

TITLE XV: LAND USAGE

Chapter

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CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION

Section

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§ 150.01 STATE BUILDING CODE ADOPTED.

(A) The Minnesota State Building Code, as adopted by the Commissioner of Labor and Industry, pursuant to M.S. §§ 326B.101 to 326B.194, as they may be amended from time to time is hereby adopted as the Building Code for the City. The State Building Code is hereby incorporated in this section as if fully set out herein.

(B) (1) The code shall be enforced by a state-certified Building Official designated by the City to administer the code pursuant to M.S. § 326B.133, as it may be amended from time to time, including plumbing plan review.

(2) Prior to installation of a system of plumbing other than for a single-family dwelling with independent plumbing service, complete plumbing plans and specifications, together with any additional information that the Building Official may require, shall be submitted in duplicate and approved by the Building Official. No construction shall proceed except in accordance with the approved plans. Any alteration or extension of any existing plumbing system shall be subject to these same requirements.

(3) A plumbing system installation, as described herein, shall be subject to inspection as required by the State Plumbing Code.

(4) Fees for plumbing plan review shall be as specified for plan review in the City fee schedule adopted annually by resolution.

(C) The issuance of permits and the collection of fees shall be as authorized in M.S. § 326B.153. Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by the municipality. In addition, a surcharge fee shall be collected on all permits issued for work governed by the code in accordance with M.S. § 326B.148, as it may be amended from time to time.

(D) The State Building Code, established pursuant to M.S. §§ 326B.101 to 326B.194, as they may be amended from time to time, allows the municipality to adopt by reference and enforce certain optional chapters of the most current edition of the State Building Code.
(Ord. 82, passed 7-9-2007; Ord. 91, passed 11-13-2017) Penalty, see § 150.99

§ 150.02 NAMING AND NUMBERING STREETS AND STRUCTURES.

(A) *Assignment of names and numbers.*

(1) The names or numbers of all streets shall be designated by the uniform street naming and numbering system. All properties or principal buildings within the city shall be and are hereby allotted numbers in accordance with the uniform numbering system.

(2) Numbers shall be assigned to houses and buildings from Main Street and McLeod Avenue as bases. Odd numbers shall be assigned on the east and south sides of the streets, and even numbers shall be assigned on the west and north sides of the streets.

(B) *Type and placement of numbers.*

(1) Each principal building shall bear the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than one business or family dwelling unit, each separate front entrance of the building shall bear a separate number.

(2) Numerals indicating the official numbers for each principal building or each front entrance to such a building shall be a minimum of three inches in height and shall be posted in a manner as to be visible from the street on which the property is located.

(C) *Administration.*

(1) The City Clerk-Treasurer shall be responsible for maintaining the numbering system. In the performance of this responsibility the City Clerk-Treasurer shall be guided by the provisions of this section.

(2) The City Clerk-Treasurer shall keep a record of all numbers assigned under this section. The City Clerk-Treasurer shall issue to any property owner upon request and without charge a number for each principal building or separate front entrance to the building. In doing so, the City Clerk-Treasurer shall issue only the number assigned to the building under the provisions of this section; provided, however, that, the City Clerk-Treasurer may issue additional numerals in accordance with the official numbering system whenever a property has been subdivided, a new front entrance opened or undue hardship has resulted to any property owner. The property owner shall be responsible for obtaining suitable numbers for property identification.

(Ord. 24, passed 2-6-1978)

§ 150.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) A violation of the Building Code adopted in § 150.01 of this chapter is a misdemeanor.
(Ord. 82, passed 7-9-2007; Ord. 91, passed 11-13-2017)

CHAPTER 151: STREETS AND SIDEWALKS; TREES

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GENERAL PROVISIONS

§ 151.01 STREETS, SIDEWALKS AND ALLEYS.

(A) All streets, sidewalks and alleys now laid out and in public use, whether improved or unimproved, or which may be hereafter laid out in the city, shall be under the control of the Public Works Director of the City, subject to the direction of the Council thereof.

(B) It is hereby made the duty of the Public Works Director and Council of the City to enforce and cause to be enforced all the ordinances, rules and by-laws and regulations of the city relative to streets, sidewalks and alleys.

(C) All streets and alleys of the city, with the additions thereto, as they now appear on record in the Register of Deeds office in and for the county, as hereby made, declared and constituted the lawful highways, streets and alleys of the city.

(D) No sidewalk shall hereafter be built within the limits of the city, except as in this section prescribed, and under the direction of the Public Works Director of the City; all sidewalks built upon any street shall be of uniform width and grade upon the street, which grade shall be established by the Public Works Director under the direction of the Council.

(E) No person or persons shall pile, deposit or place, or cause or permit to be piled, deposited or placed, any rubbish, wood, merchandise or other impediment or obstruction of any kind, upon or over any sidewalk, crossing, street or alley in the city, whether improved or unimproved, so as to interfere with the face and convenient use of the same by all passengers.

(F) The owner of every property in the City, which abuts upon any boulevard or street upon which there is located a public sidewalk, shall have the obligation of removing snow and ice accumulated upon the sidewalk within 24 hours of any snowfall to provide a non-slippery surface suitable for pedestrian travel. In the event any owner fails to remove the snow and ice accumulates as required therein and the same shall come to the attention of the City Clerk-Treasurer, the City Clerk-Treasurer shall immediately notify the owner in person, telephone or by letter. Thereafter, if the snow or ice upon the sidewalk is not removed within 24 hours of notice so given, the City Clerk-Treasurer shall cause City personnel, or such contractors as the Council shall designate, to remove the snow and ice from the sidewalk. In the event of the removal by the City or the City's contractors, the owner shall be responsible for the cost thereof, the City Clerk-Treasurer shall bill the same to the owner thereof in the same manner as water is billed by the City. The billing may be together or in conjunction with the water bills. If any charge for the removal of snow or ice has not been paid to the City, the Council may assess the costs against the property in question according to the procedures provided for in M.S. Ch. 429, as it may be amended from time to time, as a special assessment.

(G) No person or persons shall fill up, dam, open or otherwise alter, obstruct or change the free course of water upon any of the streets alleys, ditches, sewers or watercourses in the City without first obtaining the written permission of the Public Works Director thereof.

(Ord. 3, passed 3-30-1889; Ord. 40, passed 5-9-1988) Penalty, see § 151.99

DAMAGED AND DANGEROUS TREES

§ 151.15 DECLARATION OF POLICY.

The Council has determined that the health of the trees within the municipal limits may be threatened by fatal disease or other diseases of trees in general. It has further determined that the loss of trees growing upon public and private property would substantially depreciate the value of property within the city and impair the safety, good order, general welfare and convenience of the public. It is further

determined that dead or damaged trees are a safety hazard. It is declared to be the intention of the Council to control and prevent the spread of disease and the elimination of dead or damaged trees and this subchapter is enacted for that purpose.

(Ord. 33, passed 1-7-1985)

§ 151.16 COORDINATOR OF PROGRAM.

It is the duty of the Public Works Director to coordinate, under the direction and control of the Council, all activities of the city relating to the control and prevention of tree disease. He or she shall recommend to the Council the details of a program for the control of tree disease, and perform the duties incident to such a program adopted by the Council.

(Ord. 33, passed 1-7-1985)

§ 151.17 TREE DISEASE PROGRAM.

It is the intention of the Council to conduct a program of plant pest control pursuant to all the powers of this City, including the authority granted by M.S. § 18G.13, as it may be amended from time to time. This program is directed specifically at the control and elimination of tree diseases, including, but not limited to, Dutch Elm disease fungus, elm bark beetles, emerald ash borer and oak wilt, and is undertaken at the recommendation of the Commissioner of Agriculture. The Public Works Director shall act as coordinator between the Commissioner of Agriculture and the Council in the conduct of this program.

(Ord. 33, passed 1-7-1985)

§ 151.18 NUISANCE DECLARED; ABATEMENT.

(A) The following things are public nuisances whenever they may be found within the city:

(1) Any living or standing tree or part thereof infected to any degree with oak wilt, the Dutch Elm disease fungus or which harbors any of the elm bark beetles or emerald ash borers or any disease or infestation; and

(2) Any diseased, damaged or dead tree which, in the opinion of the Public Works Director, after inspection and investigation meets any of the following criteria:

(a) A tree that has any form of disease which is contagious to other plants or animals and cannot be cured or eliminated with reasonable effort;

(b) A tree that has any form of disease which is contagious to other plants or animals, whether or not it can be cured and the owner thereof has indicated, directly or indirectly, that such an owner does not intend to attempt to eliminate the disease; and

(c) A tree that is in any condition due to disease or damage which makes the tree or a portion of the tree dangerous to persons or property.

(B) It is unlawful for any person to permit any public nuisance, as defined in division (A) above, to remain on any premises owned or controlled by him or her in the city. The nuisance may be abated in the manner prescribed by this subchapter.

(Ord. 33, passed 1-7-1985) Penalty, see § 151.99

§ 151.19 INSPECTION AND INVESTIGATION.

(A) *Inspection.* The Public Works Director shall inspect all premises and places within the city as often as practicable to determine whether any condition described in § 151.18 of this chapter exists thereon. He or she shall investigate all reported incidents of infestation of tree disease.

(B) *Entry on private premises.* The Public Works Director or his or her duly authorized agent may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned him or her under this subchapter.

(C) *Diagnosis.* The Public Works Director shall, upon finding conditions indicating tree disease, immediately send appropriate specimens or samples to the Commissioner of Agriculture for analysis, or take such other steps for diagnosis as may be recommended by the Commissioner. Except as provided in § 151.21 of this chapter, no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.

(Ord. 33, passed 1-7-1985)

§ 151.20 TREE DISEASE OR DAMAGE NUISANCES; ABATEMENT.

In abating the nuisances defined in § 151.18 of this chapter, the Public Works Director shall cause the diseased or damaged tree or wood to be sprayed, removed, burned or otherwise effectively treated so as to destroy or prevent as fully as possible the spread of disease. The abatement procedures shall be carried out in accordance with the current technical and expert opinions and plans as may be promulgated or designated by the Commissioner of Agriculture.

(Ord. 33, passed 1-7-1985)

§ 151.21 INFECTED TREES AND WOOD; REMOVAL.

(A) Whenever the Public Works Director finds with reasonable certainty that the conditions defined in § 151.18 of this chapter exists in any trees or wood in any public or private place in the city, he or she shall proceed as follows:

(1) If the Public Works Director finds that the danger of infestation of other trees is not imminent because of tree dormancy, he or she shall make a written report of his or her finding to the Council which shall proceed by:

(a) Abating the nuisance as a public improvement under M.S. Ch. 429, as it may be amended from time to time; or

(b) Abating the nuisance as provided in division (B) below.

(2) If the Public Works Director finds that danger to other trees, persons or property is imminent, he or she shall notify the property owner by certified mail that the nuisance will be abated within a specified time, not less than five days from the date of mailing of the notice. The Public Works Director shall immediately report the action to the Council, and after the expiration of the time limited by the notice he or she may abate the nuisance.

(B) Upon receipt of the Public Works Director's report required by division (A)(1) above, the Council shall by resolution order the nuisance abated. Before action is taken on the resolution, the Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published no less than one week prior to the meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed and estimated cost of the abatement, and the proposed bases of assessment, if any of costs. At the hearing or adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed project. The Council shall, thereafter, adopt a resolution confirming the original resolution with such modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

(C) The Public Works Director shall keep a record of the costs of abatement done under this section and shall report monthly to the City Clerk-Treasurer (or other appropriate officer) all work done for which assessments are to be made stating and certifying the description of the land, lots, parcels involved and the amount chargeable to each.

(D) (1) On or before September 1 of each year, the Clerk-Treasurer shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this subchapter.

(2) The Council may then spread the charges or any portion thereof against the property involved as a special assessment under M.S. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor and collection for following year along with current taxes.

(Ord. 33, passed 1-7-1985)

§ 151.22 SPRAYING TREES.

(A) Whenever the Public Works Director determines that any tree or wood within the City is infected with disease, he or she may spray all nearby high value endangered trees with an effective and appropriate chemical. Spraying activities authorized by this section shall be conducted in accordance with technical and expert opinions and plans of the Commissioner of Agriculture and his or her agents, whenever possible.

(B) The notice provisions of § 151.21 of this chapter apply to spraying operations conducted under this section.

(Ord. 33, passed 1-7-1985)

§ 151.23 INTERFERENCE PROHIBITED.

It is unlawful for any person to prevent, delay or interfere with the Public Works Director or his or her agents while they are engaged in the performance of duties imposed by this subchapter.

(Ord. 33, passed 1-7-1985) Penalty, see § 151.99

§ 151.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any persons violating the provisions of § 151.01 of this chapter shall be guilty of a petty misdemeanor. However, any person violating § 151.01 of this chapter on a second or subsequent occasion within one year of the first violation shall be guilty of a misdemeanor.

(C) Any person, firm or corporation who violates §§ 151.15 through 151.23 of this chapter is guilty of a misdemeanor.

(Ord. 3, passed 3-30-1889; Ord. 33, passed 1-7-1985; Ord. 40, passed 5-9-1988)

CHAPTER 152: FLOODPLAIN MANAGEMENT

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GENERAL PROVISIONS**§ 152.01 STATUTORY AUTHORIZATION.**

The legislature of the state has, in M.S. Ch. 103F and 462, as they may be amended from time to time, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

(Ord. 88, passed 5-12-2014)

§ 152.02 PURPOSE.

(A) This chapter regulates development in the flood hazard areas of the City. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base. It is the purpose of this chapter to promote the public health, safety and general welfare by minimizing these losses and disruptions.

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

(C) This chapter is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and storm water impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

(Ord. 88, passed 5-12-2014)

§ 152.03 HOW TO USE CHAPTER.

(A) This chapter adopts the floodplain maps applicable to the City and establishes the General Floodplain District.

(B) The requirements in § 152.25(B) of this chapter shall apply throughout the district unless the boundary between the floodway and the flood fringe is determined according to the process outlined in § 152.25(B)(3) of this chapter.

(C) Once this determination is made, the flood fringe standards in § 152.26 of this chapter may apply outside the floodway.

(Ord. 88, passed 5-12-2014)

§ 152.04 LANDS TO WHICH CHAPTER APPLIES.

This chapter shall apply to all lands within the jurisdiction of the City as shown on the official zoning map and/or the attachments thereto as being located within the boundaries of the General Floodplain District.

(Ord. 88, passed 5-12-2014)

§ 152.05 INCORPORATION BY REFERENCE.

The following maps together with all attached material are hereby adopted by reference and declared to be a part of the official zoning map and this chapter. The attached material includes the Flood Insurance Study, McLeod County, Minnesota and Incorporated Areas and Flood Insurance Rate Map therein numbered 27085C0195E, all dated 7-7-2014 and prepared by the Federal Emergency Management Agency. These materials are on file at the City Clerk-Treasurer's office.

(Ord. 88, passed 5-12-2014)

§ 152.06 REGULATORY FLOOD PROTECTION ELEVATION.

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

(Ord. 88, passed 5-12-2014)

§ 152.07 INTERPRETATION.

The boundaries of the General Floodplain District shall be determined by scaling distances on the Flood Insurance Rate Map.

(A) Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Flood Insurance Rate Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation.

(B) All decisions will be based on elevations on the regional (1% chance) flood profile, the ground elevations that existed on the site at the time the City adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, if earlier, and other available technical data.

(C) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their cases to the Board of Adjustment and to submit technical evidence.

(Ord. 88, passed 5-12-2014)

§ 152.08 ABROGATION AND GREATER RESTRICTIONS.

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

(Ord. 88, passed 5-12-2014)

§ 152.09 WARNING AND DISCLAIMER OF LIABILITY.

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

(Ord. 88, passed 5-12-2014)

§ 152.10 DEFINITIONS.

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

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

BASE FLOOD ELEVATION. The elevation of the regional flood. The term **BASE FLOOD ELEVATION** is used in the flood insurance survey.

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

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

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

DEVELOPMENT. Any human-made change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

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

FARM FENCE. A fence as defined by M.S. § 344.02, subd. 1(a) through 1(d), as it may be amended from time to time. An open type fence of posts and wire is not considered to be a structure under this chapter. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this chapter.

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

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

FLOOD FRINGE. The portion of the floodplain outside of the floodway. **FLOOD FRINGE** is synonymous with the term **FLOODWAY FRINGE** used in the Flood Insurance Study for McLeod County, Minnesota.

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

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

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

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

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

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

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

ONE-HUNDRED-YEAR FLOODPLAIN. Lands inundated by the “regional flood”.

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

RECREATIONAL VEHICLE. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. For the purposes of this chapter, the term **RECREATIONAL VEHICLE** shall be synonymous with the term **TRAVEL TRAILER/TRAVEL VEHICLE**.

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. **REGIONAL FLOOD** is synonymous with the term “base flood” used in a flood insurance study.

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

STRUCTURE. Any thing constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in § 152.29(C) of this chapter and other similar items.

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

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

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

(2) Any alteration of a “historic structure”; provided that, the alteration will not preclude the structure’s continued designation as a “historic structure”. For the purpose of this chapter, “historic structure” shall be as defined in 44 C.F.R. part 59.1.

(Ord. 88, passed 5-12-2014)

§ 152.11 ANNEXATIONS.

The Flood Insurance Rate Map panels adopted by reference into § 152.06 of this chapter may include floodplain areas that lie outside of the corporate boundaries of the City at the time of adoption of this chapter. If any of these floodplain land areas are annexed into the City after the date of adoption of this chapter, the newly annexed floodplain lands shall be subject to the provisions of this chapter immediately upon the date of annexation.

(Ord. 88, passed 5-12-2014)

§ 152.12 AMENDMENTS.

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

(B) *Amendments require DNR and FEMA approval.* All amendments to this chapter, including amendments to the official zoning map, must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.

(Ord. 88, passed 5-12-2014)

FLOOD HAZARD REDUCTION

§ 152.25 GENERAL FLOODPLAIN ZONING DISTRICTS.

