maintain the area in good condition without holes and free of all dust, trash and other debris.
- E. **Parking Permitted in Adjacent Residential Zones.** Parking requirements as herein established for the zones specified in Subparagraph A, above, may be provided in those portions of adjacent residential zones located within 150 feet of the zones specified in Subparagraph A, above. Such parking in adjacent residential zones is further limited in that the parking shall be located within 300 feet of the principal use for which it is being provided.
- F. **B-2 Standards from parking ordinance-**On-street and designated shared parking lots in the vicinity of the property may be included as part of the parking requirement and shall be determined by the zoning administrator.
- G. **Prior Use-** Structures for which a permit has been issued prior to the effective date of this ordinance but for which work has not been completed shall be exempt from herein stated parking requirements if the structure is completed within six (6) months after the effective date of this ordinance.
- H. **Benches and Seating in Place of Public Assembly.** Each 22 inches of such seating facilities shall be counted as one seat for the purpose of determining requirements of this ordinance.
- I. **Parking Spaces.** Each parking space shall be not less than 8 ½ feet wide and 19 feet in length-exclusive of an adequately designed system of access drives.
- J. **Use of parking facilities-** Off street parking facilities located in a residential zone shall not be used as over-night parking or storage of commercial vehicles.
- K. **Joint facilities.** Off-street parking facilities for one or more uses ay be provided at a common site.
- L. **Control of off-street parking facilities.** When required, if off street parking facilities are provided elsewhere than on the lot in which the principal use is located, the site shall be in the same ownership or control either by deed or long-term lease.
- M. **Use of parking area.** Required off street parking space in any district shall not be utilized for open storage of goods or for the storage of vehicles which are inoperative.
- N. **Available on-street parking** adjacent to said property may be included as part of the parking requirement and determined by the Zoning Administrator.
- O. **Design and maintenance:**
 - 1. **Parking areas.** Parking areas shall be designed so as to provided adequate means of access to a public alley or street. Such driveway access shall not exceed 22 feet in width at the property line. Access drives, when designed parallel to the front property line or to a side street lot line shall be six (6) feet or more from the property line.
 - 2. **Signs.** Signs necessary for orderly operation of traffic movement shall be permitted and not considered as a part of the allocated sign space.
 - 3. **Surfacing.** All the area intended to be utilized for parking space and driveways shall be surfaced with material to control dust and drainage. Parking areas for less than three

vehicles shall be exempt. Plans for surfacing and drainage shall be subject to approval by the Zoning Administrator.

4. **Lighting.** Any lighting used to illuminate off-street parking area shall be so arranged to reflect the light away from the adjoining property.
5. **Curbing and Landscaping.** All open off-street parking designed to have head-in parking along the property line shall provide a wheel curb not less than three (3) feet from the property line or a guard of normal bumper height not less than one foot from the property line. The yard setback areas shall have grass or planting to the sidewalk.
6. **Fence.** When a required off-street parking space for six (6) cars or more is located adjacent to an “R” district, a fence or foliage of adequate design not over six (6) feet in height and not less than four (4) feet in height shall be provided along the “R” district property line but not within the required front yard.

11.52 Parking Minimum Standards

The following minimum standards will be applied for off street parking requirements for any new use within the city:

Subd. 1. Off-Street Parking Requirements by Use/District

- A. **B-1 Highway Business District**
 1. For 7th Avenue frontage:
 - i. Buildings Less than or Equal to 5,000 square feet – 2 required off-street spaces.
 - ii. Buildings Greater than 5,000 square feet – 4 required off-street spaces.
- B. **B-2 Central Business District**
 1. No commercial minimum requirements.
- C. All residential uses will be required to provide one space per dwelling unit in any district.
- D. **All other commercial/industrial/institutional properties** will be required to provide one (1) space of parking for every 500 square feet of gross floor space.
- E. **Adjustments.**
 1. Minimum requirements, except for properties with frontage along 7th Avenue, the required parking spaces can be reduced by Zoning Administrator up to 15% with a simple parking plan.
 2. Minimum requirements, except for properties with frontage along 7th Avenue, minimum required parking spaces may be further reduced with an engineered traffic plan approved by Zoning Administrator/Planning Commission.

11.53 Design Standards

Subd. 1. B-1 Highway Commercial District Design Standards

The intent of the B-1 Highway Commercial design guidelines is to project the image and character of a and attractive and distinctive gateway into Two Harbors, support long term quality development, and mitigate negative impacts that may result from new development.

- A. Buildings must have a clearly defined base, middle, and top.
- A. Facades should be oriented vertically.
- B. Buildings of more than 50 feet in width shall be divided into smaller increments through articulation of the façade. This can be achieved through combinations of the following techniques:

1. Stepping back or extending forward a portion of the façade.
 2. Vertical divisions using different textures or materials (although materials should be drawn from a common palette).
 3. Division into storefronts, with separate display windows and entrances.
 4. Variation in roof lines by alternating dormers, stepped roofs, gables, or other roof elements to reinforce the modulation or articulation interval.
 5. Arcades, awnings, window bays, arched windows and balconies at intervals equal to the articulation interval.
 6. Providing a lighting fixture, trellis, tree, or other landscape feature with each interval.
- C. All light fixtures shall be to be shielded or directed to ensure that light is not directed onto adjacent properties. Consider fixtures that will not contribute to dark sky lighting.
- D. Buildings are encouraged to be oriented to the street with doors and windows facing the street.
- E. Ground floor windows are encouraged.
- F. Building Materials: Facades visible from the street or public right of way shall finished with face brick, stucco, glass, wood, natural stone, specifically designed pre-cast concrete units whose surfaces have been integrally treated with an applied decorative material or texture, or other material as may be approved by the Zoning Administrator. Combinations of such materials shall be permitted.

Subd. 2. B-2 Downtown Waterfront Commercial Design Standards

The purpose of the Downtown Waterfront Commercial District design standards is to support the vitality of the downtown business district by preserving the character, encouraging a walkable district, and preventing conditions that lower property value and create blight.

- A. Buildings must have a clearly defined base, middle, and top.
- B. Facades should be oriented vertically.
- C. Buildings of more than 50 feet in width shall be divided into smaller increments through articulation of the façade. This can be achieved through combinations of the following techniques:
 1. Stepping back or extending forward a portion of the façade
 2. Vertical divisions using different textures or materials (although materials should be drawn from a common palette)
 3. Division into storefronts, with separate display windows and entrances
 4. Variation in roof lines by alternating dormers, stepped roofs, gables, or other roof elements to reinforce the modulation or articulation interval.

5. Arcades, awnings, window bays, arched windows, and balconies at intervals equal to the articulation interval
 6. Providing a lighting fixture, trellis, tree, or other landscape feature with each interval
- D. All light fixtures shall be to be shielded or directed to ensure that light is not directed onto adjacent properties. Consider fixtures that will not contribute to dark sky lighting.
 - E. A minimum of 30% of the ground level façade up to 9' above grade shall be transparent (windows and doors). Reflective or glass tinted more than 40% is not allowed. This standard should be applied to newly constructed buildings or where there is a substantial modification and encouraged for all other buildings. This standard applies only to the primary frontage for corner lots. The second frontage for corner lots may substitute other tools to indicate pedestrian orientation.
 - F. The color of buildings should complement the adjacent buildings' colors and include a complementary mix of colors.
 - G. Roof lines for new buildings should complement neighboring properties.
 - H. Buildings are encouraged to be oriented to the street with doors and windows facing the street.
 - I. Building Materials: Building Materials: Facades visible from the street or public right of way shall finished with face brick, stucco, glass, wood, natural stone, specifically designed pre-cast concrete units whose surfaces have been integrally treated with an applied decorative material or texture, or other material as may be approved by the Zoning Administrator. Combinations of such materials shall be permitted.

11.54 Development Agreement

Subd. 1. The City may, at its sole discretion, require the owner and developer of a project permitted under this chapter to execute a development agreement which may include, but not be limited to, any conditions of approval, utilities, roads, and other infrastructure.

Subd. 2. The development agreement may require the developers to provide an irrevocable letter of credit or performance bond in favor of the City.

Article Six: District Specific Standards

11.60 Planned Unit Development (PUD) District Development Standards

Subd. 1. Scope. PUDs may be used as an overlay zoning district over any base zoning district or combination of districts. The PUD process provides an alternative to traditional development under other zoning and subdivision standards of the City. This Chapter shall not be applied to single-family residential lots incapable of further subdivision due to lot size or as a means to avoid other procedures more appropriately reviewed as variance applications.

Subd. 2. Coordination with Subdivision Regulations. If a PUD involves the subdivision of land, then the subdivision review shall be carried out under Chapter 12 of the City Code simultaneously with review of the PUD. The plans required under this Section shall be submitted in a form that also incorporates the requirements of Chapter 12 of the City Code for the preliminary and final plat.

Subd. 3. Coordination with Provisions of the S-O, Shoreland Overlay District. When reviewing proposals for PUDs in the S-O Overlay District, staff shall consider whether the PUD proposal meets the standards and criteria in Section 11.50, Shoreland Overlay District. If there is a case where the standards and criteria in Section 11.50 are not consistent with those in this Section, the standards contained in this Section shall apply.

Subd. 4. Minimum Lot Area. Planned Unit Developments shall have no minimum area requirement, except that PUDs shall not be applied to single family residential lots incapable of further subdivision due to lot size or as a means to avoid other procedures more appropriately reviewed as variance applications.

Subd. 5. Allowed Uses. The PUD order may only authorize uses permitted in the zone district where the land is located or permitted with a conditional use permit in the zone district where the land is located, except neighborhood scale commercial and services that accommodate the daily convenience needs of surrounding residential areas may be incorporated into a residential PUD. If a conditional use is within an approved PUD no conditional use permit is required to be obtained.

Subd. 6. Height.

- A. The maximum height of buildings in PUDs shall not exceed thirty-five (35) feet in height unless the Planning Commission determines that a taller structure will not create an adverse impact and measures have been taken to reduce visibility of the structure as viewed from Lake Superior, Trunk Highway 61, and other roads and adjacent shorelands. Under no circumstances may a structure permitted as part of a PUD exceed fifty (50) feet in height. In waterfront areas along and/or on the lakeside of the downtown loop of the North Shore Scenic Drive All-American Road, the City may also require a building to be less than thirty-five (35) feet in order to protect views of the waterfront from the downtown area. This loop consists of Waterfront Drive, South Avenue, 1st Avenue, Park Road. In order to assist in this decision, the City will require the following from the project applicant:
 - 1. A detailed explanation as to the reason for the desired increase in height.
 - 2. A detailed explanation of how the increased height will not create an adverse visual impact.

3. Drawings or other visual renderings that show what the proposed development will look like from Highway 61, Lake Superior, Two Harbors Lighthouse, Depot, and other areas as requested by the City Administrator.

Subd. 7. Bonus Density.

- A. **Purpose for Bonus Densities.** Bonus densities are intended to provide the incentive to encourage the development of affordable housing, provide additional public amenities, or preserve valuable natural or cultural resources and features. The satisfaction of any of the bonus density criteria specified in Subsection D. of this Subdivision is considered to be in the public interest and worthy of a bonus density.
- B. **Eligibility for Bonus Densities.** Eligibility to obtain a bonus density is based upon site plan review and approval by the City as part of the preliminary PUD plan process. Such bonus densities may be granted to deserving applications if the PUD plan submitted is judged by the City to have achieved one (1) or more of the bonus density criteria.
- C. **Maximum Bonus Density.** The maximum bonus density allowed is limited to an additional thirty percent (30%) over the density allowed in the underlying zone district. In addition to criteria provided in this Subdivision, the density shall be compatible with the site's natural constraints and the character and density of the surrounding area. Compatibility for bonus density shall also be determined by proximity of the site to arterial roads, transit service, employment and shopping areas and planned amenities.
- D. **Basis for Approval of Bonus Density.** Upon submittal of the PUD application, the Zoning Administrator shall review the proposed project and submit a report to the Planning Commission, containing recommendations and proposed findings of fact and conclusions with respect to the allocation of bonus densities for the project. The allocation of bonus densities should be based upon a comprehensive review of the entire project. It is the intention of this Section to allow bonus densities where a PUD applicant proposes design attributes providing public benefits in addition to those required by local, State or Federal land use or environmental regulations. Bonus densities will not be allowed for site design proposals which merely reflect mandatory requirements of local, State and Federal codes or regulations. Consideration of the following criteria should be given:
 1. **Preservation of Open Space and Natural, Historical and Cultural Features (Exceeding Mandatory Code Requirements).** Items for consideration in meeting this criterion may include the preservation and minimum disturbance of natural features and wildlife habitat; preservation of unique historical or cultural features; preservation of open space; dedication to the City of land within the City's park or open space areas and corridor as designated in the comprehensive plan; and preservation of air, sunlight and scenic resources.
 2. **Public Service and Facility Availability (Exceeding Mandatory Code Requirements).** Items for consideration in meeting this criterion may include the provision of public schools; public park or other public facilities and/or sites; bicycle and pedestrian pathway systems; and special site design for special needs residents to situate or cluster uses within a reasonable distance of fire and police protection, medical, shopping, church and other such amenities.
 3. **Energy Efficiency (Exceeding Mandatory Code Requirements).** Items for consideration in meeting this criterion may include preservation of solar access; south orientation with

added glazing for inhabited structures; the use of landscaping and topography for windbreaks and shading; common wall construction; transportation management strategies; the use of solar energy systems either passive or active for heating and/or cooling; energy conserving design of roadways and other structures; and higher insulation levels.

4. **Public Recreation Facilities (Exceeding Mandatory Code Requirements).** Items for consideration in meeting this criterion may include provision for public recreational features such as tennis courts, active play areas, swimming pools, passive open space areas, bicycle and pedestrian pathway systems.
5. **Environmental Design (Exceeding Mandatory Code Requirements).** Items for consideration in this Subparagraph may include onsite designs providing regional benefits, including drainage control using natural drainage and landscaped drainage retention facilities; significant public access provided to designated potential open space or park areas, shoreline areas, trails, scenic sites and viewpoints; provision for substantial and exceptional landscape treatment; and the use of recycled materials and resource conserving designs.
6. **Affordable Housing (Exceeding Mandatory Code Requirements).** Items for consideration include the provision of a mix of housing types, utilization of townhouses, condominiums and apartments directed to providing a reasonable mix or diversity of bona fide affordable housing opportunities for a diverse segment of the community. Bonus densities will also be allowed for projects providing low-income housing in market rate developments. In such developments and other developments seeking bonus densities for the provision of low-income housing opportunities, the amount of bonus will be linked to the level of affordability, i.e., the lower the cost or rental rate per unit, the greater the bonus afforded to the development. Density bonuses for low-income housing projects will be granted only where all the following conditions are satisfied:
 - i. The developer must agree to sell or rent the units to qualifying residents (i.e., only low-income and very low-income households);
 - ii. The developer must ensure the continued affordability of the units by qualified residents for a minimum of forty (40) years through the use of restrictive covenants or other deed restrictions approved by the City; and
 - iii. The units must be of an innovative design and compatible with existing neighborhood character, with adequate assurances that such design and compatibility will be maintained throughout the forty (40) -year period.
7. **Other Criteria.** Other suitable items believed by the City to be worthy of consideration may also be included as bonus density criterion.

Subd. 8. Transient Unit.

The following definition applies to all projects proposed in the Planned Unit Development Overlay District.

A unit in a bed and breakfast inn, inn, hotel, motel, motor hotel, hotel-motel complex, condominium, time share complex or so-called interval ownership complex designed for and offering one (1) or more lodging units to travelers and transient guests for temporary lodging and sleeping purposes.

Subd. 9. Open Space Requirements. Open space preservation shall be equal to the underlying base zoning district.

- A. At least forty percent (40%) of the structure setback must be preserved as open space when the setback is being measured from Lake Superior.
- B. Road rights-of-way, land covered by road surfaces, parking areas, and all structures are considered developed areas and shall not be included in the computation of minimum open space.
- C. Open space may include improved outdoor recreational facilities for use by owners, guests of the dwelling units, occupants of transient units, or the public.

Subd. 10. Hydrology (Wetland, Stormwater, and Associated Management Standards). Lake County administers regulations affecting hydrology on behalf of the City. When applicable, PUDs will be reviewed according to Article 8 (Hydrology) in the Lake County Land Use Ordinance. A decision on applicability of the Lake County Land Use Ordinance will be made at the Application Conference.

Subd. 11. Procedure for Processing a Planned Unit Development. There are four (4) stages to the PUD process: Application Conference, Concept Plan, Preliminary PUD Plan, and Final Plan, as described below:

- A. **Application Conference.** Before filing an application for a PUD, the developer of the proposed PUD shall arrange for and attend a conference with the City Administrator, City Planner, Building Official and relevant local and State agencies that may have permitting responsibilities as part of the application. The primary purpose of the conference shall be to provide the developer with an opportunity to gather information and obtain guidance as to the general suitability of the proposal for the area for which the PUD is proposed and its conformity to the provisions of Chapter 11 of the City Code before incurring substantial expense in the preparation of plans, surveys and other data.
- B. **Concept Plan.**
 - 1. **Purpose.** The Concept Plan provides an opportunity for the developer to submit a plan to the City showing the basic intent and the general nature of the entire development without incurring substantial costs for architectural, planning, engineering, legal or other services. The plan shall include the following:
 - i. Overall maximum PUD density.
 - ii. Specific location of major streets and pedestrian ways.
 - iii. Location and extent of public and common open space.
 - iv. Staging and time schedule of development.
 - v. Other special criteria for development.
 - vi. Specific location of residential and nonresidential land uses with approximate type and intensities of development.
 - vii. Narrative statement substantiating how the proposed development will be superior or more innovative than conventional development undertaken through the City's land use regulations. The statement shall also substantiate how the proposed PUD will provide a benefit to the public beyond what is available through conventional development.
 - 2. **Public Process.** The Concept Plan may be considered at a public hearing before the Planning Commission at the discretion of the Planning Commission. The Planning Commission shall make a recommendation to the City Council with respect to the Concept

Plan. The City Council may also, at the discretion of the City Council, hold a public hearing to consider the Concept Plan.

3. **Approval/Disapproval.** The City Council shall approve or disapprove the Concept Plan at a regular meeting of the City Council. An approval of a Concept Plan by the City Council is not a final approval of the proposed PUD but merely an authorization for the developer to apply for a preliminary PUD plan and preliminary plat, if applicable. A disapproval of a Concept Plan by the City Council is without prejudice to the developer submitting another Concept Plan for the City for its consideration.
 4. **Preliminary Plan.** Following approval of the Concept Plan, the developer shall, if developer desires to proceed further with the PUD, submit a preliminary PUD plan and preliminary plat, if applicable, an application for the approval of them and all supporting data and documentation (all the foregoing is collectively the application). The application must be submitted within one year of the approval of the Concept Plan. The application shall proceed and be acted upon in accordance with the requirements of Subsection E. of this Subdivision.
- C. **Preliminary PUD Plan Applications.** Ten copies of the following exhibits, analysis and plans shall constitute the application and must be submitted to the City:
1. If applicable, preliminary plat and information required by the City's Subdivision Ordinance.
 2. **General Information.**
 - i. The landowner's name and address and interest in the property and proposed project.
 - ii. The applicant's name and address if different from the landowner.
 - iii. The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, land planner, engineer, architect and surveyor.
 - iv. Evidence that the applicant has sufficient control over the property to effectuate the proposed PUD plan, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the property and including an up-to-date certified abstract of title or registered property report, and such other evidence as the City Attorney may require to show the status of title or control of the subject property.
 - v. The name of the proposed development (which shall not be duplicated or similar in pronunciation to the name of any plat or PUD order previously recorded in Lake County).
 3. **Present Status.**
 - i. The address and legal description of the property.
 - ii. The existing zoning classification and present use of the property and all lands within three hundred fifty (350) feet of the property.
 - iii. A map depicting the existing development of the property, its total acreage, all land within three hundred fifty (350) feet thereof and indicating the location of existing streets, property lines, easements, water mains and storm and sanitary sewers, with invert elevations on and within one hundred (100) feet of the property.