(A) (1) *General Floodplain District.* The General Floodplain District shall include those areas designated as Zone A on the Flood Insurance Rate Map adopted in § 152.06 of this chapter. The General

Floodplain District is an overlay districts that is superimposed on all existing zoning districts. The standards imposed in the overlay districts shall be in addition to any other requirements set forth in this chapter. In case of a conflict, the more restrictive standards shall apply.

(2) *Compliance.*

(a) Within the floodplain district established in this chapter, the use of any land, the use, size, type and location of structures on lots, the installation and maintenance of transportation, utility, water supply and waste treatment facilities, and the subdivision of land shall be in full compliance with the terms of this chapter and other applicable regulations. All uses not listed as permitted uses or conditional uses in division (B) below and § 152.26(A) and (C) of this chapter shall be prohibited.

(b) In addition, a caution is provided here that:

1. New manufactured homes, replacement manufactured homes and certain recreational vehicles are subject to the general provisions of this chapter and, specifically, § 152.29 of this chapter;

2. Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing non-conforming structures and non-conforming uses of structures or land are regulated by the general provisions of this chapter and, specifically, § 152.44 of this chapter; and

3. As-built elevations for elevated or flood-proofed structures must be certified by ground surveys and flood-proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this chapter and, specifically, as stated in §§ 152.40 through 152.43 of this chapter.

(B) (1) *Permitted uses.* The following uses, subject to the standards set forth in division (B)(2) below, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

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

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

(c) Open space uses, including, but not limited to, private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas and single or multiple purpose recreational trails; and

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

(2) *Standards for permitted uses.*

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

(b) All uses that would involve structures, fill, obstructions, excavations or storage of materials or equipment shall only be permissible in the flood fringe portion of the General Floodplain District, following the floodway/flood fringe determination procedures in division (B)(3) below; and subject to the standards in § 152.26 of this chapter.

(3) *Procedures for floodway and flood fringe determinations within the General Floodplain District.*

(a) Upon receipt of an application for a permit or other approval within the General Floodplain District, the Zoning Administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state or other source.

(b) If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in division (B)(3)(c) below.

(c) The determination of floodway and flood fringe must include the following components, as applicable:

1. Estimate the peak discharge of the regional (1% chance) flood;
2. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas; and
3. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half foot. A lesser stage increase than one-half foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.

(d) The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.

(e) Once the floodway and flood fringe boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of this division (B) and § 152.26 of this chapter.
(Ord. 88, passed 5-12-2014)

§ 152.26 FLOOD FRINGE USES AND STANDARDS.

(A) *Permitted uses.* Uses allowed in the underlying zoning districts may be allowed in the flood fringe portions of the General Floodplain District, subject to the following standards.

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

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

(2) The cumulative placement of fill on a parcel shall not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with division (B)(1) above. Fill must be properly compacted and the slopes properly protected by the use of riprap, vegetative cover or other acceptable method.

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

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

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

(4) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of M.S. § 103G.245, as it may be amended from time to time.

(5) Flood fringe developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

(6) All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning/emergency evacuation plan acceptable to the Council.

(7) Accessory land uses, such as yards, railroad tracks and parking lots, may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

(8) Interference with normal manufacturing plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.

(9) Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

(C) *Manufactured homes, recreational vehicles.* Manufactured homes and recreational vehicles must meet the standards of § 152.29 of this chapter.
(Ord. 88, passed 5-12-2014) Penalty, see § 152.99

§ 152.27 SUBDIVISIONS.

(A) *Land suitability review criteria.* No land shall be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this chapter.

(1) All lots within the floodplain district shall be able to contain a building site outside of the floodway at or above the regulatory flood protection elevation.

(2) All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this chapter.

(3) All subdivisions shall have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the Council. The plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation.

(4) For all subdivisions in the floodplain, the floodway boundary, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

(B) *Floodway/flood fringe determinations.* All applicants shall provide the information required in § 152.25(B)(3) of this chapter to determine the regional flood elevation, the floodway boundary and the regulatory flood protection elevation for the subdivision site.
(Ord. 88, passed 5-12-2014) Penalty, see § 152.99

§ 152.28 PUBLIC UTILITIES, RAILROADS, ROADS AND BRIDGES.

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

(B) *Public transportation facilities.*

(1) Railroad tracks, roads and bridges to be located within the floodplain shall comply with §§ 152.25(B) and 152.26 of this chapter.

(2) Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where the facilities are essential to the orderly functioning of the area.

(3) Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

(C) *On-site water supply and sewage treatment systems.* Where public utilities are not provided:

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

(2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this section.

(Ord. 88, passed 5-12-2014) Penalty, see § 152.99

§ 152.29 MANUFACTURED HOMES AND RECREATIONAL VEHICLES.

(A) *Manufactured home parks and placement of manufactured homes.* New manufactured home parks and expansions to existing manufactured home parks are prohibited in the General Floodplain District. Placement of manufactured home units on lots of record may be allowed only in the flood fringe portions of the General Floodplain District, subject to the requirements of § 152.26 of this chapter and the following standards.

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

(2) Manufactured homes in existing manufactured home parks must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, unless the property owner has a flood warning/emergency evacuation plan acceptable to the Council, as specified in § 152.27(A)(3) of this chapter.

(B) *Recreational vehicle parks and campgrounds.* New recreational vehicle parks or campgrounds and expansions of existing parks or campgrounds are prohibited in the General Floodplain District. Placement of recreational vehicles may be allowed in existing parks, campgrounds and condominium-type associations or on individual lots of record, subject to the standards in division (C) below.

(C) *Recreational vehicle requirements.*

(1) Recreational vehicles are exempt from the elevation and anchoring provisions of this chapter, if they meet all of the following criteria.

(a) The vehicle must have a current license required for highway use.

(b) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.

(c) No permanent structural type additions may be attached to the vehicle.

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

(e) No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle to a flood-free location should flooding occur.

(f) Accessory structures may only be allowed in the flood fringe portions of the General Floodplain District, and must be constructed of flood-resistant materials and be securely anchored as specified herein.

(g) Cost of an accessory structure must not exceed an amount as set by the Council from time to time.

(2) Recreational vehicles that are exempt in division (A) above lose this exemption when development occurs on the site exceeding an amount as set by the Council from time to time for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as a new structure and shall be subject to the elevation and flood-proofing requirements in § 152.26 of this chapter. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur. (Ord. 88, passed 5-12-2014)

ADMINISTRATION AND ENFORCEMENT**§ 152.40 ZONING ADMINISTRATOR.**

A Zoning Administrator or other official designated by the Council shall administer and enforce this chapter. If the Zoning Administrator finds a violation of the provisions of this chapter, the Zoning Administrator shall notify the person responsible for the violation in accordance with the procedures stated in § 152.99 of this chapter.

(Ord. 88, passed 5-12-2014)

§ 152.41 PERMIT REQUIREMENTS.

(A) *Permit required.* A permit issued by the Zoning Administrator in conformity with the provisions of this chapter must be secured prior to any of the following activities:

- (1) The erection, addition, modification, rehabilitation or alteration of any building, structure or portion thereof. Normal maintenance and repair shall also require a permit if the work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this chapter;
- (2) The use or change of use of a building, structure or land;
- (3) The construction of a dam, fence or on-site septic system, although a permit is not required for a farm fence as defined in this chapter;
- (4) The change or extension of a non-conforming use;
- (5) The repair of a structure that has been damaged by flood, fire, tornado or any other source;
- (6) The placement of fill, excavation of materials or the storage of materials or equipment within the floodplain; and
- (7) Any other type of "development" as defined in this chapter.

(B) *Application for permit.* Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:

- (1) A site plan showing all pertinent dimensions, existing or proposed buildings, structures and significant natural features having an influence on the permit;
- (2) Location of fill or storage of materials in relation to the stream channel;

(3) Copies of any required municipal, county, state or federal permits or approvals; and

(4) Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.

(C) *Certificate of zoning compliance for a new, altered or non-conforming use.* No building, land or structure shall be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this chapter.

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

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

(F) *Notifications for watercourse alterations.* Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to M.S. § 103G.245, as it may be amended from time to time, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

(G) *Notification to FEMA when physical changes increase or decrease base flood elevations.* As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.
(Ord. 88, passed 5-12-2014)

§ 152.42 BOARD OF ADJUSTMENT/VARIANCES.

(A) *Administrative review.* An application for a variance to the provisions of this chapter shall be processed and reviewed in accordance with applicable state statutes and § 154.047 of this code of ordinances.

(B) *Adherence to regulatory flood protection elevation/state floodplain management standards.* No variance shall allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area or permit standards lower than those required by state law.

(C) *Additional variance criteria.* The following additional variance criteria of the Federal Emergency Management Agency must be satisfied.

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

(2) Variances shall only be issued by a community upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

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

(D) *Flood insurance notice.*

(1) The Zoning Administrator must notify the applicant for a variance that:

(a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as set by the Council from time to time; and

(b) The construction below the base or regional flood level increases risks to life and property.

(2) The notification must be maintained with a record of all variance actions.

(E) *Submittal of hearing notices to the Commissioner of the Department of Natural Resources (DNR).* The Board of Adjustment shall submit to the Commissioner of the DNR a copy of the application for proposed variance sufficiently in advance so that the Commissioner will receive at least ten days' notice of the hearing. The notice shall specify the time, place and subject matter of the hearing and shall be accompanied by such supporting information as is necessary to indicate the nature and effect of the proposed use. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.

(F) *Submittal of final decisions to the Commissioner of the Department of Natural Resources (DNR).* A copy of all decisions granting variances shall be forwarded to the Commissioner of the DNR within

ten days of the action. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.

(G) *Record keeping.* A community shall maintain a record of all variance actions, including justification for their issuance, and shall report the variances in its annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

(Ord. 88, passed 5-12-2014)

§ 152.43 CONDITIONAL USES.

(A) *Administrative review.* An application for a conditional use permit under the provisions of this chapter shall be processed and reviewed in accordance with §§ 154.115 and 154.116 of this code of ordinances.

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

- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments;
- (2) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures;
- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions;
- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the individual owner;
- (5) The importance of the services provided by the proposed facility to the community;
- (6) The requirements of the facility for a waterfront location;
- (7) The availability of alternative locations not subject to flooding for the proposed use;
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;

- (10) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site; and
- (12) Such other factors which are relevant to the purposes of this chapter.

(C) *Conditions attached to conditional use permits.* Upon consideration of the factors listed above and the purpose of this chapter, the Council shall attach conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this chapter. The conditions may include, but are not limited to, the following:

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

(D) *Submittal of hearing notices to the Commissioner of the Department of Natural Resources (DNR).*

- (1) The Zoning Administrator shall submit to the Commissioner of the DNR a copy of the application for proposed conditional uses sufficiently in advance so that the Commissioner will receive at least ten days' notice of the hearing.
- (2) The notice shall specify the time, place and subject matter of the hearing and shall be accompanied by supporting information as is necessary to indicate the nature and effect of the proposed use.
- (3) The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.

(E) *Submittal of final decisions to the Commissioner of the Department of Natural Resources (DNR).*

- (1) A copy of all decisions granting conditional uses shall be forwarded to the Commissioner of the DNR within ten days of the action.

(2) The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist.

(Ord. 88, passed 5-12-2014)

§ 152.44 NON-CONFORMITIES.

(A) A use, structure or occupancy of land which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions.

(B) Historic structures, as defined in herein, are subject to the provisions of divisions (B)(1) through (B)(5) below.

(1) No such use, structure or occupancy shall be expanded, changed, enlarged or altered in a way that increases its non-conformity.

(2) Any structural alteration or addition to a non-conforming structure or non-conforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or flood-proofing techniques (i.e., FP-1 through FP-4 flood-proofing classifications) allowable in the State Building Code, except as further restricted in divisions (B)(3) and (B)(6) below.

(3) The cost of all structural alterations or additions to any non-conforming structure over the life of the structure shall not exceed 50% of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50% of the market value of the structure, then the structure must meet the standards of §§ 152.25(B) and 152.25 of this chapter for new structures depending upon whether the structure is in the floodway or flood fringe portions of the General Floodplain District, respectively.

(4) If any non-conforming use, or any use of a non-conforming structure, is discontinued for 12 consecutive months, any future use of the premises shall conform to this chapter. The Assessor shall notify the Zoning Administrator in writing of instances of non-conformities that have been discontinued for a period of 12 months.

(5) If any non-conformity is substantially damaged, as defined herein, it shall not be reconstructed except in conformity with the provisions of this chapter. The applicable provisions for establishing new uses or new structures in §§ 152.25(B) or 152.26 will apply depending upon whether the use or structure is in the floodway or flood fringe portions of the General Floodplain District, respectively.

(6) Any substantial improvement, as defined herein, to a non-conforming structure requires that the existing structure and any additions must meet the requirements of §§ 152.25(B) or 152.26 of this chapter for new structures, depending upon whether the structure is in the floodway or flood fringe portions of the General Floodplain District.

(Ord. 88, passed 5-12-2014)

§ 152.99 PENALTY.

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

(B) *Other lawful action.* Nothing in this chapter restricts the City from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this chapter and shall be prosecuted accordingly.

(C) *Enforcement.* Violations of the provisions of this chapter shall be investigated and resolved in accordance with the provisions of § 154.037 of this code of ordinances. In responding to a suspected ordinance violation, the Zoning Administrator and Council may utilize the full array of enforcement actions available to it including, but not limited to, prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(Ord. 88, passed 5-12-2014)

CHAPTER 153: SUBDIVISIONS

Section

153.01 Subdivision regulations adopted by reference

§ 153.01 SUBDIVISION REGULATIONS ADOPTED BY REFERENCE.

The City's subdivisions regulations, and any and all amendments thereto, are hereby adopted by reference and incorporated herein as if set out in full.

(Ord. 64, passed 5-8-2000)

CHAPTER 154: ZONING

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GENERAL PROVISIONS

§ 154.001 TITLE.

This chapter shall be known as the "Plato Zoning Ordinance", except as referred to herein, where it shall be known as "this chapter".

(Ord. 72, passed 2-9-2004)

§ 154.002 PURPOSE.

(A) The intent of this chapter is to protect the public health, safety and general welfare of the community and its people through the establishment of minimum regulations in regard to location, erection, construction, alteration and use of structures and land. These regulations are established to assist the City in:

- (1) Implementing its Comprehensive Plan;
- (2) Protecting and enhancing the natural environment and resources that currently exist within the City;
- (3) Ensuring orderly and quality development and redevelopment;
- (4) Protecting the quality and diversity of the City's tax base;
- (5) Protecting the quality of residential neighborhoods;
- (6) Providing opportunities for an affordable and diverse housing supply;
- (7) Managing traffic;
- (8) Ensuring compatibility between different land uses; and
- (9) Regulating businesses that may have adverse secondary effects on the quality of life of City residents.

(B) These regulations are also established to provide for administration of this chapter, to provide for amendments; to prescribe penalties for violation of such regulations; and to define powers and duties of the City staff, Board of Adjustment, Planning Commission and Council in relation to this chapter. (Ord. 72, passed 2-9-2004)

§ 154.003 RELATION TO COMPREHENSIVE PLAN.

It is the policy of the City that the enforcement, amendment, and administration of this chapter be accomplished consistent with the recommendations contained in the City's Comprehensive Plan, as developed and amended from time to time by the Planning Commission and Council. The Council recognizes the City's Comprehensive Plan as the official policy for the regulation of land use and development in accordance with the policies and purpose herein set forth. In accordance with M.S. Ch. 473, as it may be amended from time to time, the City will not approve any rezoning or other changes in these regulations that are inconsistent with the City's Comprehensive Plan. (Ord. 72, passed 2-9-2004)

§ 154.004 STANDARD, REQUIREMENT.

Where the conditions imposed by any provisions of this chapter are either more or less restrictive than comparable conditions imposed by other law, ordinance, rule or regulation of the City, state or federal government, the law, ordinance, rule or regulation which imposes the more restrictive condition, standard or requirement shall prevail. (Ord. 72, passed 2-9-2004)

§ 154.005 CONFORMITY.

No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose, nor in any manner which is not in conformity with the provisions of this chapter. (Ord. 72, passed 2-9-2004) Penalty, see § 154.999

§ 154.006 BUILDING COMPLIANCE.

Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no land use permit shall be granted that does not conform to the requirements of this chapter. (Ord. 72, passed 2-9-2004) Penalty, see § 154.999

§ 154.007 REDUCTION OF YARDS OR LOTS NOT PERMITTED.

No yard or lot existing at the time of passage of this chapter shall be reduced in dimension 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.

(Ord. 72, passed 2-9-2004)

§ 154.008 SEPARABILITY.

It is hereby declared to be the intention of the City that the several provisions of this chapter are separable in accordance with the following.

(A) If any court of competent jurisdiction shall adjudge any provision of this chapter to be invalid, the judgment shall not affect any other provisions of this chapter not specifically included in the judgment.

(B) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this chapter to a particular property, building or other structure, the judgment shall not affect the application of the provision to any other property, building or structure not specifically included in the judgment.

(Ord. 72, passed 2-9-2004)

§ 154.009 AUTHORITY.

This chapter is enacted pursuant to the authority granted by the Municipal Planning Act, M.S. §§ 462.351 to 462.363, as they may be amended from time to time.

(Ord. 72, passed 2-9-2004)

§ 154.010 ESTABLISHMENT OF DISTRICTS.

For the purpose of this chapter, the City is divided into the following districts:

- (A) Agricultural District (AG);
- (B) Low Density Residential District (R-1);
- (C) High Density Residential District (R-2);
- (D) Downtown Business District (B-1);
- (E) Highway Business District (B-2); and

(F) Manufacturing/Industrial District (M-1).
(Ord. 72, passed 2-9-2004)

§ 154.011 BOUNDARIES AND OFFICIAL ZONING MAP.

(A) *General.* The boundaries of these districts are indicated and established as shown upon maps designated as the official zoning map which, with all their notations, designations, references and other matters shown thereon, shall be as much a part of this chapter as if fully described and set forth herein. The official zoning map shall be attested by the Mayor and the City Clerk-Treasurer under the following words: "This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance adopted on February 9, 2004".