- iv. A written statement generally describing the proposed development that will constitute the PUD ("Project Description") and the market which it is intended to serve, its demand, its relationship to the City's Comprehensive Plan and how the proposed PUD plan is to be designed, arranged and operated in order to permit the development in accordance with the applicable regulations of the City and in a manner that is compatible with the use of neighboring properties.
- v. **Site Conditions.** Graphic reproductions of the existing site conditions at a maximum scale of 1 inch = 100 feet.
 - 1. Contours; minimum two (2) foot intervals.
 - 2. Location, type and extent of tree cover.
 - 3. Slope analysis.
 - 4. Soil conditions as they affect development.
 - 5. Significant rock outcroppings.
 - 6. Existing drainage patterns.
 - 7. Vistas and significant views.
 - 8. Location and extent of water bodies, wetlands and streams and floodplains on or within three hundred (300) feet of the property.
 - 9. Other information as requested by the City Zoning Administrator.
 - 10. All of the graphics should be the same scale as the preliminary plat, if applicable, and PUD plan to allow easy cross-reference. The use of overlays is recommended for clear reference.
- vi. A schematic drawing of the proposed development concept including but not limited to the general location of major traffic (vehicle and pedestrian) circulation elements, public and common open space, residential and other land uses, and a vegetation management plan where appropriate.
- vii. A statement of the estimated total number of dwelling units proposed for the PUD plan and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:
 - 1. Area devoted to residential units.
 - 2. Area devoted to residential units by building type.
 - 3. Area devoted to transient units.
 - 4. Area devoted to transient units by building type.
 - 5. Area devoted to common open space.
 - 6. Area devoted to public open space.
 - 7. Approximate area devoted to streets.
 - 8. Approximate area, and floor area, devoted to industrial or office use.
 - 9. Approximate area, and floor area, devoted to commercial uses.
 - 10. Approximate area devoted to, and number of, off-street parking and loading spaces and related access.
 - 11. Area devoted to outdoor recreational areas for use by owners, guests of dwelling units, occupants of transient units, or the public.
- viii. When the PUD plan is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and

completion date for each such stage or unit and the proportion of the total PUD public or common open space and dwelling units to be provided or constructed during each such stage and overall chronology of development to be followed from stage to stage.

- ix. When the proposed PUD plan includes provisions for public or common open space or service facilities, a statement describing the provisions that are to be made for the care and maintenance of such open space or service facilities.
- x. Any restrictive covenants that are to be recorded with respect to property included in the proposed PUD plan.
- xi. Schematic utility plans indicating allocation of water, sanitary and storm sewers.
- xii. The City may excuse an applicant from or delay the time for submitting any specific item of information or document required in this stage which it finds to be unnecessary to the consideration of the specific proposal at that time.
- xiii. The City may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD plan.

4. Preliminary PUD Plan and Plat Consideration.

- i. Within thirty (30) days after verification by the City Zoning Administrator that the preliminary PUD plan, preliminary plat, if applicable, and supporting data is adequate, the Planning Commission shall hold a public hearing on the preliminary PUD plan and preliminary plat, if applicable.
- ii. The Planning Commission shall conduct the public hearing and report its findings and make recommendations to the City Council including its specific findings and recommendations regarding any recommended bonus densities. Notice of the hearing shall consist of a legal property description, description of preliminary PUD plan, preliminary plat, if applicable, and project description, and be published in the official newspaper at least ten (10) days prior to the hearing. Written notification of the hearing shall also be mailed at least ten (10) days prior thereto to owners of land within three hundred fifty (350) feet of the boundaries of the property proposed for development.
- iii. The City may request additional information from the developer concerning any matters it deems appropriate or retain expert testimony at the expense of the developer concerning such other matters.
- iv. The City Council may hold a public hearing after the receipt of the report and recommendations from the Planning Commission. If the Planning Commission fails to make a report within sixty (60) days after receipt of the application, then the City Council may proceed without the report. The City Council may approve the preliminary PUD plan, and preliminary plat, if applicable, and attach such conditions, as it deems reasonable or deny the preliminary PUD plan and preliminary plat, if applicable.

- D. Final PUD Plan, Final Plat.** Following preliminary PUD plan and preliminary plat approval, if applicable, the applicant shall submit the final PUD plan and final plat, if applicable. Following preliminary PUD plan and preliminary plat approval, if applicable, the applicant shall submit the final PUD plan and final plat, if applicable, within one calendar year. No PUD approval shall be

valid for a period longer than one calendar year unless a Building Permit is issued. However, upon written request of the applicant, the 365-day period may be extended by the City Council for such time as it shall be determined and for good cause shown, without further hearing. If appropriate because of the limited scale of the proposal, the preliminary plan/plat stage and final plan/plat stages may proceed simultaneously.

Within thirty (30) days after verification by the City Zoning Administrator that the final PUD plan, final plat, if applicable, and supporting data is adequate, the Planning Commission shall hold a public hearing on the final PUD plan and final plat, if applicable.

The Planning Commission shall conduct the public hearing and report its findings and make recommendations to the City Council including its specific findings and recommendations regarding any recommended bonus densities. Notice of the hearing shall consist of a legal property description, description of final PUD plan, final plat, if applicable, and project description, and be published in the official newspaper at least ten (10) days prior to the hearing. Written notification of the hearing shall also be mailed at least ten (10) days prior thereto to owners of land within three hundred fifty (350) feet of the boundaries of the property proposed for development.

The City may request additional information from the developer concerning any matters it deems appropriate or retain expert testimony at the expense of the developer concerning such other matters.

The City Council may hold a public hearing after the receipt of the report and recommendations from the Planning Commission. If the Planning Commission fails to make a report within sixty (60) days after receipt of the application, then the City Council may proceed without the report. The City Council may approve the final PUD plan, and final plat, if applicable, and attach such conditions, as it deems reasonable or deny the final PUD plan and final plat, if applicable.

1. **Final PUD Plan.** The final PUD plan and final plat, if applicable, are the approved preliminary PUD plan and approved preliminary plat, if applicable, along with the satisfaction of any conditions imposed on the preliminary PUD plan approval and preliminary plat approval, if applicable. The final PUD plan shall include but not be limited to:
 - i. A final plat, if applicable, and information required by the City's Subdivision Ordinance (Chapter 12 of the City Code).
 - ii. Ten (10) sets of the final PUD plan drawn to a scale of a maximum of 1 inch = 100 feet (or such scale requested by the City Zoning Administrator) containing at least the following information:
 1. The name of the development.
 2. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property including any wetlands on the property.
 3. The location, size, use and arrangement including height in stories and feet and total square feet of ground area coverage and floor area of

- proposed buildings, including manufactured homes, and existing buildings which will remain, if any.
4. Location, dimensions of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other traffic circulation (pedestrian, bicycle, and vehicle) elements; and the total site coverage of all such traffic circulation elements.
 5. Location, designation and total area of all common open space.
 6. Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities.
 7. Proposed lots and blocks, if any and numbering system.
 8. Location use and size of structures and other land uses on adjacent properties.
 9. Detailed sketches and provisions of proposed landscaping.
 10. Detailed grading and drainage plans for the developed PUD.
 11. Any other information that may have been required by the Planning Commission or Council in conjunction with approval of the preliminary PUD plan.
- iii. An accurate legal description of the entire area within the PUD for which final PUD plan approval is sought.
 - iv. A tabulation indicating the number of residential dwelling units and/or transient units and expected population.
 - v. A tabulation indicating the gross square footage, if any, of commercial and industrial floor space by type of activity (e.g. drug store, dry cleaning, supermarket).
 - vi. Preliminary architectural "typical" plans indicating use, floor plan, elevations and exterior wall finishes of proposed building, including manufactured homes.
 - vii. A detailed site plan, suitable for recording, showing the physical layout, design and purpose of all streets, easements, rights of way, utility lines and facilities, lots, block, public and common open space, general landscaping plan, structures, including manufactured homes, and uses.
 - viii. Detailed grading and site alteration plan illustrating changes to existing topography and natural site vegetation. This plan should clearly reflect the site treatment and its conformance with the approved Concept Plan and approved preliminary PUD plan.
 - ix. A soil erosion control plan acceptable to any agency with review authority clearly illustrating erosion control measures to be used during construction and as permanent measures.

E. Amendments.

1. Minor changes in the location, placement, and heights of the buildings or structures may be authorized by the zoning administrator if required by engineering or other circumstances not foreseen at the time the final plan was approved.
2. Major changes, such as rearrangement of lots, blocks and building tracts, require a public hearing and renegotiated development agreement. All changes shall be consistent with the purpose and intent of the original approved final development plan and the

Comprehensive Plan. All amendments to the development agreement shall require the same procedures as for the application for a conditional use permit as set forth in the ordinances. Major changes include:

- i. An additional use, a more intensive use, or an increase in the parking requirement.
- ii. Changes in [design,] bulk, mass or orientation.
- iii. A reduction in the effectiveness of approved transitional screening, buffering, or landscaping, and any reduction in common open space or areas subject to preservation. Substantial changes in the location or type of pedestrian or vehicular access or circulation.
- iv. Changes in the phasing schedule that change the timing, amount, or completion of common open space, public facilities, or other improvements.

F. **Control and Map Designation** The final development plan of the PUD shall control the development of the PUD rather than any other provisions of this zoning ordinance. The plan shall be numbered and kept on file with the City.

1. Upon approval of the final PUD, the PUD boundaries shall be noted on the official zoning map as it is amended from time to time. The map shall include a numbered reference to the final PUD on file with the City.

11.61 Shoreland Overlay District

Subd. 1. Purpose and Authority.

- A. This Shoreland Overlay District is adopted pursuant to and complies with Minnesota Statutes Chapter 105, and Minnesota Regulations Part 6120, Subpart 1(a).
- B. The provisions of this overlay district are in addition to the requirements of this Chapter as they apply to the land use district underlying this overlay district; where provisions of this district are more restrictive they shall apply, where provisions of an underlying district are more restrictive, they shall apply.
- C. The provisions of this district shall apply to all lands within the City as shown on the official zoning map, and as further defined as the North Shore Management Planning Area, Minnesota Regulations Part 6120, Subpart 1(a).
- D. The policy fundamentals of Minnesota Regulations Part 1620, Subpart 1(a) (The North Shore Management Plan) are hereby adopted by reference.
- E. Permitted and conditional uses in the "S-O" District shall be consistent with the underlying zoning district and the Shoreland Management areas and policies of Minnesota Regulations Part 6120, Subpart 1(a).

Subd. 2. Intensity of Use and Height Regulations.

- A. The minimum lot size shall be 10,000 square feet.
- B. The structure setback from the ordinary high water mark of rivers and streams shall be 75 feet, and 40 feet from the vegetation line on Lake Superior, except lesser setbacks may be allowed in all districts except the Parks and Recreation District after certification from a licensed engineer that the building site is stable, not subject to slumping, shore-line erosion, wave run-up and public access to the shoreline is provided wherever possible.

- C. The structure setback in areas identified as erosion hazard areas on the official zoning map shall be 125 feet from the top edge of the eroding bluff, or a distance equal to the annual erosion rate times 50 plus 25 feet from the top edge of the eroding bluff. The structure setback may be modified by variance if the landowner provides technical data proving a different erosion rate, or that the erosion hazard, although correctly estimated, can be mitigated by structural protection.
- D. Lot Width. The minimum lot width shall be 75 feet at the vegetation line for lots abutting Lake Superior and 75 feet wide at the structure setback line.
- E. Building Height. The maximum building height is 35 feet in all districts except I-1, I-2 Industrial Districts in which districts the maximum building height is 70 feet.
- F. Floor Elevation Above Water Level. The lowest floor elevation for new structures shall be three (3) feet above the highest known water level or one (1) foot above the one hundred (100) year storm wave run-up elevation on Lake Superior as determined by a licensed engineer.
- G. Lot Coverage by Impervious Surfaces. Lot coverage by impervious surfaces shall not exceed 25 percent unless a surface water runoff plan certified by a registered professional engineer is submitted and approved by the Zoning Administrator. The surface water runoff plan shall contain, at a minimum, provisions for sediment entrapment and erosion control in order to minimize impacts on the receiving waters.

Subd. 3. Shoreland Alterations.

A. Vegetation Management.

- 1. A vegetation management plan will be required for total vegetation removal of over 10,000 square feet or 25 percent of the lot area, whichever is greater.
- 2. Removal of woody vegetation shall be restricted on bluffs, steep slopes and within the structure setback area to maintain stable soil conditions.
- 3. Removal of woody vegetation shall be limited. Screen vegetation shall be required to screen structures, clear cuts, parked vehicles or other facilities from public roads and Lake Superior. Selective removal of woody vegetation shall be allowed to provide a reasonable view of the Lake from individual residences.
- 4. Clear cutting shall not be permitted unless part of an approved site development plan with the exception of an authorized public service such as public roads and utilities.
- 5. Removal of woody vegetation shall be restricted as much as possible along DNR designated trout streams to provide for shade coverage, and to help keep stream temperatures at proper levels.
- 6. Cutting, pruning and trimming of trees shall be based on sound forest management practices for each individual tree species.
- 7. Private driveways shall blend into the existing terrain as much as possible and public utility lines to private landowners shall be buried if at all possible.

B. Wetlands.

- 1. Alterations to wetlands shall not be permitted unless part of an approved site development plan. Any alterations shall be first permitted by the DNR and US Army Corps of Engineers as required.
- 2. Alterations to wetlands, if permitted, shall require suitable mitigation.
- 3. Wetland shall be identified on site development plans.

C. Grading and Filling, Erosion Control.

1. An erosion and sediment control plan shall be required for excavations exceeding 1,000 square feet or 100 cubic yards, or fill exceeding 1,000 cubic yards within the structure setback area. Shoreland alterations done in connection with work authorized by a building or sewage disposal permit shall be exempt from the erosion control plan requirement.
2. Erosion and sediment control plans shall be reviewed by the Lake County Soil and Water Conservation District and approved by the Zoning Administrator prior to the start of the land alteration work.
3. Alterations must be designed and conducted in a manner which insures only the smallest amount of bare ground is exposed for the shortest time possible.
4. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage and a permanent vegetative cover must be established as soon as possible.
5. Methods to minimize soil erosion and to trap sediment before they reach any surface water feature must be used. Such methods shall be in place before development occurs.
6. Altered areas must be stabilized to acceptable erosion control standards consistent with the Field Office Technical Guides of the Lake County Soil and Water Conservation District and the U.S. Soil Conservation Service.
7. Fill or excavated material must be stabilized to prevent erosion and slope failure.
8. Fill or excavated material must not be placed on steep slopes, except as designated by qualified professionals.
9. Approved permanent erosion control practices should be maintained.
10. Alterations below the ordinary high water level of lakes and streams shall follow accepted practices. Any alterations shall be first permitted by the DNR and U.S. Army Corps of Engineers, as required.

Subd. 4. Erosion Hazard Areas.

- A. Site development plans shall be required and approved by the Zoning Administrator for all new construction in erosion hazard areas as shown on the official control map for the City.
- B. The burden of proof concerning the suitability of land in designated erosion hazard areas is the responsibility of the project proponent.
- C. The site development plan shall include a description of:
 1. Surface runoff including roof drains.
 2. Subsurface runoff.
 3. Vegetation removal including proposed landscaping.
 4. Proposed sewage treatment systems.
 5. Topography of site.
 6. Structure and driveway location.
 7. Potential bluff toe protection.
 8. Slope alterations.
 9. Other pertinent information as requested.
- D. The site development plan shall include setback and shoreline erosion control recommendations and shall be consistent with the shoreland alteration provisions of this Chapter.

Subd. 5. Planned Unit Development Standards and Criteria.

- A. **Goal.** It is the goal of these standards and criteria to provide uniform standards for the optimization of development opportunities and maximum environmental protection on any given planned unit development site.
- B. **Approval Process.** A PUD in the Shoreland Overlay shall be subject to the requirements of Section 11.60. Planned Unit Development Standards and subsection the additional criteria in 11.61. Subd. 5. C.
- C. **Design Criteria.**
 - 1. Structures, parking areas and other facilities must be designed and placed to reduce visibility as viewed from Lake Superior, roads and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the City, assuming summer, leaf-on conditions.
 - 2. Units, recreation facilities, and commercial uses must be clustered into one or more groups and located on suitable areas of the development site.
 - 3. Areas with physical characteristics unsuitable for development in their natural state, such as wetlands or areas containing significant historic sites shall be preserved as open space.
 - 4. The development must also provide access to developed public roads.
 - 5. The development will be serviced by the City's municipal sewage and water supply systems.

11.62 Mixed Use Waterfront Development Standards

Subd. 1. Development Regulations.

- A. **Uses Within Enclosed Buildings.** All businesses, services, or processing, shall be conducted within an enclosed building except outdoor dining areas and temporary events.
- B. **Transient Unit.** A transient unit is a unit in a bed and breakfast inn, inn, hotel, motel, motor hotel, hotel-motel complex, condominium, timeshare complex or so-called interval ownership complex designed for and offering one (1) or more lodging units to travelers and transient guests for temporary lodging and sleeping purposes.
- C. **View and Access Corridors.** Preservation of view corridors that allow visual and actual access to the lake and harbors solidify the perception of the waterfront character. Designated view and access corridors are of particular importance and new building construction and landscaping should be designed to not block or compromise these corridors. In addition to views and access, open space along the water's edge will be required to allow views and access to the water and water-related activities.
- D. **General Site Development Framework.** Developments throughout the Mixed-Use Waterfront District (MUW) shall contribute to capturing the authentic spirit of the maritime history of Two Harbors. By considering the impact of new development this spirit can be promoted. Along with views of and access to the water and water-related activities use of water- and boating-related artifacts, architectural features and historical interpretive devices in construction are encouraged to carry out the waterfront theme. Use of traditional regional architectural styles and related artifacts will help ensure cohesiveness and harmony with the overall character of the District. The following is a framework around which site plans should be designed in the MUW District.
 - 1. The development must provide linkages between the Lake Superior waterfront and adjacent neighborhoods.