(B) *Changes.* If in accordance with the provisions of this chapter changes are made in the district boundaries or other matter portrayed on the official zoning map, the resolution number and date of the change shall be recorded by the City Clerk-Treasurer on the official zoning map. No amendment which involves matter portrayed on the official zoning map shall become effective until after the change and entry has been made on this map.

(C) *Official copy.* Regardless of the existence of purported copies, the official zoning map, which shall be located in the office of the City Clerk-Treasurer, shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the City.

(D) *New zoning map.* In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Council may, by resolution, adopt a new official zoning map that shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning ordinance or any subsequent amendment thereof.
(Ord. 72, passed 2-9-2004)

§ 154.012 INTERPRETATION OF DISTRICT BOUNDARIES.

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

(A) Boundaries indicated as approximately following centerlines of highways, streets, alleys or other public rights-of-way shall be construed to follow the centerlines.

(B) Boundaries indicated as approximately following platted lot lines shall be construed as following the lot lines.

(C) Boundaries indicated as approximately following section lines, quarter section lines or quarter-quarter section lines shall be construed as following the lines.

(D) Boundaries indicated as approximately following City limits shall be construed as following the City limits.

(E) Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main set of tracks at the centerline of the single set of tracks.

(F) Boundaries indicated as following shorelines shall be construed to follow the shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shorelines. Boundaries indicated as approximately following the centerline of streams, rivers, lakes or other bodies of water shall be construed as following the centerlines.

(G) Boundaries indicated as parallel to or extensions of features indicated in divisions (A) through (F) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or in other circumstances not covered by divisions (A) through (F) above, Zoning Administrator shall interpret the district boundaries, subject to appeal to the Board of Adjustment.

(H) Where a district boundary line divides a lot which was in single ownership at the time of passage of this chapter, the Planning Commission may permit as a special consideration, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.
(Ord. 72, passed 2-9-2004)

§ 154.013 PROPERTY NOT INCLUDED; ANNEXATIONS.

When no decision has been reached to what district the annexed territory should be placed, annexations or consolidations with the City shall be placed in the AG District. Within one year, the Planning Commission shall evaluate and recommend a permanent district classification to the Council.
(Ord. 72, passed 2-9-2004)

§ 154.014 RULES.

For the purpose of this chapter, certain terms or words used herein shall be interpreted as follows.

(A) The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

(B) Words used in the present tense shall include the future; words used in the singular number shall include the plural number and the plural the singular.

(C) The word "shall" is mandatory and not discretionary and the word "may" is permissive.

(D) Any words not defined herein shall be construed in their generally accepted meanings as defined in the most recent publication of *Webster's Dictionary*.
(Ord. 72, passed 2-9-2004)

§ 154.015 DEFINITIONS.

Captions, headings, titles and the key words used in chapters and sections are inserted herein for convenience and to facilitate the use of this chapter. Words used in the present tense include the future tense; the singular number includes the plural and the plural includes the singular; the word "shall" is mandatory and not merely directory. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONMENT. To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

ABUTTING. Having a common border with, or being separated from such a common border by a right-of-way, alley or easement.

ACCESSORY BUILDING. A subordinate building or structure on the same lot or a part of the principal building, occupied by or devoted exclusively to an accessory use.

ACCESSORY USE. A use clearly and customarily subordinate and incidental to the principal permitted use of the premises.

ADULT ESTABLISHMENT. Any establishment having as a substantial or significant portion of its stock in trade or business actively in a use such as, but not limited to the following: adults-only bookstores; adults-only motion picture theaters; adult entertainment centers; massage parlors; rap parlors; adults-only cabarets; or adult-only saunas, where explicit sexual conduct is depicted and or sexual activity is explicitly or implicitly encouraged or tolerated.

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

AIRPORT. Any area of land or water designated and set aside for the landing and takeoff of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

ALLEY. A public or private right-of-way primarily designed to serve as secondary access to land or structures on a property whose principal frontage is on a street.

ALTERATION. Any change, addition or modification in construction or occupancy of an existing structure.

APARTMENT. A single room or set of rooms occupied as a dwelling unit which is part of a multiple-family dwelling.

BASEMENT. The portion of a building which is one-half or more below grade. If the height of the ceiling is five feet or more above grade, the **BASEMENT** shall be considered a story.

BED AND BREAKFAST INN. A house, or portion thereof, where short-term lodging rooms and meals are provided. The owner or manager of the inn shall live on the premises.

BLOCK. A tract of land bounded by streets, or a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, municipal boundary lines, township lines or county lines.

BOARD, LODGING OR ROOMING HOUSE. Any residential building, or portion thereof, containing lodging rooms which accommodate persons who are not members of the keeper's family. Lodging or meals or both are provided for compensation on a weekly or monthly basis. Motels, hotels, bed and breakfast inns or apartment hotels are not included in this category.

BUILDABLE AREA. The part of a lot not included within the yards required by this chapter.

BUILDING. Any structure, permanently affixed to a lot, used for the support, shelter, protection or enclosure of persons, animals, equipment, machinery, materials or property of any kind. When any portion of a **BUILDING** is completely separated from every other part by division walls from the ground up and is without openings, each portion of the building shall be deemed as a separate **BUILDING**. The connection of two **BUILDINGS** by means of an open porch, breezeway, passageway or other such open structure, with or without a roof, shall not be deemed to make them one **BUILDING**.

BUILDING, DETACHED. A building surrounded by an open space on the same lot as another building.

BUILDING HEIGHT. The vertical distance from the average elevation of the adjoining ground level to the top of the highest point of the structure.

BUILDING LINE WIDTH. The width of a lot parallel to the street at the building setback line.

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

BUILDING SETBACK LINE. The front line of the building or the legally established line which determines the location of the building with respect to the street line.

CARPORT. A structure permanently attached to a dwelling having a roof supported by columns, but not otherwise enclosed.

CHILD DAY CARE.

(1) **CHILD DAY CARE** is the provision of supplemental parental care and supervision:

- (a) For a non-related child or children;
- (b) On a regular basis;
- (c) For less than 24 hours a day; and
- (d) Under license by the state's Department of Human Services.

(2) As used in this chapter, the term is not intended to include babysitting services of a casual, non-recurring nature or in the child's home. Likewise, the term is not intended to include cooperative, reciprocative child care by a group of parents in their respective domiciles.

CHILD DAY CARE FACILITY. A building or structure wherein an agency, person or persons regularly provides care for a group of children for periods of less than 24 hours a day. **CHILD DAY CARE FACILITIES** include family day care homes, group family day care homes and child day care centers. They do not include preschools or nursery schools.

(1) **CHILD CARE CENTER.** A facility in which a child care program is operated when the facility is not excluded by M.S. § 245A.03, subd. 2, as it may be amended from time to time, and is not required to be licensed under Minn. Rules parts 9502.0315 to 9502.0445 as a family or group family day care home.

(1) **FAMILY DAY CARE HOME.** A licensed family abode of a person or persons who regularly provides direct care of children during part of a 24-hour day. There may be no more than ten children at one time, of which no more than six are under school age. The licensed capacity must include all children of any caregiver when the children are present in the residence.

(2) **GROUP FAMILY DAY CARE HOME.** A licensed facility for no more than 14 children at any one time, of which no more than ten are under school age. The total number of children includes all children of any caregiver when the children are present in the residence. The direct care of the children is for part of a 24-hour day.

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

CLINIC. A public or proprietary institution providing diagnostic or preventive treatment for ambulatory patients by a group of doctors or dentists, or both, who have their offices in the same building.

CLUB or LODGE. Structures and facilities owned and/or operated by an association of persons, for a social, educational or recreational purpose, but not primarily for profit and not primarily to render a service which is customarily carried on as a business. The persons shall be bona fide members paying annual dues and the use of the premises is restricted to members and their guests. It shall be permissible to serve food, meals and beverages on the premises; provided, it is secondary and incidental to some other common objective of the organization and all applicable local and state laws are complied with.

COMMERCIAL USE. The principal use of land or buildings for the sale, lease, rental or trade of products, goods and services.

CONDITIONAL USE. A use of the variable nature as to make control by rigid regulation impractical. After due consideration in each case, by the Council, upon receiving a report and recommendation of the Planning Commission relative to the requirements of this chapter, approval of a **CONDITIONAL USE** may or may not be granted by the Council.

COURT. A court is an open unoccupied space on the same lot with a dwelling and bounded on two or more sides by the walls of the dwelling.

DEVELOPMENT. The division of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbances; and any use or extension of the use of land.

DOG KENNEL. See **KENNEL.**

DRIVE-IN RESTAURANT. Any place or premises used for sale, dispensing or serving of food, refreshments or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises.

DWELLING. Any building or portion thereof designed or used exclusively for residential occupancy, but not including a tent, cabin, trailer, hotel or motel.

DWELLING, MULTIPLE-FAMILY. A residence designed for or occupied by three or more families, in separate dwelling units.

DWELLING, SINGLE-FAMILY, ATTACHED (GROUP, ROW AND TOWNHOUSES). One of two or more residential buildings having a common or party wall separating dwelling units.

DWELLING, SINGLE-FAMILY, DETACHED. A residential building containing not more than one dwelling unit entirely surrounded by open space on the same lot.

DWELLING, TWO-FAMILY. A residence designed for or occupied by two families only, in separate dwelling units.

DWELLING UNIT. One or more rooms which are arranged, designed or used as living quarters for one family only. Independent cooking facilities, permanently installed and individual sanitary facilities shall always be included for each **DWELLING UNIT**.

EASEMENT. A grant of one or more of the property rights by the owner to, or for the use by, the public, a corporation or another person or entity.

ERECTED. Includes built, constructed, reconstructed, moved upon or any physical excavation, fill, drainage and the like shall be considered a part of **ERECTION**.

ESSENTIAL SERVICES. Utilities such as underground or overhead gas, electrical or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories reasonably necessary for the furnishing of adequate service by public utilities or governmental agencies or for the public health or safety or general welfare, but not including buildings.

FAMILY. Any number of persons living together in a room or rooms comprising a single housekeeping unit and related by blood, marriage, adoption or any unrelated person who resides thereon as though a member of the **FAMILY** including the domestic employees thereof. Any group or persons not so related, but inhabiting a single house shall, for the purpose of this chapter, be considered to constitute one **FAMILY** for each five persons, exclusive of domestic employees, contained in each such group.

FARMING. An area which is used for the growing of the usual farm products such as vegetables, fruits and grains and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term **FARMING** includes the operating of the area for one or more of the above uses with the necessary accessory uses for treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activity.

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

FLOOD. The temporary overflowing of water onto land which is usually devoid of surface water.

FLOODPLAIN or **FLOOD-PRONE AREA.** Any land area susceptible to being inundated by water from any source.

FLOODWAY. The channel of a river or other water course and the adjacent land areas that must be reserved in order to reasonably carry and discharge the 100-year flood.

FLOODWAY FRINGE. All that land in a floodplain not lying within the delineated floodway. Land within a **FLOODWAY FRINGE** is subject to inundation by relatively low velocity flows and shallow water depths.

FLOOR AREA, GROSS. The sum of the areas of the several floors of a building, measured from the exterior faces of exterior walls. The term gross floor area shall include basements; elevator shafts; stairwells at each story; floor space used for mechanical equipment with structural headroom of seven feet, six inches or more; penthouses; attic space, whether or not a floor has actually been laid, providing structural headroom of six feet, six inches or more; interior balconies; and mezzanines.

FLOOR AREA RATIO. Determined by dividing the gross floor area of all buildings on a lot by the area of that lot.

GARAGE, COMMUNITY. An accessory building or series of structures for the storage of motor vehicles by two or more occupants of property or dwellings in the vicinity and having no public shop or service therein.

GARAGE, PRIVATE. An accessory building designed or used for the storage or shelter of vehicles by the occupants of the building to which it is accessory.

GARAGE, PUBLIC. A building, or portion thereof, other than a private customer and employee garage or private residential garage, used primarily for the parking and storage of vehicles and available to the general public.

GARAGE, REPAIR. A building or space for the repair or maintenance of motor vehicles but not including factory assembly of the vehicles, auto wrecking establishments or junkyards.

GLARE. A sensation of brightness within the visual field that causes annoyance, discomfort or loss in visual performance and visibility.

GOVERNMENTAL AGENCIES AND OFFICIALS.

(1) **BOARD OF ADJUSTMENTS.** Board of Adjustments for the City.

(2) **BUILDING INSPECTOR.** The City Building Inspector or his or her authorized representative.

(3) **PLANNING COMMISSION.** The Planning Commission shall be the Planning Commission of the City, appointed by the Council and established under M.S. § 462.354, subd. 1, as it may be amended from time to time. The **PLANNING COMMISSION** may contain one ex officio member from each township adjacent to the municipality who is appointed by the appropriate Township Board of Supervisors.

(4) **ZONING ADMINISTRATOR.** The Planning Commission chair or authorized representative appointed by Council.

GRADE. The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

GREENBELT. A planting strip of grass, trees or shrubs established and maintained for the purpose of screening or limiting the view of certain property uses from surrounding uses and the general public.

HOME OCCUPATION. An occupation which is customarily and traditionally conducted within a dwelling by its occupants and is clearly incidental and secondary to the principal use of the dwelling.

HOSPITAL. A building, structure or institution in which sick or injured persons are given medical or surgical treatment.

HOTEL. A building in which lodging or boarding and lodging are provided and offered to the public for compensation and which is open to transient guests. Customary **HOTEL** services such as maid service, furnishing and laundering of linen, telephone and desk service and the use and upkeep of furniture shall be provided.

INCOMPATIBLE USE. A use or service which is unsuitable for direct association with other uses because it is contradictory, incongruous or discordant with respect to sight, sound, odor, vibration or any other injurious or offensive variable.

INSTITUTION. A building or premises occupied by a non-profit corporation or establishment for public use.

JUNKYARD. Any open area of any lot or parcel where waste, discarded or scrap materials are bought, sold, exchanged, baled or packed, disassembled, kept, stored or handled, including scrap metals or scrap materials, or the abandonment or dismantling of machinery, motor vehicles or other vehicles, or parts thereof. A **JUNKYARD** does not include uses established entirely within enclosed buildings.

KENNEL. Any lot or parcel of land where small animals are boarded for compensation or where dogs are bred or raised on a commercial scale.

LAND USE. A description of how land is occupied or utilized.

LAND USE PERMIT. A permit stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under this chapter for the zone in which it is to be located.

LIVESTOCK. Cattle, horses, sheep, goats, poultry, swine and large wild and/or exotic animals.

LINEAR BLOCK. The property abutting one side of a street between the two nearest intersecting or intercepting streets, natural barrier or between the cross-street and the end of a dead end or cul-de-sac. Where a street curves so that any adjacent 100-foot chords thereof form an angle of 120 degrees or less, measured on the lot side, the curve shall be construed as an intersecting street.

LOADING SPACE, OFF-STREET. Space logically and conveniently located for bulk pick-ups and deliveries, scaled to delivery vehicles expected to be used and accessible to the vehicles when off-street parking spaces are filled.

LOT. A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide the yard and other open spaces as are herein required. The **LOT** shall have frontage on an improved public street, or on an approved private street. In no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.

LOT AREA. The area of horizontal plane bounded by the front, side and rear lot lines, but not including any area occupied by the waters of a recorded lake or river.

LOT, CORNER. A lot situated at the intersection of two streets with two adjacent sides abutting a street for their full length.

LOT, COVERAGE. The part of percentage of the lot occupied by buildings or structures, including accessory buildings or structures.

LOT, DOUBLE FRONTAGE. A lot having two opposite lot lines along two more or less parallel public streets, and which is not a corner lot. On a **DOUBLE FRONTAGE LOT**, both lot lines abutting the street shall be deemed front lot lines.

LOT, INTERIOR. Any lot which is not a corner lot.

LOT DEPTH. The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rear most points of the side lot lines in the rear.

LOT, THROUGH. A lot that has a pair of opposite lot lines along two substantially parallel streets, and which is not a corner lot. On a **THROUGH LOT**, both street lot lines shall be deemed front lot lines.

LOT LINE, FRONT. Any lot line which is along an existing or dedicated public street.

LOT LINE, REAR. A lot line which is most distant from, and is, or is most nearly, parallel to the front lot line. In the case of a lot pointed at the rear, the **REAR LOT LINE** shall be that assumed line parallel to the front lot line, not less than ten feet long, lying most distantly from the front lot line and wholly within the lot. With the exception of a double frontage lot, every lot shall have a **REAR LOT LINE**.

LOT LINE, SIDE. Any lot line not a front or rear lot line.

LOT SIZE. The total area within the lot lines of a lot, excluding any street right-of-way.

LOT OF RECORD. A lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder or a lot described by metes and bounds, the deed to which has been recorded in the office of the County Recorder.

LOT WIDTH. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line. (Note: see "yard" definitions also.)

MIGRATORY LABOR CAMP. Temporary facilities provided by the employer on his own land or elsewhere for the housing of workers who for seasonal purposes are employed in the planting, harvesting or processing of crops.

MINI-WAREHOUSE. A structure containing separate storage spaces of varying sizes leased or rented on an individual basis.

MOBILE HOME/MANUFACTURED HOME. A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; except that, the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the state and complies with the standards established under M.S. Ch. 327, as it may be amended from time to time.

MOBILE HOME PARK. A lot, parcel or tract of land upon which two or more occupied mobile homes are sited either free of charge or for revenue purposes, including any building, structure or enclosure used or intended for use as a part of the equipment of the **MOBILE HOME PARK**.

MOTEL. Any building or group of buildings containing guest rooms primarily for the temporary occupancy for use by transient guests. The building or group of buildings may include quarters for the use of the operating personnel.

MOTOR VEHICLE. Any passenger vehicle, truck, truck-trailer, trailer or semi-trailer propelled or drawn by mechanical power.

NON-CONFORMING BUILDING OR USE. Any building or use or building and use which does not comply with all of the regulations of this chapter or of any amendment hereto for the zoning district in which it is located.

NURSING HOME. A building or structure having accommodations and where care is provided for invalid, infirmed, aged, convalescent or physically disabled or injured persons, in which three or more persons not of the immediate family are received, kept and provided with food and shelter for compensation.