2. The development must provide distinctive entries and gateways within the Waterfront District.
 3. The development must maintain pedestrian scale to buildings when appropriate.
 4. The development must maintain pedestrian linkages using walkways, plazas, and boardwalks.
 5. The development must create public places as destinations along pedestrian linkages.
 6. The development must carefully place signs, sign supports, and sign structures to integrate with the scale, color and detail of the building design while complying with the sign provisions of the Zoning Ordinance.
 7. The development must locate buildings within the Mixed-Use Waterfront District (MUW) to take advantage of views of Lake Superior while not impairing scenic views from the North Shore Scenic Drive, downtown, and adjacent residential neighborhoods.
- E. **Access.** Pedestrian access to the water's edge is important to allow a direct, tangible experience of the waterfront as well as to ensure visual access. Thus, promenades, walkways, and shared pathways along the shorelines to provide comfortable access are encouraged in all waterfront properties and developments.
- F. **Scale, Texture.** In addition to encouraging the retention of historic buildings, new developments shall emulate the scale and texture of historic structures within the City. Matching the existing pattern of building heights in the area will also emphasize the traditional, human scale of the district. To strengthen and enhance the historic feel of this area, new construction should repeat and harmonize with the scale, height, proportion and texture of the historic buildings in proximity to the development.
- G. **Architectural.** Due to the mixed-use nature of the development, architectural compatibility is necessary in order to visually integrate development and allow for proximity of various uses. Acceptable exterior building materials within the MUW District should include brick, wood, stone, and ornamental iron. The uses of such materials, along with traditional building techniques, are intended to promote and enhance the waterfront character of the District while providing a harmonious cohesiveness between old and new structures. Where additions to historic buildings are proposed, materials should match as closely as possible, as should the patterns created, and mortar, in the case of brick buildings. In general, brick and stone buildings should not be painted.
1. Residential buildings shall be constructed of brick or wood siding replicating the architectural styles of Two Harbors historic neighborhoods.
 2. Commercial and public buildings visible from public streets shall be constructed in brick, or material similar in appearance or texture to existing commercial and public buildings in proximity to the development.
 3. Screening walls shall be made of materials which match the principal structure.

Subd. 2. Submission of Plans Required. No erosion shall commence or change any use or erect or enlarge any structure in the MUW District without first obtaining all approvals required to be obtained prior to such work being completed and no use shall be carried on and no construction undertaken except as provided in the approved permits for such use or construction.

Subd. 3. Commercial-Urban Area. The MUW District is hereby determined and declared to be a Commercial-Urban Area (CU) for purposes of the North Shore Management Plan.

Article Seven: Administration and Procedures

11.70 Enforcement

Subd. 1. Duties. It shall be the duty of the Zoning Administrator to enforce this Chapter. The Zoning Administrator shall receive applications required by this Chapter, issue permits and furnish the prescribed certificates. He/She shall examine premises for which permits have been issued and shall make necessary inspections to see that the provisions of this Chapter are complied with.

Subd. 2. Right of Appeal. At the time a permit is issued, applicant shall be made aware, by the Building Inspector or Zoning Administrator, of his/her right to appeal to the Board of Zoning Appeals should his/her application be rejected due to his/her intended use of land or structure on land and structure being in conflict with regulations set down in this Chapter.

11.71 Board of Zoning Appeals

Subd. 1. Establishment. An administrative board is hereby established to be known as the "Board of Zoning Appeals". The Board shall consist of the seven (7) members of the Council. Their terms shall be identical to their term of office on the Council. Members of the Board shall serve without compensation. The Board may designate and employ an officer of the City to act as its secretary, and such other officer or official shall not be entitled to a vote nor to additional compensation.

Subd. 2. Proceedings. Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine. Such chairperson or, in his/her absence, the acting chairperson may administer oaths and compel the attendance of witnesses. The presence of at least four members of the Board shall be necessary to constitute a quorum.

- A. The Board shall adopt its own rules and procedure and shall keep a record of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact and shall also keep records of its hearings and other official actions. Findings of fact shall be included in the minutes of each case of a requested variation or appeal shall be specified
- B. All records of proceedings, findings, determinations and actions of the Board, shall be filed immediately in the office of the Board and shall be a public record. All meetings of the Board shall be open to the public.

Subd. 3. Hearings; Appeals; Notices. Appeals to the Board may be taken by any person aggrieved by filing with the Zoning Administrator and with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from is taken.

- A. The Board shall fix a reasonable time and place for the hearing of the appeal, shall give due notice thereof to the parties in interest and shall render a decision within a reasonable time.
- B. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.

Subd. 4. Powers and Duties. The Board of Zoning Appeals shall have the power and duty to hear and decide, in accordance with the provisions of this Chapter, the following:

- A. Administrative Review. The Board shall have the power to hear and decide appeals, filed as hereinbefore provided, where it is alleged by the appellant that there is error in any order, requirement, decision, determination, grant or refusal made by the Zoning/Building Inspector in the enforcement and interpretation of the provisions of this Chapter.
- B. Temporary Structure and Uses. The Board may authorize the temporary use of a structure or premise in any district prescribed elsewhere in this Chapter for the district in which it is located, provided that such use is of a temporary nature and does not involve the erection of a substantial structure.
- C. Interpretation of Zoning Chapter and Map. Where the street or lot layout actually on the ground, or as recorded, differs from the street and lot lines as shown on the zoning map, the Board, after notice to the owners of the property and after public hearing, shall interpret the map in such a way as to carry out the intent and purpose of this Chapter. In the case of any question as to the location of any boundary line between zoning districts or where there is uncertainty as to the meaning and intent of a textual provision of this Chapter, a request for interpretation of the zoning map or textual provision in question may be made to the Board and a determination shall be made by said Board.
- D. Conditional Uses. The Board shall have the powers to hear and decide, in accordance with the provisions of this Chapter, applications filed as hereinbefore provided for conditional uses. In considering an application for a conditional use, the Board shall request and receive written reports and recommendations from the Zoning Administrator and the Planning Commission regarding said application. The Board shall give due regard to the nature and condition of all adjacent uses and structures and in authorizing a conditional use may impose such requirements and conditions, in addition to those expressly stipulated in this Chapter, as the Board may deem necessary for the protection of adjacent properties and the public interest.
- E. Variances. Pursuant to Minnesota Statutes, Section 462.357, Subd. 6, as it may be amended from time to time, the Board shall have the power to authorize variances from the terms, provisions or requirements of this Chapter. A variance is a modification or variation of the provisions of this Chapter as applied to a specific piece of property.

Subd. 5. Variance - Findings. No variance shall be authorized by the Board unless the Board makes factual findings that support conclusions that:

- A. The variance is in harmony with the general purposes and intent of this Chapter.
- B. The variance is consistent with the Comprehensive Plan of the City.
- C. The property owner applying for the variance establishes that there are practical difficulties in complying with the terms of this Chapter and the property owner demonstrates and the Board makes factual findings that support conclusions that:
 - 1. The property owner proposes to use the property in a reasonable manner not permitted by this Chapter; and
 - 2. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
 - 3. The variance, if granted, will not alter the essential character of the locality, neighborhood, or district in which it is located.

Subd. 6. Conditional Use - Findings. When asked to grant a conditional use, the Board should make its decision to accept or reject the use based upon a sound, logical study of the problem after studying the following factors:

- A. The location and size of the proposed conditional use, the nature and intensity of the operations involved or to be conducted in connection with it; its site layout and its relation to streets giving access to it should be such that traffic to and from the use will not be more hazardous or inconvenient to the predominant character of the district or conflict with the normal traffic or the district, both at the time, and as the same may be expected to increase with the development of the City.
- B. In addition to the foregoing the Board shall consider the following criteria in making a decision on any conditional use. No conditional use permit shall be approved unless positive findings are made with respect to each and every one of the following criteria:
 1. The proposed development is likely to be compatible with development permitted under the general provisions of the City Code on substantially all land in the vicinity of the proposed development.
 2. The proposed use is consistent with the overall Two Harbors Comprehensive Plan with the spirit and intent of the provisions of the City Code.
 3. The proposed use will not result in a random pattern of development with little contiguity to existing programmed development, and will not cause negative fiscal and environmental effects upon the community.
 4. The proposed use or development is permitted under the general provisions of the City Code.
 5. The establishment, maintenance or operation of the use will not be detrimental to nor endanger the public health, safety, morals or general welfare. In making its findings, the Board shall be guided by the following policies:
 - i. The proposed use shall have a favorable property tax impact.
 - ii. Adequate utilities, access roads, drainage and other facilities must be provided either by the City or by the applicant.
 - iii. The development will be adequately served by police and fire protection.
 - iv. The development will be adequately served by water and sewer facilities.
 6. The proposed use will not be injurious to the use and enjoyment of the environment or injurious or detrimental to the rightful use and enjoyment of other property in the vicinity of the proposed development, nor will it substantially diminish or impair the existing property values within the vicinity of the proposed development. In making its finding the Board shall be guided by the following policies:
 - i. The proposed use will not have an adverse economic impact upon neighboring non-competitive commercial uses.
 - ii. Adequate measures shall be taken to provide ingress and egress minimizing traffic congestion in the vicinity. The Board may consider not only the traffic impact of the individual use, but also the role that the use will play in the cumulative traffic pattern within the vicinity.
 - iii. The proposed use shall provide for aesthetic appeal equal to or greater than existing uses in the area. Aesthetic factors shall be considered with a view

- towards the highest possible use of the area. In making its determination, the Board shall consider the size, shape, general appearance, structural materials, and landscaping of the proposed use.
- iv. The proposed use shall be compatible with existing development and foster the goals and objectives of the Comprehensive Plan.
 - v. The use shall not cause or tend to promote commercial or industrial imbalances which would adversely affect property values, or adversely affect the nodal or center concept of commercial development.
 - vi. The proposed use shall eliminate conflicts with adjacent land uses by providing, where necessary, buffer zones, dividing and screening, fencing, parking areas and limitations on the number of entrances and exits.
7. The establishment of the proposed use will not impede normal and orderly development and improvement of the surrounding property for uses permitted within the district. In making its finding, the Board shall be guided by the following policies:
- i. The use shall be consistent with the plan of other units of the government having jurisdiction over the area of the proposed use. Such plans include, but are not limited to, airport zoning ordinances and plans of the Minnesota Department of Transportation.
 - ii. The proposed use shall be consistent with future public development programs including, but not limited to, community facilities plans and capital improvement programs.

Subd. 7. Decisions. In exercising the above-enumerated powers, the Board may reverse or affirm, wholly or partly, or may modify the other requirements, decision of determination appealed from, to the extent and manner that the Board may decide to be fitting and proper in the premises, and to the end that the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is authorized by this Chapter to render a decision.

- A. No order of the Board permitting the erection or alteration of a building or the use of a building or premises, shall be valid for a period longer than six (6) months unless a building permit for such erection or alteration is obtained and the work is started within such period or, where no erection or alteration is necessary, the permitted use is established within such period.

11.72 Non-Conforming Lots, Land Uses, and Structures

Subd. 1. Intent. Within the districts established by this Chapter or amendments that may later be adopted there exist lots, structures, and uses of land and structures which were lawful before the effective date of this Chapter or amendment thereof, but which would be prohibited under the terms of this Chapter or future amendment.

- A. It is the intent of this Chapter to permit these non-conformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this Chapter to be incompatible with permitted uses in the district involved. It is further the intent of this Chapter that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

- B. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land, shall not be extended or enlarged after the effective date of this Chapter or its amendments by attachment of additional signs to a building, or the placement of additional signs or display devices on the land outside the building, or by the additional uses, if such additions are of a nature which would be prohibited generally in the district involved.
- C. To avoid undue hardship, nothing in this Chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of this Chapter or amendment thereof and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner, and demolition, elimination and removal of an existing structure in connection with such construction provided that actual construction work shall be diligently carried on until the completion of the building involved.

Subd. 2. Non-Conforming Lots of Record.

- A. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Chapter, a single-family dwelling and customary accessory building may be erected on any single lot of record on the effective date of this Chapter or amendment thereof. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of such lot, shall conform to the regulations for the district in which such lot is located. Variance of area, width, and yard requirements shall be obtained only through action of the Board of Appeals.
- B. If two or more lots or combinations of lots and portions of lots with continuous frontage are in single ownership and are of record on the effective date of this Chapter or amendment thereof, and if all or part of the lots do not meet the requirements for lot width and area, as established by this Chapter, the lands involved shall be considered to be an undivided parcel and no portion of said parcel shall be used or sold which does not meet lot and width and area requirements established by this Chapter, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Chapter.

Subd. 3. Non-Conforming Uses of Land. Where, on the effective date of this Chapter or amendment thereof, lawful use of land exists that is no longer permissible under the terms of this Chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- A. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied on the effective date of this Chapter or amendment thereof.
- B. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use on the effective date of this Chapter amendment thereof.
- C. If any such non-conforming use of land ceases for any reason for a period of more than 90 days, any subsequent use of such land shall conform to a regulation specified by this Chapter for the district in which such land is located.

Subd. 4. Non-Conforming Structures. If a lawful use of a structure, or of structure and premises in combination, exists on the effective date of this Chapter or amendment thereof, that would not be allowed in the district under the terms of this Chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such structure may be enlarged, extended, converted, reconstructed or structurally altered, unless the use of the structure is changed to one permitted within the district in which such building is located.
- B. Should such structures be destroyed by any means to an extent of more than 75 percent of its assessed value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Chapter.
- C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Subd. 5. Non-Conforming Uses of Structures. If a lawful use of a structure, or of structure and premises in combination, exists on the effective date of this Chapter or amendment thereof, that would not be allowed in the district under the terms of this Chapter, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions: No existing structure devoted to a use not permitted by this Chapter in the district in which it is located, shall be enlarged, extended, constructed, reconstructed, moved or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located.

- A. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use on the effective date of this Chapter or amendment thereof, but no such use shall be extended to occupy any land outside such building.
- B. If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use provided that the Board of Appeals, either by general rule or by making findings in the specific case shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the provisions of this Chapter.
- C. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.
- D. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for 6 consecutive months or for 18 months during any 3-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- E. When a non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

Subd. 6. Repairs and Maintenance. On any building devoted in whole, or in part, to any non-conforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding 10 percent of the current assessed value of the building, provided that the cubical space content of the building as it existed on the effective date of this Chapter or amendment thereof, shall not be increased.

- A. Nothing in this Chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any City official charged with protecting the public safety, upon order of such official.
- B. Nothing in this Chapter shall be deemed to prevent the replacement of the heating system or a part of the heating system or the wiring or the plumbing, fixtures or other energy related modifications of any building by work done within or without the structure, even though such work may result in an improved structure, upon such reasonable terms and conditions as may be established by the Board of Zoning Appeals. The procedure for any such determination shall conform as near as may be done to the procedures for the granting of Conditional Use Permits.
- C. Nothing in this chapter shall be deemed to prevent the proper maintenance or common improvement of any residential use with frontage along Highway 61/7th Avenue that existed at the adoption of this ordinance; except it is not to be construed to allow the structure to be converted, reconstructed or structurally altered, unless the use of the structure is changed to one permitted within the district in which such building is located; Should such structures be destroyed by any means to an extent of more than 75 percent of its assessed value at the time of destruction, reconstruction shall be constrained to the original building's footprint.

11.73 Permits and Plans; Application for Zoning Permits

Subd. 1. Application. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished for that purpose. Every such applicant shall:

- A. Identify and describe the work to be covered by the permit for which application is made.
- B. Describe the land on which the proposed work is to be done, by lot, block, tract, and house and street address or similar description that will readily identify and definitely locate the proposed building or work.
- C. Indicate the use or occupancy for which the proposed work is intended.
- D. Be accompanied by plans and specifications.
- E. Be signed by the permittee, or his/her authorized agent, who may be required to submit evidence to indicate such authority.
- F. Give such other information as reasonably may be required by the Zoning Administrator.

Subd. 2. Zoning Permits.

- A. **Issuance.** The application, plans and specifications filed by an applicant for a permit shall be checked by the Zoning Administrator. Such plans may be reviewed by other departments of the City to check compliance with the laws and City Code provisions under their jurisdiction. If the Zoning Administrator is satisfied that the work described in an application for permit and the plans filed therewith conform to the requirements of this Chapter and other pertinent laws and City Code provisions and that the fee specified has been paid, he/she shall issue a permit therefor to the applicant.
- B. **Expiration.** Every permit issued by the Zoning Administrator under the provisions of this Chapter shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 120 days from the date of such permit or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 120 days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefor shall be one-half ($\frac{1}{2}$) the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans

and specifications for such work; and provided further, that such suspension or abandonment has not exceeded one year.

Subd. 3. Site Plans Required.

- A. In order to provide an orderly process for the development of land in the City and to provide for the City's review of development proposals, a site plan must accompany all applications for permits required under this Chapter. No permit or building permit can be issued until such site plan is submitted, reviewed and approved.
- B. The required site plan for construction of a single family or two-family dwelling or accessory building on a single conforming lot shall include lot boundaries, outlines of existing and proposed buildings, dimensions and sufficient other information to determine conformance with setback, side yard and rear yard requirements. A more detailed site plan may be required if the proposal falls within any of the provisions of Sec. 11.50, Shoreland Overlay District.
- C. The Site Plan for commercial and industrial development and residential development of more than two units shall include the following:
 - 1. Information including lot boundaries, outlines of existing and proposed buildings, dimensions and sufficient other information to determine conformance with setback, side yard and rear yard requirements.
 - 2. Information regarding the present conditions on the site including dimensions, topography, existing vegetation, wetlands, significant natural and manmade features, adjoining or intersecting streets, highways, trails or rights-of-way and such other information needed to review the proposal.
 - 3. Information regarding the proposed project, including clearing, grading, access, parking, all structures and utilities information as needed to review the proposal.
 - 4. A stormwater runoff plan.
 - 5. Wetlands delineation and mitigation plan if required by Lake County.
 - 6. An erosion and sediment control plan.
 - 7. Site development information required under Sec. 11.61 Shoreland Overlay District, if in an erosion hazard area.
 - 8. A traffic and parking plan per Section 11.51
 - 9. A landscaping design plan per the conditions set for in Section 11.50.
- D. Upon request of the applicant, the Zoning Administrator shall convene all relevant City Departments and Officials and other units of government to meet with the applicant to review the proposal and assist the applicant in determining what permits and other applications may be required and the process for completing all reviews. Appeals to decisions of the Zoning Administrator will be heard by the Planning Commission.

11.74 Interpretation, Purpose and Conflict

In interpreting and applying the provisions of this Chapter, the least restrictive requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare shall be imposed. It is not intended by this Chapter to interfere with or abrogate or annul any ordinances, rules, regulations, or permits previously adopted or issued, which are not in conflict with any of the provisions of this Chapter, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises and likewise not in conflict with this Chapter; nor is it intended by this Chapter to interfere with

or abrogate or annul any easements, covenants or other agreements between parties, except that if this Chapter imposes a greater restriction, this Chapter shall control.

11.75 Amendment

The Council may amend this Chapter after public hearing whenever the public necessity and convenience of the general welfare requires such amendment pursuant to the following procedure: Amendments may be proposed by the Board of Zoning Appeals, the Planning Commission, or a petition of not less than fifty percent (50%) of the property owners involved by the proposed amendment or by the Council itself. Before any amendment is made, it shall be referred to the Planning Commission, which shall report thereon within thirty (30) days after such referral. Thereafter, the Council may adopt such amendment by a majority vote of all its members. However, when a zoning district is changed, in whole or in part, from residential to commercial or industrial, the Council may approve such amendment only by a two-thirds (2/3) majority vote of all its members.

11.76 Burden of Proof

It shall be the duty and burden of an applicant for any permit or approval under the Two Harbors Zoning Code to demonstrate and prove that the conditions or requirements for the issuance of such permit or approval have been satisfied.