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

OPEN SALES LOT. Any land used or occupied for the purpose of buying and selling new or secondhand passenger cars and/or trucks, motor cycles, motor scooters, farm and lawn equipment, boats, trailers, ATVs, golf carts, aircraft construction equipment and monuments and for the storage of same prior to sale. **OPEN SALES LOTS** shall have a principal building.

OPEN SPACE. Land used for recreation, resource protection, amenity and/or buffers. In no event shall any area of a lot constituting the minimum lot area, nor any part of an existing or future road or right-of-way be counted as constituting **OPEN SPACE**.

PARCEL. A continuous quantity of land in the possession of or owned by or recorded as the property of the same person or persons.

PARKING LOT. A parcel of land devoted to unenclosed parking spaces.

PARKING SPACE. A graded and surfaced area of not less than 200 square feet plus necessary maneuvering space for the parking or storage of a motor vehicle, which affords satisfactory ingress and egress to a street or alley.

PARTY WALL. A common shared wall between two separate structures, buildings or dwelling units.

PERMITTED USE. A use which may be lawfully established in a particular zoning district provided it conforms with all applicable requirements and regulations of the district and this chapter.

PRINCIPAL USE. The main use of land or structures as distinguished from an accessory use.

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

PLANNED UNIT DEVELOPMENT (PUD). A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces and other site features and improvements.

PREMISES. A tract of land together with all structures hereon.

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

PUBLIC USES. Municipal, county, school district, state, federal and other public uses.

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

RECREATIONAL CAMPING AREA. Any area used on a daily, nightly, weekly or longer basis for the accommodation of three or more units consisting of tents, travel trailers and whether use of the accommodation is granted free of charge or for compensation.

RECREATIONAL CAMPING VEHICLE. Any of the following:

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

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

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

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

RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees or other special use.

ROADSIDE STAND. A temporary and unenclosed structure for the display and sale of agricultural products, produced or grown on the premises.

SERVICE STATION. Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning are conducted. **SERVICE STATIONS** shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting and body fender work are conducted.

SETBACK, BUILDING. The horizontal distance between the front line of a building or structure and the front lot line.

SITE PLAN. A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses and principal site development features proposed for a specific parcel of land.

STORY. The portion of a building included between the surface of any floor and the surface of the floor next above it, or the space between such a floor and the ceiling next above it. A basement shall be considered a **STORY** if its ceiling is over five feet above the average established grade.

STORY, HALF.

(1) An upper most story lying under a sloping roof, the usable floor area of which does not exceed 75% of the floor area of the story immediately below it and not used or designed, arranged or intended to be used, in whole or in part, as an independent housekeeping unit or dwelling.

(2) A **HALF STORY** containing independent apartments or living quarters shall be deemed a full story.

STREET. A public way which affords the principal access to abutting property, excepting a public alley. The term **STREET** shall include road, avenue, highway, boulevard, drive, lane, circle, place, court, parkway or other similar designation.

STRUCTURE. Any thing constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, **STRUCTURES** include buildings, walks, fences, billboards and poster panels.

STRUCTURAL ALTERATION. Any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or exterior walls, beyond ordinary repairs and maintenance.

SWIMMING POOL. A water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above surface pool, having a depth of more than 30 inches, designed, used and maintained for swimming and bathing.

TOURIST HOME. Any dwelling occupied in such a manner that certain rooms in excess of those used by members of the family unit are herein provided and occupied as a home or family unit, are rented without cooking facilities to the public for compensation and catering primarily to the traveling public.

TOWNHOUSE/ROWHOUSE. A building comprised of single-family dwelling units erected in a row as a single building on adjoining lots, each unit having its own front and rear access to the outside, separated from the adjoining unit or units by one or more common fire walls extending from the basement floor to the roof along the dividing lot line and having a yard space on the front, rear and both sides.

TRUCK STOP. A motor fuel station devoted principally to the needs of trucks and which shall include eating and/or sleeping facilities.

UTILITY ROOM. A room or space, located other than in the basement, specifically designed and constructed to house any home utilities, such as the heating unit and laundry facilities.

USE. The purpose for which land or buildings thereon are designed, arranged or intended to be occupied or used or for which they are occupied or maintained.

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

USE, SPECIAL. See **CONDITIONAL USE**.

VARIANCE.

- (1) Permission to depart from the literal requirements of a zoning ordinance.
- (2) A relaxation of the requirements of this chapter regarding height, area, size of structure or size of yards.
- (3) Establishment or expansion of a use otherwise prohibited shall not be allowed by **VARIANCE**.
- (4) **VARIANCES** are granted only through the Board of Adjustments.

WAREHOUSE. A building used primarily for the storage of goods and materials. See **MINIWAREHOUSE**.

WAREHOUSING. Terminal facilities for handling freight with or without maintenance facilities.

WHOLESALE. The selling of goods, equipment and materials by bulk to another business that in turn sells to the final customer.

YARD. A required open space not occupied by a building or buildings, open to the sky and on the same lot as the principal building. A **YARD** extends along a lot line, and to a depth or width specified in the yard requirements for the applicable zoning district. For a building with an overhang that extends beyond the structure, setback measurements shall be taken from the overhang.

YARD, FRONT. A yard extending across the full width of the lot and lying between the front lot line and a line at a distance therefrom as specified by the regulations.

YARD, REAR. A yard extending across the full width of the lot and lying between the rear lot line and a line at a distance therefrom as specified by these regulations.

YARD, SIDE.

- (1) A yard between the side lot line and a line at a distance there from as specified by the district regulations.
- (2) Interior side yard is a side yard which is located adjacent to another lot.
- (3) **STREET SIDE YARD** is a side yard which adjoins a public street.

(4) (Note: see "lot" definitions also.)

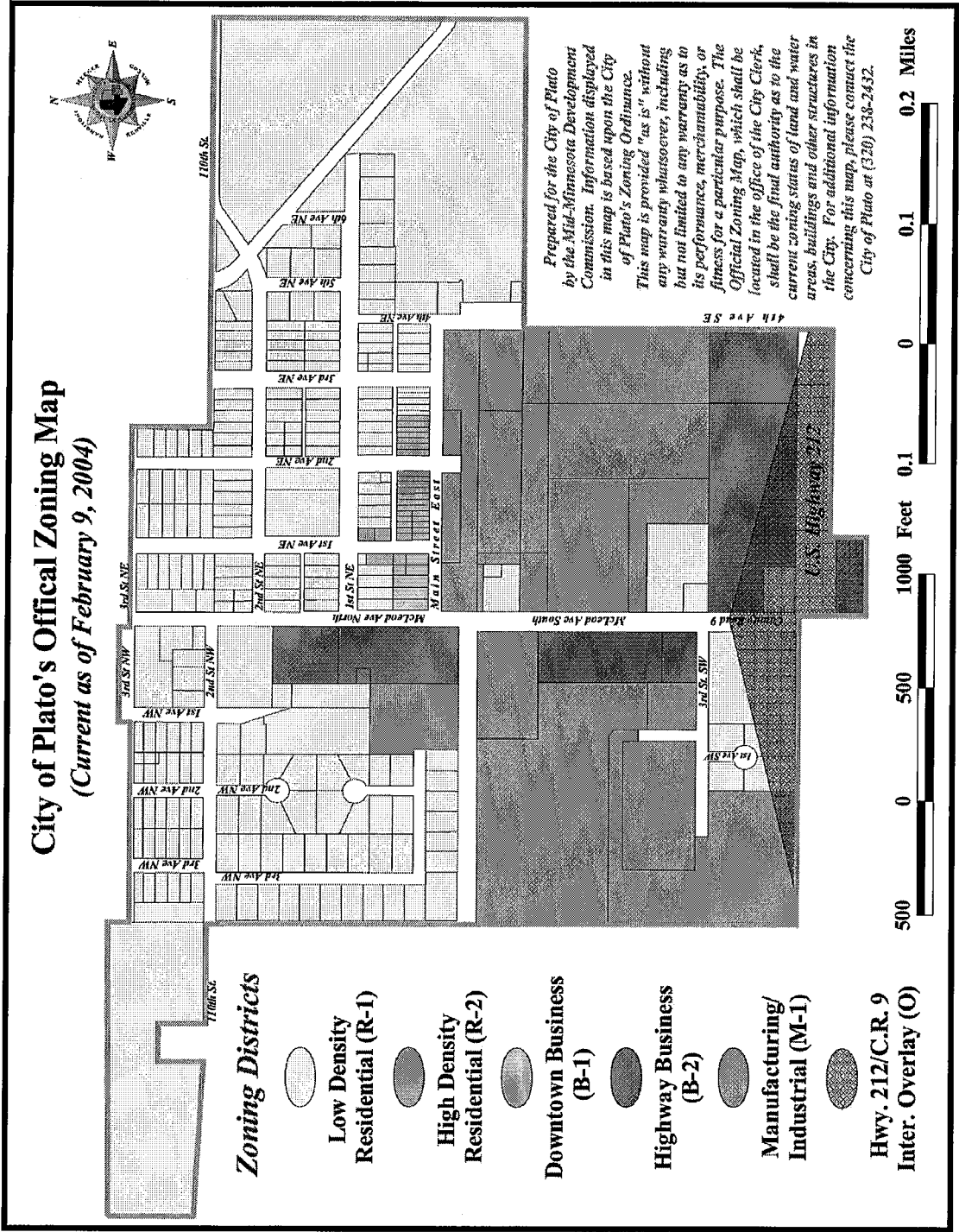
ZONING ADMINISTRATOR. The individual appointed by the Council to administer and enforce the provisions of this chapter.

ZONING DISTRICT. An area or areas within the limits of the City for which the regulations and requirements governing land use are uniform.

ZONING MAP. The areas comprising these zoning districts and boundaries of said districts as shown upon the map attached hereto and made a part of this chapter being designated as the **OFFICIAL ZONING MAP FOR THE CITY** with all proper notations, references and other information shown thereon.

ZONING ORDINANCE. Part of an adopted local government code which establishes the type and amount of development that is permissible within defined zoning districts.
(Ord. 72, passed 2-9-2004)

§ 154.016 ZONING MAP.



(Ord. 72, passed 2-9-2004)

ADMINISTRATION, PERMITS AND FEES**§ 154.030 ZONING ADMINISTRATOR DUTIES.**

(A) The Council shall appoint a Zoning Administrator.

(B) It shall be the duty of the Zoning Administrator to:

(1) Administer the requirements of this chapter for land use permits and issue or deny each application in accordance with the provisions of this chapter;

(2) Conduct inspections of buildings and the use of land to determine compliance with the terms of this chapter;

(3) Publish and attend to the service of all notices required under the provisions of this chapter;

(4) Receive, file and forward applications for appeals, variances, conditional use permits, amendments or other action to the appropriate official bodies;

(5) Maintain permanent and current records pertaining to this chapter including, but not limited to, maps, amendments, conditional uses, variances, appeals and applications thereof;

(6) Provide technical assistance to the Planning Commission and the Board of Adjustments;

(7) Make recommendations to the Council, Planning Commission and Board of Adjustments as necessitated by this chapter;

(8) Refer to the City Attorney all violations of this chapter which can not be handled administratively;

(9) Maintain permanent and current records of this chapter, including maps, amendments, conditional uses and variances;

(10) Keep current records of all non-conforming uses; and

(11) Notify County Recorder of all variances and conditional use permits granted so they can be attached to the deed.

(Ord. 72, passed 2-9-2004)

§ 154.031 LAND USE PERMITS REQUIRED; APPLICATIONS.

(A) *Land use permits required.* No building or structure shall be erected, reconstructed, moved or structurally altered to increase the exterior dimensions, height or floor area or remodeled to increase the

number of dwellings or accommodate a change in use of the building and/or premises or part thereof without a land use permit issued by the City. No permit shall be issued by the administrative official except in conformity with the provisions of this chapter, unless he or she receives a written order from the Board of Adjustments, Planning Commission or Council dependent on the form of administrative review, variance or conditional use as provided by this chapter.

(B) *Land use permit applications.* All applications for land use permits shall be accompanied by the fee as set by the Council and shall be made on forms furnished by the Zoning Administrator and shall include the following where applicable:

(1) Names and addresses of the:

(a) Applicant;

(b) Owner of the site;

(c) Architect; and

(d) Professional engineer or contractor.

(2) Description of the site by lot, block and record subdivision or by metes and bounds and the address of the proposed site;

(3) Site plans as appropriate and required by this chapter;

(4) Type of structure, existing and/or proposed operation or use of the structure or site and the zoning district in which the site is located;

(5) Where applicable, the number of housekeeping units, families, rental units or employees the proposed building is designed to accommodate;

(6) Additional information as may be required by the City Planning Commission, Zoning Administrator or other City office or officials; and

(7) The land use construction must be similar to the nature of surrounding property such that it is not detrimental to affecting adjacent property values. For structures located in the R-1 Low Density Residential District and R-2 High Density Residential District building colors, including roofs, are limited to subtle, neutral or muted colors with low reflectance. Recommended colors are browns, grays, tans, beiges and dark or muted of greens, blues or reds. No mixing of colors on same roof (i.e., red, then white, then blue and the like). No natural galvanized color is allowed. Any color outside of recommended list of colors must be submitted to and approved by the City's Planning Commission before any use.

(Ord. 72, passed 2-9-2004; Ord. 92, passed 10-12-2020)

§ 154.032 LANDOWNER RESPONSIBILITY.

It shall be the responsibility of the landowner to provide for the location and marking of all property lines and the staking of all proposed buildings to the satisfaction of the Zoning Administrator prior to the issuance of any land use permit.

(Ord. 72, passed 2-9-2004; Ord. 83, passed 1-14-2008)

§ 154.033 COMPLIANCE REQUIRED.

The Zoning Administrator shall examine all applications for land use permits and the necessary site plan to determine whether the proposed construction, alteration, extension, repair and proposed use shall comply with the provisions of this chapter. Upon examination, a land use permit shall be issued or denied.

(Ord. 72, passed 2-9-2004)

§ 154.034 APPROVAL OR DENIAL OF LAND USE PERMIT.

A decision to approve or deny the permit shall be made within 60 days of the receipt of the completed application, unless an extension of up to an additional 60 days is issued. If the land use permit is approved, the Zoning Administrator and a designated Council or Planning Commission member shall attest to the same by his or her or their signatures on the land use permit. One copy of the permit shall be returned to the applicant and one copy shall be retained by the Zoning Administrator. If the land use permit is denied, the Zoning Administrator shall notify the applicant with a memorandum stating the reason for denial.

(Ord. 72, passed 2-9-2004)

§ 154.035 EXPIRATION.

A land use permit shall become void if the work described therein has not begun within six months from the date of issuance. If the work described in any land use permit has not been substantially completed within one year of the date of issuance, the permit shall expire and be canceled by the Zoning Administrator. Further work shall not proceed unless and until a new land use permit has been obtained.

(Ord. 72, passed 2-9-2004)

§ 154.036 CONSTRUCTION AND USE TO BE SAME AS APPLICATION AND PLANS.

Land use permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only that use, arrangement and construction set forth in the approved site plan and applications

and for no other use, arrangement or construction. Any use, arrangement or construction at variance with that authorized shall be deemed a violation of this chapter and punishable as provided herein. (Ord. 72, passed 2-9-2004)

§ 154.037 VIOLATIONS.

If it is found that any of the provisions of this chapter are being violated, it shall be the duty of the Zoning Administrator to take the following action:

(A) Document the violation in writing, with photographs, historical records and dates of information;

(B) Notify in writing the person responsible for the violations indicating the nature of the violation and outlining action necessary to correct it;

(C) Order the discontinuance of illegal use of land, buildings or structures;

(D) Order the removal of illegal buildings or structures or of illegal additions, alterations or structural changes;

(E) Order discontinuance of any illegal work being done; and

(F) Take any other action authorized by this chapter to ensure compliance with or to prevent violations of its provisions.
(Ord. 72, passed 2-9-2004)

§ 154.038 APPEAL.

It is the intent of this chapter that all questions of interpretation and enforcement shall first be presented to the Zoning Administrator, and that the questions shall be presented to the Board of Adjustments only on appeal from the decision of the Zoning Administrator.
(Ord. 72, passed 2-9-2004)

§ 154.039 FEES.

The Council shall establish a schedule of fees, charges and expenses and a collection procedure for land use permits, appeals, amendments, conditional uses, interim uses, variances and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the Zoning Administrator

and may be altered or amended only by the Council. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

(Ord. 72, passed 2-9-2004)

§ 154.040 CHANGES AND AMENDMENTS.

(A) *Annual review.* The Planning Commission, in cooperation with the Zoning Administrator, shall annually prepare and file with the Council a report on the operations of this chapter as amended, including when necessary, recommendations as to the enactment of amendments or supplements thereto. This report shall include, but not be limited to, the study of the following:

- (1) Development of property uses;
- (2) Nature of population trends;
- (3) Commercial and industrial growth, both actual and prospective; and

(4) Effect upon the community as whole in view of the City's Comprehensive Plan and how the Ordinance has assisted in implementing the plan.

(B) *Amendment procedure.* The regulations, restrictions and boundaries set forth in this chapter may from time to time be amended, supplemented, changed or repealed. No such action may be taken unless it shall have been proposed by, or shall have been first submitted to the Planning Commission for review and recommendation in the following manner.

(1) *Application.*

(a) The applicant shall request the proper form for a zoning amendment from the Zoning Administrator.

(b) The application shall be filed with the Zoning Administrator accompanied by the fee as set by the Council. The application shall contain the following information, unless waived by the Zoning Administrator:

1. A statement describing the reasons for the request of the zoning amendment;
2. Names, addresses and signatures of the property owner and/or applicant;
3. The legal description, local address and current zoning classification of the property;
4. The names and addresses of the owners of all property within 350 feet of the property for which the zoning amendment is being applied;

5. Detailed description of the existing and proposed use;

6. A statement from utility companies and from the appropriate public agency commenting on the effect of the proposal on utilities and on public facilities;

7. A map showing the locations, dimensions and use of the applicant's property and all property within 350 feet thereof, including streets, alleys, railroads and other physical features; and

8. Any other information or exhibits as required by the Zoning Administrator, Planning Commission or Council necessary to make findings, recommendations and dispositions on the application.

(c) Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant.