11.77 Fees and Expenses

The Council shall by resolution, establish a schedule of fees, charges and expenses for permits, certificates, appeals and other documents and actions required by the provisions of this Chapter. The schedule shall be available at the office of the Zoning Administrator. No permits, certificates, conditional use permits, planned unit development, or variances shall be issued unless and until such fees, charges or expenses have been paid in full, nor shall any action be taken on proceedings before the Board of Zoning Appeals, unless or until fees, charges and expenses have been paid in full.

Any costs directly related to an application for a permit including, but not limited to professional fees and expenses incurred by the City for consultants, including but not limited to planners, engineers, architects, and attorneys, who the City determines in its sole judgment are necessary to assist City in reviewing, implementing or enforcing the provisions of the City Code applicable to such permit, shall be reimbursed to the City by the applicant from a deposit made by the applicant with the City. The amount of the deposit, or any addition thereto required by the City, shall be established by the City Council, which shall thereafter, from time to time, make an accounting thereof to the applicant.

11.78 Violation a Misdemeanor

- A. Every person violates a section, subdivision, paragraph or provision of this Chapter when he/she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof. Each day that a violation is permitted to exist, shall constitute a separate offense.

Article Eight: Definitions

11.80 Definitions. The following terms, as used in this Chapter, shall have the meanings stated. The word "building" shall include the word "structure", and the word "lot" shall include the word "plot".

1. **"Accessory Structure or Use"** - A subordinate building or structure or use, or a portion of the main building, the use of which is incidental to that of the dominant use of the main building or premises.
2. **"Adult Use, Accessory"** - The offering of goods and/or services as defined by Chapter 6.31 of the Two Harbors City Code classified as printed matter and/or video tapes on a limited scale that is incidental to the primary business activity in the establishment and where such items occupy no more than:
 - A. Ten percent (10%) of the floor space of the establishment dedicated to retail sales or one hundred (100) square feet, whichever is less; and
 - B. Ten percent (10%) of the wall space of the establishment dedicated to retail sales or one hundred (100) square feet, whichever is less.
3. **"Adult Use, Principal"** - The offering of goods and/or services classified as adult uses as a primary or sole activity of a business or establishment as regulated and defined by Chapter 6.31 of the Two Harbors City Code.
4. **"Alley"** - A public thoroughfare which affords only a secondary means of access to abutting property.
5. **"Automotive Repair"** - An establishment primarily engaged in providing repair and maintenance services for automotive vehicles, such as passenger cars, trucks, and vans, and all trailers. This definition does not include sales of automotive vehicles. (NAICS industry 8111)
6. **"Basement"** - A story having part but not more than one-half its height below grade. A basement is counted as a story for the purpose of height regulations, if subdivided and used for business or dwelling purposes by other than a janitor employed on the premises.
7. **"Boarding House"** - A building other than a hotel where for compensation and by prearrangement for definite periods, meals or lodging are provided for three or more persons, but not exceeding 20 persons.
8. **"Building"** - Any structure for the shelter, support or enclosure of persons, animals, or property and when separated by dividing walls without openings, each portion of such building, so separated, shall be deemed a separate building.
9. **"Building, Height of"** - The vertical distance from the grade to the highest point of the coping of a flat roof or to the average height of the highest gable of a pitch or hip roof.
10. **"Cellar"** - A story having more than one-half () its height below grade.
11. **"Clinic"** - An establishment where patients are not lodged overnight but are admitted for examination and treatment by a group of physicians, dentists, or other health care professionals practicing medicine, dentistry, or health care together.
12. **"Commercial and Industrial Machinery and Equipment Repair"** - An establishment primarily engaged in the repair and maintenance of commercial and industrial machinery and equipment, such as welding repair; or repairing agricultural and other heavy and industrial machinery and equipment. (NAICS industry 81131)

13. **"Common Open Space"** - Land area within a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development.
14. **"Data Processing, Hosting, and Related Services"** - An establishment providing the infrastructure for hosting and/or data processing services. (NAICS industry group 5182)
15. **"District"** - Any section as shown on the District Map of the City for which the regulations governing the use of buildings and premises or the height and area of buildings are uniform.
16. **"Drive Through and Drive-In Businesses"** - Where services are provided by any direct means into a vehicle and the customer does not enter or approach the establishment on foot.
17. **"Dwelling"** - Any building, or portion thereof, which is designed or used exclusively for residential purposes.
18. **"Dwelling, Multiple"** - A building or portion thereof designed for occupancy by three or more families.
19. **"Dwelling, Single-Family"** - A building designed for occupancy by one family.
20. **"Dwelling, Two-Family"** - A building designed for occupancy by two families.
21. **"Dwelling Unit"** - One or more rooms in a dwelling designed for occupancy by one family for living purposes and having its own cooking and sanitary facilities.
22. **"Dwelling Unit, Accessory"** - A subordinate dwelling unit added to, created within, or detached from a one- or two-family dwelling, but located on the same lot or parcel as a primary residential structure and owned by the same owner as the primary residential structure, and providing basic requirements for living, sleeping, cooking, eating, and sanitation, and is constructed on compliant permanent footings or foundation, with permanent connections to public sanitary sewer and water. No recreational vehicle, or structure on a chassis, shall constitute an accessory dwelling unit.
23. **"Entity"** - Any corporation, limited liability partnership, partnership, limited liability company, joint venture or any other legally recognized business organization.
24. **"Erosion Hazard Area"** - Those areas of Lake Superior's North Shore where the long-term average annual rate of recession is one foot or greater per year as mapped in the North Shore Management Plan.
25. **"Family"** - One or more persons occupying a premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house or hotel as herein defined.
26. **"Gasoline Service Station"** - Any building or premises used principally for the storing, dispensing, sale or offering for sale at retail of automobile fuels or oils, or for the servicing of motor vehicles.
27. **"Frontage"** - All the property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead end of the street, but not including the dead end of the street.
28. **"Garage, Private"** - An accessory building designed or used for the storage of not more than three motor-driven vehicles owned and used by the occupants of the building to which it is necessary.
29. **"Garage, Public"** - A building or portion thereof, other than a private or storage garage, designed or used for servicing, repairing, equipping, hiring, selling or storing motor-driven vehicles.
30. **"Grade"**:
 - A. For buildings having walls adjoining one street only the elevation of the sidewalk, or if there be no sidewalk, then the elevation of the roadway at the center of the wall adjoining the street.

39. **"Industry, Light"** - The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items. Light industrial uses create little or no adverse impacts on surrounding properties and the environment by virtue of being relatively free from objectionable features, including but not limited to noise, dust, odor, smoke, glare, or vibration or whose objectionable features can be eliminated by design, screening and other appropriate devices, and does not create objectionable amounts of traffic.
40. **"Institution"** - A building occupied by a non-profit corporation or a non-profit establishment for public use.
41. **"Licensed Family Day-care Home, Licensed Group Family Day-care Home, Licensed Child-care Center"** - A facility holding a license from Lake County or Minnesota pursuant to Minnesota Statutes, Chapter 245A, as it may be amended from time to time, and/or Minnesota Rules, Chapter 9502 or Chapter 9503, as they may be amended from time to time.
42. **"Light Vehicle Repair"** - An establishment primarily engaged in providing repair and maintenance services for light vehicles, such as motorcycles, bicycles, boats, small engines, snowmobiles, and ATVs. This definition does not include sales of light vehicles. (These services are included in NAICS industry 81149. This definition is not inclusive of other non-vehicular repair establishments categorized as NAICS industry 81149.)
43. **"Loading Space"** - A space on the lot accessible to an alley or a street not less than 10 feet in width, 20 feet in length and 10 feet in height.
44. **"Lot"** - A parcel of land occupied or intended for occupancy by one main building together with its accessory buildings, and uses customarily incidental to it, including the open spaces required by this Chapter and having its principal frontage on a street or upon a place as defined in this Chapter.
45. **"Lot, Corner"** - A lot adjoining two or more streets at their intersection.
46. **"Lot Coverage"** - The percentage of lot surface encumbered by impervious surfaces, including but not limited to structures, paved parking lots, sidewalks, etc.
47. **"Lot, Depth of"** - The mean horizontal distance between the front and rear lot lines.
48. **"Lot, Double Frontage"** - A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.
49. **"Lot Frontage"** - The portion of the lot nearest the street, road or body of water if the lot abuts water.
50. **"Lot, Interior"** - A lot other than a corner lot.
51. **"Lot Lines"** - The lines bounding a lot.
52. **"Lot of Record"** - A lot, which is a part of a subdivision, the plat of which has been recorded in the office of the County Recorder of Lake County, Minnesota, or a lot described by metes and bounds, the description of which has been recorded in the office of the County Recorder of Lake County, Minnesota.
53. **"Lot Width"** - The shortest distance between lot lines measured at the structure setback line.
54. **"Lumber Yards and Heavy Building Materials"** - An establishment primarily engaged in retailing specialized lines of new building materials, such as lumber, fencing, glass, doors, plumbing fixtures and supplies, electrical supplies, prefabricated buildings and kits, and kitchen and bath cabinets and countertops to be installed. This definition does not include home centers, paint and wallpaper stores, and hardware stores. (NAICS industry 44419)