(2) *Application processing.*

(a) Upon receipt of the completed application, the Zoning Administrator shall immediately forward a copy of the completed application and attachments to the Planning Commission.

(b) The Planning Commission shall set the date for a public hearing and instruct the Zoning Administrator to give notice of time, place and purpose of the public hearing in the following manner:

1. Notify by mail all property owners within 350 feet of the property at least ten days prior to the date of the public hearing;

2. Give public notice in a newspaper of general circulation in the City at least ten days prior to public hearing; and

3. Notify individuals, other jurisdictions and other agencies as instructed or deemed necessary.

(c) The Planning Commission or delegation thereof shall view the area being considered for a zoning amendment prior to the public hearing.

(3) *Public hearing.*

(a) The Planning Commission shall set and conduct the public hearing.

(b) The applicant and/or his or her representative shall appear before the Planning Commission and answer any questions relative to the proposed zoning amendment.

(c) An accurate record of all testimony shall be kept by the Secretary of the Planning Commission. This record shall include the names of all persons who participated in the meeting.

(4) *Recommendation.* For each application for a zoning amendment, the City Planning Commission shall make a written recommendation to the Council. The written recommendation should be forwarded to the Council within 30 days from the date of the public hearing. The Planning Commission's recommendation shall be based upon, but not limited to, the following findings where applicable, and in all cases the findings and recommendations shall be considered as being the opinion of the Planning Commission. The Planning Commission may deny the zoning amendment if any one of the following findings cannot be satisfied:

(a) Would the granting of the rezoning request conform to the presently accepted future land use plans for the City as well as present land uses?

(b) Is it in the community's best interest for additional land space to be zoned to the class requested?

(c) If it is in the community's best interest for additional land to be zoned as requested, should the rezoning be done in areas requested or would the community's interest be better served if the rezoning were done in other areas of the City?

(d) Would the granting of the rezoning request adversely affect property values of adjacent landowners to an unreasonable degree?

(e) If the request was granted, what additional public services would be required?

(f) Is the capacity of existing roads and sewer and water facilities sufficient to accommodate this proposal?

(g) Was there an error or oversight in preparing the original zoning map which indicates that this zoning should have been included at that time?

(h) Is this change beneficial to the community or is it merely a convenience to the applicant?

(5) *Decision.*

(a) Within 60 days of the receipt of the completed application, unless an extension is issued, the Council shall approve or deny the application by simple majority vote of the entire Council when concurring with the Planning Commission's recommendation.

(b) The Council may override the recommendation of the Planning Commission and thereby approve or disapprove an application. The action shall require a concurring simple majority vote of the entire Council. In cases where the Council is approving changing all or part of a zoning district from residential to commercial or industrial, the voting requirement shall be two-thirds' majority of the entire body.

(c) Decisions of the Council shall immediately be filed and recorded with the City Clerk-Treasurer's office. Copies shall be sent to the applicant and/or his or her representative. The Council shall detail its reasons for denial or approval.

(d) The Zoning Administrator shall forward a certified copy to the County Recorder and make map and/or ordinance changes.

(6) *Denial and reconsideration.* Whenever an application for a zoning amendment has been considered and denied by the Council, the applicant may re-apply for a zoning amendment affecting substantially the same property within 45 days of the date of the original denial if, as determined by the Planning Commission, substantial changes are made to the application. An applicant wishing to re-apply with substantial changes to a zoning amendment application must do so with the Zoning Administrator. The process for re-applying for a zoning amendment shall require the applicant to follow all the procedures required for applying for the permit as specified in this chapter. An application for a zoning amendment affecting substantially the same property shall not be considered again by the Planning Commission or Council for at least six months from the date of its denial if, as determined by the Planning Commission, substantial changes are not made to the application. Any subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or Council for an additional six months from the date of the second denial, unless a decision to reconsider the matter is made by not less than four-fifths' vote of the Council.

(7) *Appeal.* Decisions of the Council may be appealed as provided for in this chapter.
(Ord. 72, passed 2-9-2004)

§ 154.041 COMPLIANCE REQUIRED.

It shall be the duty of all architects, contractors, subcontractors, builders and other persons having charge of the erecting, altering, changing or remodeling of any building or structure including mobile homes, before beginning or undertaking any such work, to see that the work does not conflict with and is not a violation of the terms of this chapter. Any such architect, builder, contractor or other person doing or performing any such work of erecting, repairing, altering, changing or remodeling and in violation of, or in conflict with the terms of this chapter, shall be deemed guilty of a violation hereof in the manner and to the same extent as the owner of the premises or the person or persons for whom the buildings are erected, repaired, altered, changed or remodeled in violation hereof and shall be held accountable for the violation.

(Ord. 72, passed 2-9-2004)

§ 154.042 VIOLATIONS.

Any building or structure being erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or site hereafter erected or maintained, or land use made or

permitted in violation of this chapter, is hereby declared unlawful. In the event of violation or threatened violation of this chapter or other official control adopted under M.S. §§ 394.21 to 394.37, as they may be amended from time to time, in addition to other remedies, the Council or any member thereof may institute appropriate actions or proceedings to prevent, restrain, correct or abate the violation or threatened violations and it is the duty of the City Attorney to institute the actions.
(Ord. 72, passed 2-9-2004)

§ 154.043 RELIEF FROM PERSONAL RESPONSIBILITY.

Any claim based upon an act or omission of an officer or employee exercising due care in the execution of any valid or invalid portions of this chapter and any claim based upon the performance of the failure to exercise or perform a discretionary function or duty whether or not the discretion is abused, are hereby enumerated as exceptions to M.S. § 466.02, as it may be amended from time to time, and the section does not apply. The City shall defend, save harmless and indemnify any of its officers or employees whether elective or appointed, against any tort claim or demand whether groundless or otherwise arising out of an alleged act or omission occurring in the performance of duty in the enforcement and administration of this chapter, except as provided in M.S. § 466.07, as it may be amended from time to time.
(Ord. 72, passed 2-9-2004)

§ 154.044 CONFLICTS OF LAW.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.
(Ord. 72, passed 2-9-2004)

§ 154.045 SEVERABILITY.

This chapter and the chapters, sections, divisions, sentences and clauses herein are hereby declared to be severable. Should any of the contents or provisions of this chapter be declared by the courts to be unconstitutional or invalid, the decision shall not affect the validity of the chapter as a whole, or any part thereof other than that part declared to be unconstitutional or invalid.
(Ord. 72, passed 2-9-2004)

§ 154.046 APPEALS AND VARIANCES.

The following procedure shall be followed for appeals and applications for variances.

(A) *Application.*

(1) *Appeal.*

(a) An appeal request may be made by any aggrieved person or by any City officer, department, board or commission. Such an appeal shall be filed within 30 calendar days after the date of the decision or determination.

(b) The appeal shall be made in the following manner:

1. The applicant requests the proper form from the Zoning Administrator; and

2. The application shall be filed with the Zoning Administrator accompanied by the fee as set by the Council. The application shall contain the following information:

a. The applicant's name, address and phone number;

b. The section of this chapter in question;

c. The nature of the difficulty encountered with this chapter;

d. The nature of the action by the Zoning Administrator; and

e. The manner in which it is believed that an error in action, determination or decision has occurred.

(2) *Variance.* A variance from the terms of this chapter shall not be granted by the Board of Adjustments unless and until a written application for a variance is submitted in the following manner:

(a) The applicant requests the proper form for a variance from the Zoning Administrator;

(b) The application shall be filed with the Zoning Administrator accompanied by the fee as set by the Council. The application shall contain the following information:

1. Applicant's name and address;

2. Legal description and local address of the property;

3. A map showing the locations, dimensions and use of the applicant's property and all property within 350 feet thereof including streets, alleys, railroads and other physical and cultural features; and

4. Statement on what is intended to be done on or with the property which does not conform with this chapter.

(c) The following requirements shall be addressed within the application:

1. That there are exceptional or extraordinary circumstances or conditions which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;
2. That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
3. That the authorizing of the variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this chapter or the public interest;
4. That the condition or situation of the specific piece of property, or the intended use of the property for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situations; and
5. That the special conditions and circumstances do not result from the actions of the applicant.

(B) *Application processing.*

(1) Upon receipt of the application by the Zoning Administrator, a copy of the completed application (appeal or variance) shall be forwarded immediately to the Board of Adjustments for review. After a recommendation has been made by the Board of Adjustments, the application materials and the recommendation of action shall be sent to the Council for action.

(2) In the case of an application to the Board for the granting of a variance, the Board shall set the date for a public hearing within 30 days from the submittal date of the application. The Zoning Administrator shall be instructed to give notice of time, place and purpose of the public hearing in the following manner:

- (a) Notify by mail all property owners within 350 feet of the property at least ten days prior to the date of the public hearing;
- (b) Give public notice in a newspaper of general circulation at least ten days prior to the public hearing;
- (c) Notify the appropriate individuals and other agencies as instructed or deemed necessary; and
- (d) The notice shall state the location of the building or lot, the general nature of the questions involved and the time and place of the hearing. A copy of the notice and a list of persons to whom the notice was mailed shall become part of the records of the Board.

(3) In the case of an appeal, all proceedings in furtherance of the action appealed are stayed, unless the Zoning Administrator certifies to the Board of Adjustments after the application for appeal is filed with him or her, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life and property.

(C) *Public hearing.*

(1) The Board of Adjustments shall conduct the public hearing.

(2) The applicant and/or his or her representative shall appear before the Board of Adjustments and answer questions relative to the application for variance.

(3) An accurate record of all testimony shall be kept by the Secretary of the Board of Adjustments. This record shall include the names of all persons who participated in the meeting.

(4) Following the public hearing, the Board of Adjustments shall make a decision and forward its report and recommendations to the Council within ten days.

(D) *Decision.*

(1) In the case of an appeal, the Council shall adopt a resolution stating its interpretation and determination of the provisions of this chapter being appealed through the application.

(2) In the case of an application for a variance, the Council shall make a finding that the reasons set forth in the application justify the granting of the variance as the minimum variance that will make possible the reasonable use of the land, building or structure. The Council may further attach any condition to the grant of the variance as it shall determine is necessary and desirable to bring it within the purpose and intent of this chapter. Violations of the conditions shall be deemed a violation of this chapter and punishable hereunder.

(3) The Council shall make a decision on the application within 60 days of receipt of the completed application. The decision shall show the reasons for the determination and may reverse or affirm, wholly or in part, or may modify the order or determination appealed. The decision shall also state in detail, in the case of variances, any exceptional difficulty or unusual hardships upon which the appeal was based and which the Council found present. The decision shall also state in detail what, if any, conditions and safeguards are required.

(4) The concurring vote of a majority of the members of the Council shall be necessary for the approval or denial of an application for appeal or variance.

(5) Decisions of the Council shall immediately be filed and recorded with the Zoning Administrator. Copies shall be sent to the applicant and/or his or her representative by United States mail.

(6) Failure to grant the appeal or variance shall not be deemed cause to refund the fee to the applicant.

(E) *Issuance.*

(1) The Zoning Administrator shall issue a variance or modify the order or determination appealed from.

(2) Unless otherwise stated in the decision, any order or decision of the Council shall become void if significant construction has not been undertaken within 12 months.

(F) *Appeal.* Decisions of the Council regarding variances may be appealed as provided for in this chapter. Decisions of the Council regarding appeals may be further appealed to the State District Court and venued in McLeod County.

(Ord. 72, passed 2-9-2004)

ZONING DISTRICTS

§ 154.060 AGRICULTURAL DISTRICT (AG).

(A) *Purpose.* The AG Agricultural District is intended to preserve for a limited time those lands devoted to agricultural enterprises located within the City where urban expansion is planned to take place. In this manner, conflicts between agricultural and non-agricultural land uses shall be minimized. Its effect is to control the infiltration of urban development into areas generally devoted to agriculture until the Council determines that it is financially and economically feasible to provide public services and facilities, thereby promoting orderly urban development.

(B) *Permitted uses.* The following uses shall be permitted in the AG Agricultural District:

(1) Agricultural crops;

(2) Publicly owned parks, playgrounds and community buildings;

(3) Single-family and two-family dwellings for resident landowners;

(4) Home occupations, as regulated by §§ 154.200 through 154.203 of this chapter; and

(5) Accessory buildings or structures and uses customarily incidental to any of the above listed uses when located on the same property.

(C) *Conditional uses.* The following uses may be permitted in the AG Agricultural District upon recommendation of the Planning Commission and approval of the Council:

Plato - Land Usage

- (1) Livestock;
- (2) Game refuge and preserve areas;
- (3) Churches, chapels and similar places of worship;
- (4) Public schools and similar private education institutions;
- (5) Public utility buildings such as substations, transformer stations and regulator stations without storage yards;
- (6) Cemeteries;
- (7) Temporary produce stands on premises used for agricultural purposes provided there is adequate off-street parking;
- (8) Commercial radio, television and telephone towers and transmitters;
- (9) Stables;
- (10) Barbed wire fences;
- (11) Veterinary and animal clinics;
- (12) Parks, campgrounds, golf courses, golf driving ranges, historical sites and museums;
- (13) Carnivals, outdoor circuses and migratory amusement enterprises;
- (14) Airports and landing fields;
- (15) Raising of fur-bearing animals or kennels; provided, no cage or pen housing the animals is located nearer than 200 feet to any lot lines; except that, kennels may be within 100 feet of the lot line; and
- (16) Accessory buildings and structures and uses customarily incidental to any of the above listed uses when located on the same property.

(D) *Bulk regulations.* The following minimum requirements shall be observed:

- (1) *Lot area, width and yard requirements.*

<i>Use</i>	<i>Lot Area Sq. Ft.</i>	<i>Lot Width</i>	<i>Yards</i>		
			<i>Front</i>	<i>Side</i>	<i>Rear</i>
Single-family dwellings	30,000*	150'	30'	25'	50'

Use	Lot Area Sq. Ft.	Lot Width	Yards		
			Front	Side	Rear
Other uses	2 acres	300'	50'	50'	50'

NOTES TO TABLE:
 * The 30,000 square foot lot size minimum is if the single-family dwelling is hooked up to City sewer and water. For lots not served by City sewer and water the minimum lot size for a single-family dwelling shall be determined by the topography of the property, the ability to locate the principal dwelling, any accessory buildings and 2 individual sewage treatment systems that meet state guidelines, which all meet applicable setback requirements.

(2) *Height restrictions.* The following height restrictions shall be observed.

(a) No residential building hereafter erected or altered shall exceed 36 feet or two and one-half stories in height.

(b) Public or semipublic buildings, churches, schools and similar uses may be erected to a height of 60 feet.

(c) Agricultural uses and accessory buildings shall be exempted from height requirements.

(3) *Building dimension requirements.* The main exterior walls of each residential structure shall not be less than 20 feet wide at the narrowest point of the structure.

(4) *Foundation.* All principal dwellings and principal structures shall be placed on a permanent foundation.

(Ord. 72, passed 2-9-2004; Ord. 83, passed 1-14-2008)

§ 154.061 LOW DENSITY RESIDENTIAL DISTRICT (R-1).

(A) *Purpose.* The R-1 District is intended to provide for low-density residential development with a limited number of institutional and recreational uses permitted. The district is designed to protect residential areas now developed and to regulate the efficient use and orderly development of vacant land designated for residential uses. The regulations are designed to promote a suitable environment for family life.

(B) *Permitted uses.* The following uses shall be permitted in the R-1 Residential Districts:

- (1) Single-family dwellings;
- (2) Two-family dwellings;
- (3) Publicly owned parks and playgrounds;
- (4) Home occupations as regulated by this chapter; and

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(5) Accessory buildings or structures and uses customarily incidental to any of the above listed uses when located on the same property.

(C) *Conditional uses.* The following uses may be permitted in the R-1 Residential District upon recommendation of the Planning Commission and approval of the Council:

- (1) Churches, chapels and similar places of worship, parish homes, rectories and convents;
- (2) Public schools and similar private education institutions;
- (3) Public utility buildings such as substations, transformer stations and regulator stations without storage yards;
- (4) Day care or nursery schools;
- (5) Community buildings;
- (6) Golf and country clubs;
- (7) Bed and breakfast inns;
- (8) Accessory buildings (see § 154.130 of this chapter);
- (9) Certain home occupations (see §§ 154.200 through 154.202 of this chapter);
- (10) Earth sheltered residential structures; and
- (11) Other residential or government service uses determined by the City to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general public health, safety and welfare.

(D) *Bulk regulations.* The following minimum requirements shall be observed.

- (1) *Lot area, width and yard requirements.*

Use	Lot Area Sq. Ft.	Width		Front Yard	Rear Yard	Side Yard	
		At Street	At Bldg. Setback Line			Least Width	Sum
Single-family dwellings	12,000	45'	100'	30'	30'	10'	20'
Two-family dwellings	15,000	50'	100'	30'	30'	10'	20'

Use	Lot Area Sq. Ft.	Width		Front Yard	Rear Yard	Side Yard	
		At Street	At Bldg. Setback Line			Least Width	Sum
Other uses	1 Acre	100'	100'	25'	45'	12'	24'

(2) *Building height.* No residential building hereafter erected or altered shall exceed 36 feet or two and one-half stories in height; provided, however, public and semipublic buildings, churches, cathedrals, temples, hospitals or schools may be erected to a height of 60 feet when set back from all lot lines not less than one foot, in addition to required yard dimensions, for each foot the building exceeds 36 feet in height.

(3) *Corner lot, special requirements.* On any corner lot or lot fronting on more than one street, no building or structure shall be placed or erected closer than 25 feet to any property line abutting and paralleling a street. All corner lots shall be at least 10% larger in lot frontage at the building line and lot area than is required above for one- and two-family dwellings.

(4) *Area.* The area of the lot covered by buildings or roofed areas, excluding permitted projecting eaves, shall not exceed 35%.

(5) *Building dimension requirements.* The main exterior walls of each residential structure shall not be less than 24 feet wide at the narrowest point of the structure.

(6) *Foundation.* All principal dwellings and principal structures shall be placed on a permanent perimeter foundation.

(7) *Roof.* All principal dwellings and accessory buildings shall have a composition, shingled, or tiled roof or other comparable materials as approved by the applicable State Building Code; provided, it meets the requirements of § 154.031(B) of this chapter.

(8) *Conformance.* All structures, either principal or accessory, shall be constructed in conformance with the State Building Code or the applicable Manufactured Housing Code.

(9) *Parking.* Structures and parking spaces accessory to single- and two-family residential structures, may be located anywhere on the buildable area; except that, structures may be located to within five feet of an interior side lot line and to within eight feet of a rear lot line. No structure accessory to a residential structure on a corner lot or other similar situation shall be located outside a required buildable area abutting a street, except by conditional use permit.

(10) *Minimum floor area per dwelling unit (square feet).*

(a) One- and two-family homes (two stories): 1,100; and

(b) One- and two-family homes (one story): 1,100.

(11) *Zero lot line requirements.* When interior units of townhouses are placed on interior side property lines with zero setbacks, the structure setback for end units shall be a minimum of 16 feet. All developments using the zero lot line provision must submit a site plan according to the provisions of this chapter. The site plan shall include a plat drawn to the specifications of the City's Subdivision Ordinance. Each structure shall be located on its own individually platted lot. The plat shall indicate the zero lot lines, easements and provisions for common areas and their maintenance.

(12) *Distance from a residential building.* The following structures shall be located not less than 300 feet from a structure on a zoning lot used for residential purposes:

(a) Mausoleums, crematories and columbariums;

(b) Stadia, auditoriums and arenas;

(c) Radar installation and towers, telephone transmission equipment buildings and microwave relay towers and radio and television towers (please see §§ 154.260 through 154.284 of this chapter); and

(d) Animal shelters and kennels.

(Ord. 72, passed 2-9-2004; Ord. 83, passed 1-14-2008; Ord. 92, passed 10-12-2020)

§ 154.062 HIGH DENSITY RESIDENTIAL DISTRICT (R-2).

(A) *Purpose.* The R-2 High Density Residential District is intended to provide for high-density residential development. It is designed to accommodate single-family and multiple-family structures in an acceptable relationship with one another and to regulate the efficient use and orderly development of vacant land designated for the use. Mobile home parks and institutional uses which are compatible with residential areas are also permitted on parcels of adequate size to allow required parking and building needs.

(B) *Permitted uses.* The following uses shall be permitted in the R-2 Residential District:

(1) Any permitted use as permitted in the R-1 and R-2 Residential District;

(2) Dwellings in groups of not more than four housekeeping units in any one building;

(3) Accessory buildings or structures and uses customarily incidental to any of the above listed uses when located on the same property; and

(4) Home occupations as regulated by §§ 154.200 through 154.203 of this chapter.

(C) *Conditional uses.* The following uses may be permitted in the R-2 Residential District upon recommendation of the Planning Commission and approval of the Council:

- (1) Any conditional uses permitted in the R-1 Residential District;
- (2) Mobile home parks;
- (3) Bed and breakfast inns;
- (4) Funeral homes and mortuaries with adequate parking;
- (5) Boarding and rooming house for up to five persons; and
- (6) Dwellings in groups of five or more housekeeping units in any one building.

(D) *Bulk regulations.* The following minimum requirements shall be observed.

- (1) *Lot area, width and yard requirements.*

Use	Lot Area Sq. Ft.	Width		Front Yard	Rear Yard	Side Yard	
		At Street	At Bldg. Setback Line			Least Width	Sum
Single-family dwellings	7,500	45'	75'	25'	25'	8'	16'
Two-family dwellings	9,000	50'	75'	25'	25'	8'	16'
Three-family dwellings	10,000	55'	90'	25'	25'	10'	20'
Four-family dwellings	12,000	60'	100'	25'	25'	10'	20'
Apartments over 4	12,000 + 1,000 for each unit	70'	100'	25'	40'	15'	30'
Row houses	7,000/unit	24'/unit	24'/unit	25'	25'	10'	20'
Other uses	16,000	100'	100'	25'	45'	15'	30'

(2) *Building height.* No building, hereafter erected or altered, shall exceed four stories or 60 feet. When set back from all lot lines not less than one foot, in addition to required yard dimensions, for each foot the building exceeds 36 feet in height.

(3) *Corner lot.* On any corner lot or lot fronting on more than one street, no building or structure shall be placed or erected closer than 40 feet to any property line abutting or paralleling a street. All corner lots shall be at least 10% larger in lot frontage at the building line and lot area than is required for one- and two-family dwellings.

(4) *Area.* The area of the lot and common area covered by buildings or roofed areas, excluding permitted projecting eaves, shall not exceed 35%. Ground floor area per dwelling unit minimums (square feet):

- (a) One- and two-family homes (two stories): 1,100;
- (b) One- and two-family homes (one story): 1,100; and
- (c) Floor area per dwelling unit minimums (square feet): three or more family homes:
(each unit):
 - 1. Efficiency: 500 square feet;
 - 2. One-bedroom unit: 600 square feet; and
 - 3. Two-bedroom unit: 720 square feet.

(5) *Manufactured/mobile homes.*

(a) With the exception of manufactured/mobile homes located within a mobile home park, all principal dwellings and principal structures shall be placed on a permanent perimeter foundation.

(b) With the exception of manufactured/mobile homes located within a mobile home park, all principal dwellings and accessory buildings shall have a composition, shingled or tiled roof or other comparable materials as approved by the applicable State Building Code; provided, it meets the requirements of § 154.031(B) of this chapter.

(c) All relevant structures, either principal or accessory, shall be constructed in conformance with the applicable manufactured housing code.

(6) *Zero lot line requirements.* When interior units of townhouses are placed on interior side property lines with zero setbacks, the structure setback for end units shall be a minimum of 16 feet. All developments using the zero lot line provision must submit a site plan according to the provisions of this chapter. Each structure shall be located on its own individually platted lot. The plat shall indicate the zero lot lines, easements and provisions for common areas and their maintenance.

(7) *Building dimension requirements.* The main exterior walls of each residential structure shall not be less than 24 feet wide at the narrowest point of the structure. These dimensions shall not apply to dwellings located within mobile home parks.

(8) *Distance from a residential building.* The following structures shall be located not less than 300 feet from a structure on a zoning lot used for residential purposes:

- (a) Mausoleums, crematories and columbariums; and

(b) Radar installation and towers, telephone transmission equipment buildings and microwave relay towers and radio and television towers. (Please see §§ 154.260 through 154.284 of this chapter.)

(Ord. 72, passed 2-9-2004; Ord. 83, passed 1-14-2008; Ord. 92, passed 10-12-2020)

§ 154.063 DOWNTOWN BUSINESS DISTRICT (B-1).

(A) *Purpose.* The B-1 Downtown Business District is intended to provide for a wide variety of retail activities and could act as a banking and financial center, entertainment center or as a center for business and professional offices. The use of land is intensive. It is the purpose of these regulations to encourage the intensity of use and to exclude activities that have a negative effect upon the proper functioning of the Downtown Business District.

(B) *Permitted uses.* The following uses shall be permitted in the B-1 Downtown Business District:

- (1) Banks, offices and postal stations;
- (2) Clothing services including dry cleaning and laundry establishments, laundromats, dressmaking, tailor shops, shoe repair shops;
- (3) Equipment services including radio and television shops, electrical appliances shops, show room of a plumber, decorator or similar trade;
- (4) Food services including grocery stores, fruit, vegetable and meat markets, supermarkets, restaurants, delicatessens, candy shops and bakeries;
- (5) Personal services including barber and beauty shops, photographic shops and funeral homes;
- (6) Retail services including drug stores, hardware stores, stationery and bookstores, news shops, apparel shops, show room for articles to be sold at retail and flower shops;
- (7) Buildings used for storage;
- (8) Residence when included as an integral part of the principal building;
- (9) Rental residential units may be maintained above the ground floor but not on the main floor. Minimum apartment space shall be the following (square feet):
 - (a) Efficiency unit: 500 square feet;
 - (b) One-bedroom unit: 600 square feet;
 - (c) Two- or more bedroom: 750 square feet; and

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(d) Residential garages or carports shall have a minimum setback of ten feet from rear property lines and ten feet from side yard.

(10) Buildings and uses customarily necessary to any of the above uses.

(C) *Commercial restrictions.* The uses permitted shall be subject to the following conditions.

(1) The businesses and sales or display or storage areas shall be confined within a building beyond normal business hours except that the Council by resolution or by ordinance may allow an exception for City-wide promotions and activities.

(2) A public entrance to the businesses shall be from the principal street upon which the property abuts or within 50 feet thereof. Additional rear entrance may be provided from a public parking area.

(D) *Conditional uses.* The following uses may be permitted in the B-1 Downtown Business District upon recommendation of the Planning Commission and approval of the Council:

(1) Automobile service including auto equipment sales, car wash service, new and used car sales lots, trailer sales areas, gasoline service stations and auto repair garages;

(2) Theaters, bowling alleys, pool and billiard rooms, dance halls, roller and ice skating rinks;

(3) Hotels, motels, private clubs and lodges; wholesale establishments, night clubs and on and off liquor stores;

(4) Drive-in restaurants, drive-in banks and other drive-in services;

(5) Transportation terminals and distributing stations; and

(6) Telecommunication towers.

(E) *Building height.* No building or structure hereafter erected or altered shall exceed 60 feet in height, or more than four stories.

(F) *Yard size, lot area, frontage, lot coverage and loading space.*

(1) For allowed (non-residential) uses there will be no requirements for lot area, rear yard setback, side yard setback, frontage, lot coverage or loading space.

(2) A front yard setback of seven feet, measured from the backside of the curb, shall be maintained for a sidewalk.

(3) For uses requiring conditional use permits, lot area, yard setbacks, frontage, lot coverage and loading space shall be specified by the Council.

(Ord. 72, passed 2-9-2004; Ord. 83, passed 1-14-2008)

§ 154.064 HIGHWAY BUSINESS DISTRICT (B-2).

(A) *Purpose.* The B-2 Highway Business District is established to encourage the functional grouping of those commercial enterprises which cater primarily to either “local” or “through” motorists. Typical uses offer accommodations and services to motorists, specialized outlets and commercial amusement enterprises. The requirements of this district are developed to minimize traffic hazards.

(B) *Permitted uses.* The following uses shall be permitted in the B-2 Highway Business District:

(1) Automobile service including auto equipment sales, car wash service, new and used car sales lots and trailer sales areas, gasoline service stations and auto repair garages;

(2) Business services including banks, offices and postal stations;

(3) Clothing services including dry cleaning and laundry establishments, laundromats, dressmaking and tailor shops and shoe repair shops;

(4) Equipment services including radio and television shops, electrical appliance shops, showroom of a plumber, decorator or similar trade;

(5) Medical services including clinics, hospitals and animal clinics;

(6) Food services including grocery stores, fruit, vegetable and meat markets, supermarkets, restaurants, delicatessens, candy shops and bakeries;

(7) Personal services including barber and beauty shops, photographic shops and funeral homes;

(8) Drug stores, hardware stores, stationery and bookstores, news shops, apparel shops, show room, flower shops and commercial greenhouses;

(9) Recreation services including theaters, bowling alleys, pool and billiard rooms, dancing academies and roller and ice skating rinks and miniature golf courses;

(10) Motels, private clubs and lodges, wholesale establishments, nightclubs, on and off liquor stores, sales rooms, public utility buildings and transformer stations without storage yards;

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(11) Residence when included as an integral part of the principal building to be occupied by the owner or his employee;

(12) Drive-in restaurants, drive-in banks and drive-in services or businesses not herein strictly prohibited;

(13) Buildings used for storage, distributing stations, but not including fuel yards, junk yards or used automobile parts or wrecking establishments or businesses handling waste or junk and those businesses which are offensive by reason of sight, odor, noise, smoke or vibration to the surrounding neighborhood;

(14) Rental residential units may be maintained above the ground floor. In such buildings, the ground floor must be commercial space only; and

(15) Lumber yard, farm implements and agricultural sales and service establishments.

(C) *Conditional uses.* The following uses may be permitted in the B-2 Highway Business District upon recommendation of the Planning Commission and approval of the Council:

- (1) Recreational camping areas;
- (2) Broadcasting or reception towers or antenna over 45 feet in height; and
- (3) Truck or bus terminals.

(D) *Building height.* No building or structure hereafter erected or altered shall exceed 35 feet in height and a maximum of two and one-half stories.

(E) *Lot area and yard requirements.* The following minimum requirements shall apply.

Lot Area Sq. Ft.	Lot Width at Bldg. Setback Line	Front Yard	*Side Yard		Rear Yard**
			Least Width	Sum	
5,000	50'	45'	10'	20'	30'

NOTES TO TABLE:

*A minimum side yard of 30 feet shall be required on that side of the property abutting any AG or Residential District.

** Where alleys exist, the measurements of the rear yard may include one-half the width of the alley.

(F) *Lot coverage.* The area of the lot and common area covered by buildings or roofed areas, excluding permitted projecting eaves, shall not exceed 40%.

(Ord. 72, passed 2-9-2004; Ord. 83, passed 1-14-2008)

§ 154.065 MANUFACTURING/INDUSTRIAL (M-1).

(A) *Purpose.* The M-1 Manufacturing/Industrial District is intended to provide for areas for manufacturing, warehousing and related commercial operations. All activities in the district shall be carried on in a manner not injurious or offensive to the occupants of adjacent premises.

(B) *Permitted principal uses.* Within the M-1 Manufacturing/Industrial District, unless otherwise provided by this chapter, no uses are permitted, except for the following:

(1) Manufacturing. Any light manufacturing or process including repairs, assembling, fabricating, altering, converting, finishing, processing, treating, testing, packaging or bottling; except any use or process hereinafter specifically excluded or which would not be in keeping with the purpose of the district as stated above. The determination shall be made by the Planning Commission upon review of the land use permit application. Manufacturing includes the storage of goods or materials related to the manufacturing process;

(2) Offices;

(3) Office-showroom buildings;

(4) Warehousing, storage and wholesaling. The storage, handling, assembly and distribution of goods and materials for retail, wholesale or on-site use, except any hazardous combustible materials and/or flammable liquids or gases. The determination of "hazardous" materials shall be made by the Zoning Enforcement Officer following the standards and guidelines. This classification does not include truck terminals, which are defined as warehouse and distribution businesses specializing in the shipment of goods or materials and which generate significant numbers of semi-trailer trucks;

(5) Vocational and technical schools; and

(6) Public and community service uses, including, but not limited to, electric substations, fire stations, sewage treatment plants, water filtration plants and water pumping stations.

(C) *Permitted accessory uses.* The following shall be permitted accessory uses within the M-1 Manufacturing/Industrial District:

(1) Any accessory use, building or structure customarily incidental to a principal use permitted above, and located on the same lot therewith;

(2) Specialized freight and yard equipment, private utility structures, secondary processing structures and similar specialized structures;

(3) Parking and loading facilities; and

(4) Signs, as regulated.

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(D) *Conditional uses.* The following uses may be permitted in the M-1 Manufacturing/Industrial District upon recommendation of the Planning Commission and approval of the Council:

(1) Any production, processing, assembly, manufacturing, cleaning service, repair, testing or storage of goods or products, excepting those which may be injurious or offensive to the occupants of adjacent premise by reason of the emission of or creation of noise, vibration, smoke, dust, odors or noxious materials;

(2) Motor vehicle body shops, dog kennels, open sales lots, building material sales, auto and truck washes, motor fuel stations and retail sales;

(3) Bulk storage of liquid, construction storage yards, open storage as a primary use, broadcasting or reception towers or antenna over 45 feet in height, contractors storage yards and grain and feed storage;

(4) Airports and heliports;

(5) Manufacturing of cement, concrete, lime, gypsum or plaster;

(6) Distillation of bone, coal, tar, petroleum, refuse, grain or wood; and

(7) Telecommunication towers.

(E) *Special requirements.*

(1) Storage, auxiliary to the permitted use, is permitted in the open, but not within 25 feet of the property lines.

(2) Open storage of lumber, metals, machinery or other non-waste or non-scrap materials shall be neatly stored in an orderly fashion.

(3) Waste materials incidental to the principal operation shall be kept in neatly stored containers screened from public view and shall be removed and emptied periodically so no wastes shall be piled on open grounds. Storage of waste materials must be in accordance with all applicable state and federal regulations and laws.

(4) Screening shall be provided at lot boundaries abutting a residential district, and may consist of solid fencing or dense hedge or shrub to a minimum of eight feet in height.

(F) *Bulk regulations.* The following minimum requirements shall apply.

(1) *Lot area, width and yard requirements.*

Lot Area Sq. Ft.	Lot Width at Bldg. Setback Line	Yards			
		Front	Side* (Interior)	Side (Street)	Rear**
20,000	100'	50'	20'	30'	50'

NOTES TO TABLE:
 * A minimum side yard of 100 feet shall be required on that side of the property abutting any AG or Residential District.
 **If a railroad siding is available, no rear yard is required. When the use backs up to a residential or AG district, a rear yard of 100 feet shall be required.

(2) *Height restrictions.* No building or structure hereafter erected or altered shall exceed 60 feet in height; provided, however, the height may be increased by one foot for each five feet by which the building is set back in excess of 100 feet from all property lines.

(3) *Lot coverage.* The area of the lot covered by buildings or roofed areas, excluding permitted projecting eaves, shall not exceed 75%.
 (Ord. 72, passed 2-9-2004)

NON-CONFORMITIES

§ 154.080 PERPETUATION OF NON-CONFORMITIES.

Within the various districts established by this chapter or amendments that may later be adopted, there exists lots, structures and uses of land and structures which were lawful prior to the adoption of this chapter which would be prohibited, regulated or restricted under the provisions of this chapter. It is the intent of this chapter to permit these non-conformities to continue until they are removed, but not to encourage their survival. The uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that the non-conformities shall not be enlarged upon, expanded or extended.
 (Ord. 72, passed 2-9-2004)

§ 154.081 NON-CONFORMING LOTS OF RECORD OR SUBSTANDARD LOTS.