55. **"Manufactured Home, Class 'A'"** - Manufactured housing of modular design which requires more than one (1) module to form an integral single family dwelling unit and which complies with the following minimum criteria:
- A. The minimum width of the main body of the home as assembled on site shall not be less than twenty-four (24) feet as measured across the narrowest portion and a minimum of 750 square feet of living area;
 - B. The pitch of the main roof shall be not less than one (1) foot for each four (4) feet of horizontal run. In general, any roofing material may be used that is generally acceptable for housing built on the site, if applied in such a manner as to be similar in appearance; provided, however, that flat, sheet-metal type panels shall not be considered acceptable for Class "A" manufactured houses;
 - C. Any materials that meet State Building Code standards are generally acceptable for housing built on the site may be used for exterior finish if applied in such a manner as to be similar in appearance; provided, however, that reflection from such exterior shall not be greater than from siding coated with clean, white, gloss exterior enamel; and
 - D. The home shall be placed upon a permanent foundation complying with the minimum standards of the Minnesota State Building Code.
56. **" Manufactured Home, Class 'B'"** - Manufactured transportable housing built in conformance with Sections 327.31 to 327.35 of Minnesota Statutes and intended for occupancy as a complete year-round single family dwelling unit upon arrival and placement on a site with or without a permanent foundation designed to support such transportable unit. For the purposes of this Chapter, the term shall include all such transportable housing over twenty-nine (29) feet in length, less than twenty (20) feet in width, and 5,000 or more pounds in weight, containing the same waste water supply, waste disposal, and electrical conveniences as immobile housing, but shall exclude housing of modular design where more than one (1) module is required to form an integral single family dwelling unit. The term "mobile home" shall be synonymous and interchangeable with the term "Class B Manufactured Home" wherever either term shall be used elsewhere in this Chapter.
57. **"Manufacturing, general"** - An establishment engaged in the basic processing, manufacturing, packaging, assembly, compounding or treatment of materials or products predominantly from extracted or raw materials.
58. **"Manufacturing, light"** - An establishment primarily engaged in the manufacture, fabrication, processing, packaging or assembly, predominantly from previously prepared materials, of finished products or parts, generally excluding processing of raw materials.
59. **"Mini-warehouses and self-storage units"** - An establishment engaged in renting or leasing space for self-storage. These establishments provide secure space (i.e., rooms, compartments, lockers, containers, or outdoor space) where clients can store and retrieve their goods. This definition refers to the storage facilities and not necessarily where the business is administered. No materials of hazardous nature, i.e., toxins, highly flammable and/or similar are stored; nor shall there be warehousing of wholesale and/or retail materials and/or products, nor shall a business be operated from such storage units. (NAICS industry 53113)
60. **"Motel"** - A building or group of buildings in which temporary lodging is provided for and offered publicly to transient motorists, guests or travelers for compensation and does not include any unit in a common interest community.

61. **"Non-Conforming Structure, Lot, or Use"** – Any structure, lot, use of land, or combination thereof which is contrary to the provisions of the Chapter for the district in which the structure, lot, or use is located.
62. **"Nursing Home"** - A home for the aged, chronically ill or incurable persons except mental or alcoholic patients in which two or more persons are received, kept or provided with food and shelter and care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis, treatment or care of the sick and injured. Includes assisted living facilities.
63. **"Outdoor Recreation and Entertainment Facility, Commercial"** – A commercial outdoor facility whose main purpose is to provide entertainment or recreation, including batting cages, drive-in theatres, golf driving ranges, miniature golf courses, go-cart tracks, skating rinks, skateboard parks, swimming pools, tennis courts, sports courts, and similar uses, but not including auto or horse race tracks.
64. **"Outdoor Recreation and Entertainment Facility, Public"** - A commercial outdoor facility whose main purpose is to provide entertainment or recreation, including golf, baseball, football, track, tennis, softball, volleyball, and other competitive and spectator related recreational activities and sports, trails, swimming, boating, fishing, and other aquatic activities.
65. **"Parking Lot"** - A parcel of land devoted to unenclosed parking spaces.
66. **"Parking Space"** - An area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.
67. **"Passive Recreation"** - Emphasizes the open-space aspect of a park and which involves a low level of development, including, but not limited to picnic areas, trails, swimming, non-motorized boating and structure supporting such activities.
68. **"Place"** - An open unoccupied space other than a street or alley permanently reserved as the principal means of access to adjoining property.
69. **"Recreation and Entertainment Facility, Private"** - Private, non-commercial recreation areas including country clubs, golf courses and swimming pools.
70. **"Religious Assembly"** - A building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship.
71. **"Professional, Scientific, and Technical Services (Industrial Class)"** - An establishment primarily engaged in providing professional, scientific, and technical activities for others. This sector includes a number of industry groups that are appropriate for the "I-1" Light Industrial District:
 - A. Architectural, Engineering, and Related Services (includes laboratory testing, except medical, veterinary, or emissions). (NAICS industry group 5413)
 - B. Industrial Design Services. (NAICS industry group 5414)
 - C. Scientific and Technical Consulting Services. (NAICS industry group 5416)
 - D. Scientific Research and Development Services. (NAICS group 5417)
 - E. Services to Buildings and Dwellings. (NAICS industry group 5617)
 - F. Veterinary Services (NAICS industry 54194) is an allowed conditional use.
 - G. Incompatible uses include Legal Services (NAICS industry group 5411); Accounting, Tax Preparation, Bookkeeping, and Payroll Services (NAICS industry group 5412); and Advertising and Related Services (NAICS industry group 5418); and Other Professional, Scientific, and Technical Services (NAICS industry group 5419), except veterinary services (NAICS industry 54194).

72. **"Public Buildings"** - Public buildings shall include but not be limited to municipal offices, county offices including jails and law enforcement centers, state offices, federal offices, offices of other governmental units, fire stations, public safety buildings, public buildings for the storage and warehousing of materials and equipment, teenage centers, community centers, senior citizens centers, libraries, and buildings in support of and used with public recreational facilities located nearby.
73. **"Public Library"** - Any library that provides free access to all residents of a city or county without discrimination and is organized under the provisions of Minnesota Statutes, Chapter 134, as it may be amended from time to time
74. **"Public Market and Market Stand"** - Outdoor markets and vendor stands open to the public including farmers markets, craft markets, flea markets, and vendors of other miscellaneous goods, utilizing temporary or permanent vendor stalls and other structures.
75. **"Public Park"** - A park, reservation, open space, playground, beach or recreation or community center in the City owned, leased or used wholly or in part, by the City, County, State, school district or Federal Government for recreation purposes.
76. **"Railroad Yard"** - Rail infrastructure and support functions suitable for large volume rail oriented activities. This land use can be in conjunction with a separate industrial use or shipyard.
77. **"Campground"** - An area containing one or more structures designed or intended to be used as temporary living facilities of two or more families and intended primarily for automobile transients; or providing space where two or more tents, auto trailers or motor homes (RV's) can be parked.
78. **"Residential Care Facility"** - Living quarters for those with disabilities or for seniors located in a facility where a variety of living assistance and medical related services are offered to residents.
79. **"School"** - A building or space that is principally used as a place where twenty-five (25) or more persons receive a full course of educational instruction. Any post-secondary or post-high school educational building, including any college or any vocational-technical college, shall not be deemed a "school" for purposes of this Section.
80. **"Shipyard"** - An establishment primarily engaged in providing port and harbor operations for water transportation of cargo in the Great Lakes Water Transportation System. This land use can be in conjunction with a separate industrial use or independent of. (NAICS industry 48831)
81. **"Street"** - All property dedicated or intended for public or private street purposes or subject to public easements therefor.
82. **"Story"** - That portion of a building other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.
83. **"Story, Half"** - A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use. A half story containing independent apartment or living quarters shall be counted as a full story.
84. **"Street Line"** - A dividing line between a lot, tract or parcel of land and a contiguous street.
85. **"Structure"** - Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground, including, but without limiting the generality of the foregoing, advertising signs, billboards, back stops for tennis courts, and pergolas.

86. **"Structural Alterations"** - Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof.
87. **"Structure Setback"** - The minimum horizontal distance between a structure, or other facility and the vegetation line, road centerline, road right-of-way line, front, side or rear lot lines.
88. **"Structure Setback Line"** - A line measured across the width of a lot at a point where a structure is placed in accordance with the minimum shoreland setback requirements of this Chapter.
89. **"Telecommunications Processing and Transmission Services"** - An establishment primarily engaged in operating, and/or providing access to facilities for the transmission of voice, data, text, sound, and video. Transmission facilities may be based on a single technology or a combination of technologies. (Telecommunications processing and transmission services are included under the NAICS subsector 517.)
90. **"Townhouse"** - A single structure consisting of not less than two or more than four dwelling units each, with no other dwelling or portion of other dwelling directly above or below, which each dwelling unit having direct ground level access to the outdoors and connected to the other dwelling by a single party wall with no opening.
91. **"Trailer"** - Any structure used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses, or skirting and which has been, or reasonably may be, equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term "trailer" shall include camp-car and house-car.
92. **"Vegetation Line"** - The first clearly identifiable line of terrestrial vegetation above the water's edge.
93. **"Warehousing and Storage"** - An establishment primarily engaged in operating warehousing and storage facilities for general merchandise, refrigerated goods, and other warehouse products. They do not sell the goods they handle. They may also provide a range of incidental logistics services, related to the distribution of goods. (NAICS industry group 4931)
94. **"Wetland"** - A surface water feature classified as a wetland in the United States Fish and Wildlife Circular No. 39 (1971 Edition).
95. **"Wholesale Trade"** - An establishment engaged in an intermediate step in the distribution of merchandise. Wholesalers either sell or arrange the purchase of goods to other businesses and normally operate from a warehouse or office. They may be in an office building or a warehouse. Unlike retailers, their warehouses and offices have little or no display of merchandise. (NAICS sector 42)
96. **"Yard"** - An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.
97. **"Yard, Front"** - A yard extending across the front of a lot between the side yard lines and being the minimum horizontal distance between the street line and the main building or any projection thereof.
98. **"Yard, Rear"** - A yard extending across the rear of a lot measured between side lot lines and being the minimum horizontal distance between the rear of the main building or any projection thereof. On corner lots, the rear yard shall be considered as parallel to the streets upon which the lot has

its least dimension. On both corner lots and interior lots, the rear yard shall in all cases, be at the opposite end of the lot from the front yard.

99. **"Yard, Side"** - A yard between the building and the side line of the lot, and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the side of the main building or any projection thereof.