(A) In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of the adoption or amendment of this chapter, subject to the limitations imposed by other provisions of this chapter. The lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though the lot fails to meet the requirements for area or width or both that are generally applicable in the district. However, yard dimensions and other requirements not involving area or width or both of the lot shall conform to the regulations for the district in which

the lot is located. Variance of area, width and yard requirements shall be obtained only through action of the Board of Adjustments.

(B) If two or more lots or combination of lots and proportions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter and, if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the land involved shall be considered to be an undivided parcel for the purpose of this chapter. No portion of the parcel shall be used or sold which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves a remaining lot with width or area below the requirements stated in this chapter.

(Ord. 72, passed 2-9-2004)

§ 154.082 NON-CONFORMING USES OF LAND.

Where, at the effective date of adoption or amendment of this chapter, there exists lawful use of land that is made no longer permissible under the terms of this chapter as enacted or amended, the 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 at the effective date of adoption or amendment of this chapter.

(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 the use at the effective date of adoption or amendment of this chapter.

(C) If any such non-conforming use of land ceases for any reason for a period of more than one year, any subsequent use of the land shall conform to the regulations specified by this chapter for the district in which the land is located.

(D) When a non-conforming use is superceded by a conforming use, the non-conforming use shall not thereafter be resumed.

(Ord. 72, passed 2-9-2004)

§ 154.083 NON-CONFORMING STRUCTURES.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, the structure may be continued so long as it remains otherwise lawful subject to the following provisions.

(A) No such structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.

(B) Should such structure be destroyed by any means to an extent of more than 50% of its current market value it shall not be reconstructed, except in conformity with the provisions of this chapter. If less than 50% is damaged, it may be restored, reconstructed or used as before; provided that, it is done within 12 months of the happening and that it be built of like or similar materials, or the architectural design and building materials are approved by the Council after recommendations from the Planning Commission and appropriate officials.

(C) If the non-conforming structure is moved to another lot, it shall thereafter conform to the regulations for the district to which it is moved.

(Ord. 72, passed 2-9-2004)

§ 154.084 NON-CONFORMING USES OF STRUCTURES.

(A) If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions.

(1) 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.

(2) Any non-conforming use may be extended throughout any part of the building which was originally arranged or designed for the use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside the building.

(3) (a) If no structural alterations are made, any non-conforming use of a structure and/or premises in combination may be changed to another non-conforming use; provided that, the Planning Commission, 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.

(b) In permitting the change, the Planning Commission may require appropriate conditions and safeguards in accordance with the provisions of this chapter.

(4) Any structure or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall conform to the regulations for the district in which the structure is located and the non-conforming use may not be resumed.

(5) When a non-conforming use of a structure or structure and premises in combination is discontinued for 12 months, the structure and/or structure and premises shall not be used, except in conformity with the regulations of the district in which it is located.

(6) Where 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.

(B) **DESTRUCTION**, for the purpose of this section, is defined as damage of any kind of more than 60%, exclusive of the foundation, of its appraised value at the time of destruction.
(Ord. 72, passed 2-9-2004)

§ 154.085 USES UNDER EXCEPTION PROVISIONS NOT NON-CONFORMING USES.

(A) Any use for which a conditional use is permitted as provided in this chapter shall not be deemed a non-conforming use, but shall, without further action, be deemed a conforming use in the district.

(B) This statement does not apply to changes as allowed by Council action from a non-conforming use to another use not generally permitted in the district.
(Ord. 72, passed 2-9-2004)

§ 154.086 NON-CONFORMITIES CREATED BY AMENDMENT.

When a non-conformity in a structure or the use of land or a structure created by an amendment to this chapter, the rights granted by this section to continuance of non-conformities existing on the date of the amendment.
(Ord. 72, passed 2-9-2004)

§ 154.087 REPAIRS AND MAINTENANCE.

Any non-conforming structure or portion of a structure containing a non-conforming use may be maintained and improved by ordinary repairs or by repair or replacement of non-bearing walls, fixtures, wiring or plumbing if the cubic area was existing when it became non-conforming is not increased. This chapter does not prevent the strengthening or restoring of any structure or part declared to be unsafe by order of an official charged with protecting the public safety.
(Ord. 72, passed 2-9-2004)

§ 154.088 REGISTRATION OF NON-CONFORMING USES.

(A) The owner or operator of any use of land or use of a structure or use of land and structure in combination which shall become non-conforming on the effective date of this chapter shall complete and file with the Zoning Administrator, a non-conforming use registration form. This form shall include the following information:

- (1) Present use of property;
- (2) The nature or reason for its non-conformity;
- (3) Present area of non-conforming structure;

- (4) Legal description of the parcel of land on which the non-conformity exists; and
- (5) Owner of structure and property.

(B) The registration shall be done within 30 days after notification by certified mail by the Zoning Administrator.

(Ord. 72, passed 2-9-2004)

§ 154.089 NON-CONFORMING USE, ZONE CHANGE.

The above provisions shall apply to buildings, land and uses which may become non-conforming due to classification or reclassification of districts under this chapter.

(Ord. 72, passed 2-9-2004)

SITE PLANS

§ 154.100 EXEMPT USES.

The following may, at the discretion of the Zoning Administrator, be determined to be an exempt use and shall not have to comply with the site plan requirements described herein:

(A) Temporary uses (not to exceed six months) of land different from its existing state; and

(B) One- and two-family dwellings.

(Ord. 72, passed 2-9-2004)

§ 154.101 SITE PLAN REQUIRED.

All planned buildings and/or structures or uses of land unless exempted, whether they be new, substantially changed, converted or reconstructed, must secure approval of a site plan from the Planning Commission. No land use permit shall be issued prior to approval of the site plan. The site plan need not be drawn by an architect or engineer.

(Ord. 72, passed 2-9-2004)

§ 154.102 PROCEDURE.

The following procedure shall be followed in the preparation of site plans.

(A) *Preparation of site plans.*

- (1) The person, developer, contractor or builder shall be responsible for preparation of the site plan.
- (2) The site plan shall contain the following information as is pertinent to the proposed use of the land:
 - (a) Name and address of the developer and property owner;
 - (b) Small key (location) map;
 - (c) Zoning classification of the land and names of adjoining land owners and zoning classification of adjacent lands;
 - (d) Proposed buildings and/or land use;
 - (e) Area of land in square feet; and
 - (f) Survey and engineering information including distances with angles, bearings, lengths and legal description of property involved shall be shown on drawings at a scale not to exceed one inch equaling 50 feet and including the following information:
 1. Proposed buildings with location dimensions, building area and height;
 2. Distances on all sides from buildings to property lines and between buildings;
 3. Location, dimensions and area of existing buildings not to be razed;
 4. Location and use of all buildings and adjacent lands that are within 50 feet of the property line in question;
 5. Existing and proposed contours or spot grades at no more than two-foot intervals;
 6. Drainage design for roof areas, parking lots and driveways showing area for or method of disposal of surface run-off waters;
 7. Existing and proposed street curb cut radii and curb cut width;
 8. Limits and location of proposed or existing streets, cartways, curbs, sidewalks, easements and rights-of-way;
 9. Location, size and elevation of proposed or existing sanitary sewerage facilities, storm sewers, catch basins and drywalls;

10. Location and approximate diameter of proposed or existing trees and other woody stemmed plantings together with the common names of the plantings;
11. Limits and location of plantings or physical structures designed for screening;
12. Limits, location and size of retaining walls and the type of material to be used in construction;
13. Limits and location of parking lots, driveways, parking bays, outside storage, garbage areas, loading and unloading areas and surfacing and screening thereof;
14. Directions of vehicular traffic flow to, from and within the area, together with traffic-control signs and markings;
15. Locations, height, candle power and type of all outside lighting, including street lighting and sign lighting;
16. Locations, size, height and overall dimensions of outside signs;
17. Location of underground utilities (e.g., City water, natural gas, electrical, phone and cable); and
18. Such other or different information as may be required by the design standards set forth hereinafter or as required elsewhere in this chapter.

(3) The following general principles of design shall be incorporated into the site plan.

(a) *Landscaping.*

1. All front yards shall be landscaped to soften the effect the building creates at ground level.
2. Existing trees shall be preserved where possible.
3. Surface denuded of vegetation shall be seeded or sodded to prevent soil erosion.

(b) *Light glare from vehicles.*

1. When a building, parking lot or driveway adjoins or is within 200 feet of a residential area, provision shall be made to screen all vehicle lights so as to curtail direct illumination of the residential area. Screening provided on the land may be provided by the use of closely spaced evergreen trees, shrubs or physical structures which will harmonize with the developed use of the land and with the residential area.

2. Vehicle lights need not be screened on that portion of a site bounded by and parallel to a street.

(c) *Surface water, sewage disposal and erosion control.*

1. Storm water and sanitary sewage systems shall be laid out by a professional engineer.

2. Run-off water from parking lots, roofs and driveways shall not be allowed to cross sidewalks or to run onto private property that is not a part of the site unless easements have been obtained.

3. Surface run-off waters shall be directed into municipal facilities where the facilities are available. Where municipal facilities are not available, a drywell or drainage area owned or controlled by the owner or developer shall be provided.

4. Sanitary sewage shall be directed into municipal facilities where the facilities are available. Where municipal facilities are not available, other disposal methods approved by the Planning Commission may be used.

5. Retaining walls shall be constructed where necessary for land stabilization.

(d) *Parking lots.*

1. Parking lots shall be designed to avoid creating large open expanses.

2. Parking lots shall be designed to avoid the problem of vehicles backing onto streets, alleys and sidewalks.

3. Vehicular traffic flow to, from and within land containing a parking lot shall be controlled by appropriate traffic control signs and surface markings.

4. Adequate provision shall be made for vehicular ingress and egress.

5. Provisions shall be made for a safe and convenient circulation pattern within any parking lot.

6. Proposed curb cut widths shall be kept to a minimum consistent with vehicular and pedestrian safety. Curb cut radii shall allow safe ingress and egress of vehicles from and to the proper lane of traffic on the street which they adjoin. Existing curb cuts and curb radii shall be used only if they comply with appropriate standards for proposed curb cuts and curb cut radii.

(e) *Outdoor lighting.*

1. Parking lot and street lighting shall be provided for vehicular and pedestrian safety.

2. Lighting performance standards shall be up to the discretion of the City Engineer.

3. In commercial or industrial areas, no festoon lights shall be allowed. Flood and spotlights shall be shielded to prevent glare on adjoining lands.

(B) Processing.

(1) At least three copies of the complete site plan shall be filed with the Zoning Administrator.

(2) The Zoning Administrator shall forward the site plan to the Planning Commission and to applicable reviewing agencies as instructed by the Planning Commission.

(3) The Planning Commission or a delegation thereof shall view the area being considered within the site plan.

(C) Decision.

(1) The Planning Commission shall review the site plan and any written comments from reviewing agencies and recommend notification as necessary within 30 days from the time it is filed.

(2) Decisions and recommendations of the Planning Commission shall be filed and recorded with the Zoning Administrator and/or the Building Inspector within five days thereafter. Copies shall be sent to the applicant and/or his or her representative.

(D) Compliance required.

(1) It shall be the duty of the Zoning Administrator or other appointed City staff to ensure that the approved site plan is followed by the owner and/or developer.

(2) The land area of a site developed pursuant to an approved site plan shall not thereafter be reduced in size, and no departure from the approved site plan shall be made without the express written permission of the Planning Commission. The procedure for review and approval or disapproval of changes shall be the same as for the initial application.

(3) No building or site shall be used or occupied until all requirements and provisions of this chapter and any special conditions have been complied with.

(4) The Planning Commission may grant a variance from the provisions of this section, only where special conditions pertaining to a specific piece of property or when a literal enforcement of the provisions or requirements of this section will result in particular difficulty or hardship or serve no useful purpose.

(Ord. 72, passed 2-9-2004)

§ 154.103 PERFORMANCE.

To ensure performance that development proposed in the plan submitted abides by all conditions of the City and that all tasks planned and all development proposed are completed within the established time frame, the City may require a warranty and be given security, through performance bond or other security means.

(Ord. 72, passed 2-9-2004)

CONDITIONAL AND INTERIM USES**§ 154.115 CONDITIONAL USES.**

(A) A conditional use is any use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would not be detrimental to the public health, safety or general welfare. What conditional uses that may be permitted in a given zoning district are shown in this chapter in the zoning district sections. Any proposed conditional use permitted by the provisions of this chapter shall be submitted to the Planning Commission and the Council for review and determination of its applicability to the district in which it is proposed.

(B) The following procedure shall be followed for a conditional use permit application.

(1) *Application.*

(a) The applicant requests proper form for a conditional use permit from the Zoning Administrator.

(b) The application shall be filed with the Zoning Administrator accompanied by the fee as set by the Council. The application shall contain the following information, unless waived by the Zoning Administrator:

1. A statement describing the reasons for the request of the conditional use permit;
2. Names, addresses and signatures of the property owner and/or applicant;
3. The legal description and local address of the property;
4. The names and addresses of the owners of all property within 350 feet of the property for which the conditional use permit is being applied;
5. Detailed description of the proposed conditional use;

6. Detailed site plan as required in this chapter, or as requested by the Zoning Administrator or Planning Commission;

7. A statement from utility companies and from the appropriate public agency commenting on the effect of the proposal on utilities and on public facilities; and

8. Any other information or exhibits as required by the Zoning Administrator, Planning Commission or Council necessary to make findings, recommendations and dispositions on the application.

(c) Failure to approve the conditional use permit shall not be deemed cause to refund the fee to the applicant.

(2) *Application processing.*

(a) Upon receipt of the completed application, the Zoning Administrator shall immediately forward a copy of the completed application and attachments to the Planning Commission.

(b) The Planning Commission shall set the date for a public hearing and instruct the Zoning Administrator to give notice of time, place and purpose of the public hearing in the following manner:

1. Notify by mail all property owners within 350 feet of the property at least ten days prior to the date of the public hearing;

2. Give public notice in a newspaper of general circulation in the City at least ten days prior to public hearing; and

3. Notify individuals, other jurisdictions and other agencies as instructed or deemed necessary.

(c) The Planning Commission or delegation thereof shall view the area being considered for a conditional use permit prior to the public hearing.

(3) *Public hearings.*

(a) The Planning Commission shall set and conduct the public hearing.

(b) The applicant and/or his or her representative shall appear before the Planning Commission and answer any questions relative to the proposed conditional use.

(c) An accurate record of all testimony shall be kept by the secretary of the Planning Commission. This record shall include the names of all persons who participated in the meeting.

(4) *Recommendation.* For each application for a conditional use permit, the City Planning Commission shall make a written recommendation to the Council. The written recommendation should

be forwarded to the Council within 30 days from the date of the public hearing. The Planning Commission's recommendation shall be based upon, but not limited to, the following findings where applicable, and in all cases the findings and recommendations shall be considered as being the opinion of the Planning Commission. The conditional use permit may be denied by the Planning Commission if any one of the following findings cannot be satisfied:

- (a) The use is permitted as a conditional use within the zoning district;
- (b) That the establishment, maintenance or operation of the proposed conditional use will not be detrimental to or endanger the public health, safety or general welfare;
- (c) That the conditional use is compatible with the existing land use and will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted;
- (d) The conditional use will not substantially diminish and impair property values within the immediate vicinity;
- (e) That the use will conform to all applicable regulations of the district wherein proposed and to all applicable performance standards;
- (f) That the use is not in conflict with the comprehensive land use plan of the City, or the comprehensive land use plans of other political subdivision that would be impacted by the proposed use;
- (g) That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area;
- (h) The structure and site shall have an appearance that will not have an adverse effect upon adjacent or nearby properties;
- (i) That adequate water supply and sewage treatment facilities are provided and in accordance with state and county health requirements;
- (j) That adequate utilities, access roads, drainage and other necessary public facilities have been or are being provided;
- (k) That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use;
- (l) The conditional use will not cause a substantially traffic hazard or congestion;
- (m) That soil conditions are adequate to accommodate the proposed use;
- (n) The conditional use will not substantially affect the natural resources and environmental quality of the City with adverse impacts that cannot be mitigated;

(o) The conditional use is compatible to the site's physical, geological, hydrological and other environmental features. The Planning Commission may require the applicant, at their own expense, to provide sufficient proof from a reliable source(s) that the features associated with the site are compatible to the purposed use;

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

(q) The use conforms to other applicable City ordinances and plans, and state and federal laws, rules and regulations; and is not contrary to established standards, regulations or ordinances of affected government agencies or political subdivisions.

(5) *Authority to impose conditions.*

(a) The Planning Commission shall recommend any such additional conditions relating to the granting of the proposed conditional use as it deems necessary to protect the best interests of the City as a whole or impose conditions to make the conditional use request comply with the findings required by the Planning Commission. The recommended conditions shall be in writing and included with the permit as guarantees that the conditions or restrictions will be complied with. The conditions may include, but are not limited to, the following:

1. Increasing the required lot size or yard dimensions;
2. Limiting the height, size or location of the buildings;
3. Controlling the location and number of vehicle access points;
4. Increasing the street width;
5. Increasing the number of required off-street parking spaces;
6. Limiting the number, size, location or lighting of signs;
7. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property;
8. Designating sites for open space;
9. Modification of waste disposal and water supply facilities;
10. Limitations on kinds of use, operation and hours of operation; and
11. Imposition of operational controls, sureties and deed restrictions.

(6) *Decision.*

(a) Upon receipt of the report and recommendations from the Planning Commission, the Council shall place the consideration of the application for a conditional use permit on the agenda for its next regular meeting.

(b) The Council shall make a decision on the application for a conditional use permit within 60 days of the receipt of the completed application, unless an extension is issued.

(c) The concurring vote of a majority of the full Council membership shall be necessary for the approval or denial of an application for a conditional use permit.

(d) Decisions of the Council shall immediately be filed and recorded with the City Clerk-Treasurer's office. Copies shall be sent to the applicant and/or his or her representative. The Council shall detail its reasons for denial or approval

(e) The conditional use permit, if granted, shall be issued by the Zoning Administrator and filed with the County Recorder.

(7) *Denial and reconsideration.* Whenever an application for a conditional use permit has been considered and denied by the Council, the applicant may re-apply for a conditional use permit affecting substantially the same property within 45 days of the date of the original conditional use denial if, as determined by the Planning Commission, substantial changes are made to the application. An applicant wishing to re-apply with substantial changes to a conditional use application must do so with the Zoning Administrator. The process for re-applying for a conditional use permit shall require the applicant to follow all the procedures required for applying for the permit as specified in this chapter. An application for a conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission or Council for at least six months from the date of its denial if, as determined by the Planning Commission, substantial changes are not made to the application. Any subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or Council for an additional six months from the date of the second denial, unless a decision to reconsider the matter is made by not less than four-fifths' vote of the Council.

(8) *Permit duration.* A conditional use permit shall become void one year from the date of issuance if significant construction has not been undertaken. An extension of a conditional use permit shall be requested in writing and filed with the Zoning Administrator at least 30 days before the conditional use permit is due to become null and void. The request for extension shall state facts showing a good faith attempt to do significant work toward meeting the specifications and conditions of the permit. The petition shall be presented to the Council for a decision.

(9) *Compliance.*

(a) Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity with the terms of the permit and of any conditions designated in connection

therewith. The conditional use permit shall remain in effect only so long as the terms and conditions agreed upon are observed.

(b) The Council shall have the authority to revoke a conditional use permit when it determines that the terms and conditions of the permit as issued are no longer being complied with. Any deviation from the conditions or uses approved shall be considered reasons for revocation of the conditional use permit by the Council at a duly called public hearing. A certified copy of an order of the Council revoking a conditional use permit shall be filed by the Zoning Administrator with the County Recorder for record.

(10) *Appeal*. Decisions of the Council or Zoning Administrator may be appealed as provided for in this chapter.

(Ord. 72, passed 2-9-2004)

§ 154.116 INTERIM USES.

(A) Interim use permits are intended to allow flexibility in the use of land or structures in the City when the uses are not permanent and when the uses meet appropriate conditions and performance standards that protect public health, safety and welfare.

(B) The following procedure shall be followed for an interim use permit application.

(1) *Application*.

(a) The applicant requests the proper form for an interim use permit from the Zoning Administrator.

(b) The application shall be filed with the Zoning Administrator accompanied by the fee as set by the Council. The application shall contain the following information, unless waived by the Zoning Administrator:

1. A statement describing the reasons for the request of the interim use permit;
2. Names, addresses and signatures of the property owner and/or applicant;
3. Legal description and local address of the property;
4. The names and addresses of the owners of all property within 350 feet of the property for which the interim use permit is being applied;
5. Detailed description of the proposed interim use;
6. Detailed site plan as required in this chapter, or as requested by the Zoning Administrator or Planning Commission;

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7. A statement from utility companies and from the appropriate public agency commenting on the effect of the proposal on utilities and on public facilities; and

8. Any other information or exhibits as required by the Zoning Administrator, Planning Commission or Council necessary to make findings, recommendations and dispositions on the application.

(c) Failure to approve the interim use permit shall not be deemed cause to refund the fee to the applicant.

(2) *Application processing.*

(a) Upon receipt of the completed application, the Zoning Administrator shall immediately forward a copy of the completed application and attachments to the Planning Commission.

(b) The Planning Commission shall set the date for a public hearing and instruct the Zoning Administrator to give notice of time, place and purpose of the public hearing in the following manner:

1. Notify by mail all property owners within 350 feet of the property at least ten days prior to the date of the public hearing;

2. Give public notice in a newspaper of general circulation in the City at least ten days prior to public hearing; and

3. Notify individuals, other jurisdictions and other agencies as instructed or deemed necessary.

(c) The Planning Commission or delegation thereof shall view the property being considered for an interim use permit prior to the public hearing.

(3) *Public hearing.*

(a) The Planning Commission shall set and conduct the public hearing.

(b) The applicant and/or his or her representative shall appear before the Planning Commission and answer any questions relative to the proposed interim use.

(c) An accurate record of all testimony shall be kept by the secretary of the Planning Commission. This record shall include the names of all persons who participated in the meeting.

(4) *Recommendation.* For each application for an interim use permit, the City's Planning Commission shall make a written recommendation to the Council. The written recommendation should be forwarded to the Council within 30 days from the date of the public hearing. The Planning Commission's recommendation shall be based upon, but not limited to, the following findings where applicable, and in all cases the findings and recommendations shall be considered as being the opinion

of the Planning Commission. The interim use permit may be denied by the Planning Commission if any one of the following findings cannot be satisfied:

- (a) The use is permitted as an interim use within the zoning district;
- (b) The date or event that will terminate the use can be identified with certainty;
- (c) Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future;
- (d) The applicant demonstrates a need for such a use;
- (e) That the establishment, maintenance or operation of the proposed interim use will not be detrimental to or endanger the public health, safety or general welfare;
- (f) That the interim use is compatible with the existing land use and will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted;
- (g) The interim use will not substantially diminish and impair property values within the immediate vicinity;
- (h) That the use will conform to all applicable regulations of the district wherein proposed and to all applicable performance standards;
- (i) That the use is not in conflict with the comprehensive land use plan of the City, or the comprehensive land use plans of other political subdivision that would be impacted by the proposed use;
- (j) That the establishment of the interim use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area;
- (k) The structure and site shall have an appearance that will not have an adverse effect upon adjacent or nearby properties;
- (l) That adequate water supply and sewage treatment facilities are provided and in accordance with state and county health requirements;
- (m) That adequate utilities, access roads, drainage and other necessary public facilities have been or are being provided;
- (n) That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use;
- (o) The interim use will not cause a substantially traffic hazard or congestion;
- (p) That soil conditions are adequate to accommodate the proposed use;

(q) The interim use will not substantially affect the natural resources and environmental quality of the City with adverse impacts that cannot be mitigated;

(r) The interim use is compatible to the site's physical, geological, hydrological and other environmental features. The Planning Commission may require the applicant, at his, her or their own expense, to provide sufficient proof from a reliable source(s) that the features associated with the site are compatible to the purposed use;

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

(t) The use conforms to other applicable City ordinances and plans, and state and federal laws, rules and regulations; and is not contrary to established standards, regulations or ordinances of affected government agencies or political subdivisions.

(5) *Authority to impose conditions.*

(a) The Planning Commission shall recommend any such additional conditions relating to the granting of the proposed interim use as it deems necessary to protect the best interests of the City as a whole or impose conditions to make the interim use request comply with the findings required by the Planning Commission. The recommended conditions shall be in writing and included with the permit as guarantees that the conditions or restrictions will be complied with.

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

1. Increasing the required lot size or yard dimensions;
2. Limiting the height, size or location of the buildings;
3. Controlling the location and number of vehicle access points;
4. Increasing the street width;
5. Increasing the number of required off-street parking spaces;
6. Limiting the number, size, location or lighting of signs;
7. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property;
8. Designating sites for open space;
9. Modification of waste disposal and water supply facilities;

10. Limitations on kinds of use, operation and hours of operation;
11. Imposition of operational controls, sureties and deed restrictions; and
12. Imposition of a periodic review of the permit.

(6) *Decision.*

(a) Upon receipt of the report and recommendations from the Planning Commission, the Council shall place the consideration of the application for an interim use permit on the agenda for its next regular meeting.

(b) The Council shall make a decision on the application for an interim use permit within 60 days of the receipt of the completed application, unless an extension is issued.

(c) The concurring vote of a majority of the full Council membership shall be necessary for the approval or denial of an application for an interim use permit.

(d) Decisions of the Council shall immediately be filed and recorded with the City Clerk-Treasurer's office. Copies shall be sent to the applicant and/or his representative. The Council shall detail its reasons for denial or approval.

(e) The interim use permit, if granted, shall be issued by the Zoning Administrator and filed with the County Recorder.

(7) *Denial and reconsideration.* Whenever an application for an interim use permit has been considered and denied by the Council, the applicant may re-apply for an interim use permit affecting substantially the same property within 45 days of the date of the original interim use denial if, as determined by the Planning Commission, substantial changes are made to the application. An applicant wishing to re-apply with substantial changes to an interim use application must do so with the Zoning Administrator. The process for re-applying for an interim use permit shall require the applicant to follow all the procedures required for applying for the permit as specified in this chapter. An application for an interim use permit affecting substantially the same property shall not be considered again by the Planning Commission or Council for at least six months from the date of its denial if, as determined by the Planning Commission, substantial changes are not made to the application. Any subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or Council for an additional six months from the date of the second denial, unless a decision to reconsider the matter is made by not less than four-fifths' vote of the Council.

(8) *Permit duration.* An interim use permit shall become void one year from the date of issuance if significant construction has not been undertaken. An extension of an interim use permit shall be requested in writing and filed with the Zoning Administrator at least 30 days before the interim use permit is due to become null and void. The request for extension shall state facts showing a good faith

attempt to do significant work toward meeting the specifications and conditions of the permit. The petition shall be presented to the Council for a decision.

(9) *Compliance.*

(a) Any use permitted under the terms of any interim use permit shall be established and conducted in conformity with the terms of the permit and of any conditions designated in connection therewith. The interim use permit shall remain in effect only so long as the terms and conditions agreed upon are observed.

(b) The Council shall have the authority to revoke an interim use permit when it determines that the terms and conditions of the permit as issued are no longer being complied with. Any deviation from the conditions or uses approved shall be considered reasons for revocation of the interim use permit by the Council at a duly called public hearing. A certified copy of an order of the Council revoking an interim use permit shall be filed by the Zoning Administrator with the County Recorder for record.

(10) *Permit duration.*

(a) An interim use permit shall terminate upon the occurrence of any of the following events; whichever first occurs:

1. The date stated in the permit;
2. A violation of conditions under which the permit was issued; or
3. A change in this chapter render the use non-conforming.

(b) Nothing in this section shall prevent the Board from enacting or amending official controls to change the status of interim uses, including new regulations that are designed to protect the public's safety, health and general welfare.

(11) *Permit review.*

(a) If a periodic review is imposed as a condition in the granting of an interim use permit, the interim use permit shall be reviewed by the Planning Commission at a public meeting at least 30 days prior to the expiration of the permit. It shall be the responsibility of the Zoning Administrator to schedule the public meeting and the owner of the land having an interim use permit shall not be required to pay a fee for the review. If the required review does not occur as provided herein, the interim use permit shall remain in effect until such time as the Zoning Administrator schedules a public meeting before the Planning Commission on the issue.

(b) The Planning Commission shall recommend to the Council whether or not the interim use permit should be renewed and what, if any, additional conditions may be necessary to comply with the provisions of this chapter.

(12) *Appeal*. Decisions of the Council or Zoning Administrator may be appealed as provided for in this chapter.

(Ord. 72, passed 2-9-2004)

GENERAL REGULATIONS AND PERFORMANCE STANDARDS

Editor's note:

The following general regulations and performance standards of this subchapter shall apply equally to all districts within this chapter, except where special provisions provide otherwise.

It is not intended by this chapter to repeal, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

The general regulations and performance standards established in this subchapter are designed to encourage high quality residential and business development by providing assurance that neighboring land uses will be compatible. The general regulations and performance standards are also designed to prevent and eliminate those conditions that cause blight.

All future development in the City shall be required to meet these standards. The standards shall also apply to existing development where so stated. The Zoning Administrator shall be responsible for enforcing these standards and may require the submission of information showing compliance or non-compliance with the standards.

Before any building or land use permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to the general regulations and performance standards. The developer shall supply additional data about the proposed use (such as equipment to be used, hours of operation, method of refuse disposal, type and location of exterior storage and the like), where required to do so by the Zoning Administrator. It may occasionally be necessary for a developer or business to employ specialized consultants to demonstrate that a given use will conform with any general regulation and/or performance standard.

§ 154.130 ACCESSORY BUILDINGS AND USES.

Accessory buildings and uses customarily incidental to that of the principal structure may be erected or established upon a lot or tract of land, provided they comply with the following regulations.

(A) All accessory buildings.

- (1) No accessory building shall be used for dwelling purposes.
- (2) All accessory buildings and uses shall be sited on the same parcel.

(3) Accessory buildings shall not be constructed prior to the time of construction of the principal structure to which it is accessory, unless a conditional use permit is obtained.

(4) All accessory buildings and uses shall be held to the minimum bulk regulations of the Zoning District in which they are found.

(5) On a through lot, no accessory building shall be located closer to the rear property line than the distance required for front yard setbacks.

(6) No accessory building shall project beyond the front yard setback of the principal structure. (Note: corner lots have two front yards.)

(7) All detached accessory buildings and uses, other than a detached garage within 15 feet of the principal structure, which may be allowed into the side yard of the principal structure, shall be located a minimum of ten feet to the rear of the principal structure.

(B) Accessory buildings-residential districts.

(1) An attached garage shall be considered to be part of the principal structure and shall meet the space requirements thereof.

(2) Accessory buildings are permitted only for the purpose of personal use and the storage of personal belongings.

(3) No permit shall be issued for the construction of more than two accessory buildings, with a combined area of 1,000 square feet, except through the issuance of a conditional use permit.

(4) Any accessory structure exceeding 200 square feet in area shall be constructed of materials that are the same or similar to the principal building.

(5) Accessory buildings and uses in Residential Districts shall not exceed one story or ten-foot sidewalls in height. If the accessory structure exceeds this height requirement or the height of the principal structure, a conditional use permit shall be required.

(6) No accessory building shall contain more than 30 feet of vehicle door openings as measured horizontally.

(7) No accessory building shall be principally used for the storage of agricultural commodities.

(C) Accessory buildings-business and manufacturing/industrial districts.

(1) In Business and Manufacturing/Industrial Districts, accessory buildings and uses may be placed in rear and side yards, but must not project beyond the principal building in the front yard. Exceptions to this requirement are given in division (C)(2) below.

(2) Accessory buildings, such as buildings for parking attendants, guard shelters, gate houses and transformer buildings, may be located in front in Manufacturing/Industrial Districts.

(3) Accessory buildings that exceed the height of the principal building are allowed only through a conditional use permit.
(Ord. 72, passed 2-9-2004)

§ 154.131 ADJACENT LOTS AND LOTS OF CONTINUOUS FRONTAGE IN SINGLE OWNERSHIP.

If two or more lots or combination of lots and portions of lots with continuous frontage or common property line are in single ownership, the following provisions shall apply.

(A) Each individual lot of record shall be dealt with as an individual lot in all cases, even though in common ownership with adjacent lots of record.

(B) No building, structure or use shall be constructed, altered, expanded or developed on an adjacent lot under single ownership, unless a conditional use permit is obtained.

(C) Nothing shall prohibit the legal joining together of separately described lots or parcels.
(Ord. 72, passed 2-9-2004)

§ 154.132 APPROVAL OF PLATS.

No proposed plat of a new subdivision shall be approved unless the lots within the plats equal or exceed the minimum requirements as delineated for the district in which the property is located. The plat shall further conform to all other statutes of the state and ordinances and regulations of the City.
(Ord. 72, passed 2-9-2004)

§ 154.133 LOT AREA REQUIREMENTS.

No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed herein, nor shall the number of dwelling units be increased in any manner, except in conformity with the area regulations herein prescribed, nor shall the area of any lot be reduced below the minimum requirements herein established. No part of a yard or other open space, or off-street parking or loading space provided about any building, structure or use for the purpose of complying with the provisions of this chapter shall be included as part of a yard, open space or off-street parking or loading space required under this chapter for another building, structure or use.
(Ord. 72, passed 2-9-2004)

§ 154.134 USE REGULATIONS.

Only the following uses and their essential services shall be allowed in any district:

(A) Principal uses - specified for a district;

(B) Accessory uses - and structures are permitted in any district, but not until their principal structure is present or under construction. Uses accessory to residential district developments shall not involve the conduct of any business trade or industry, except for home and professional occupations as defined herein. An accessory structure cannot be occupied as a separate dwelling unit;

(C) Conditional uses - and their accessory uses shall be permitted in specified districts after review, public hearing, recommendation by the Planning Commission, and approval by the Council in accordance with procedures and standards established in this chapter; and

(D) Uses not specified - in this chapter may be permitted by the Council after the Planning Commission has made a review and written recommendation; and, provided that, the uses are similar in character to the permitted uses in the district.

(Ord. 72, passed 2-9-2004)

§ 154.135 BUILDING ACCESS.

Every building erected, moved or structurally altered, shall be on a lot or parcel having a frontage on a public street or road. All structures shall be located on lots so as to provide required off-street parking and the safe and convenient access for fire protection.

(Ord. 72, passed 2-9-2004)

§ 154.136 BUILDING AREA.

(A) Decks, outside stairways, fire escapes, porches, platforms, balconies and other similar and attached projections shall be considered as part of the principal structure and subject to the space requirements thereof.

(B) This provision shall not apply to:

(1) One fireplace or one chimney not more than eight feet in length and projecting not more than 30 inches into the allowable yard space;

(2) Cornices not exceeding 16 inches in width;

(3) Platforms, terraces and steps below the first floor level; and

(4) Unenclosed porches or other ground level unenclosed projections not over one story in height which may extend into a front or rear yard not more than ten feet or into a side yard not more than eight feet.

(Ord. 72, passed 2-9-2004)

§ 154.137 BUILDING LOT/PRINCIPAL STRUCTURES.

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 permitted principal building on one lot; except that, in Commercial and Industrial Districts, more than one permitted principal building may be located on one lot; providing that, all buildings shall meet all other requirements as set forth in this chapter as though it were on an individual lot.

(Ord. 72, passed 2-9-2004)

§ 154.138 BUILDINGS UNDER CONSTRUCTION.

Any building or structure for which a land use permit has been issued and the construction of the whole or a part of which has been started, prior to the effective date of this chapter may be completed and used in accordance with the plans and application on which the land use permit was granted.

(Ord. 72, passed 2-9-2004)

§ 154.139 COMPLIANCE REQUIRED.

No building or structure shall be erected, constructed, reconstructed or maintained and no land shall be developed, used or maintained in violation of any of the provisions of this chapter for the district in which the building or land is located.

(Ord. 72, passed 2-9-2004)

§ 154.140 DRAINAGE.

No land shall be developed and no use shall be permitted that results in water run-off, flooding or erosion on adjacent properties. The run-off shall be properly channeled into a storm drain, watercourse, ponding area or other public facility.

(Ord. 72, passed 2-9-2004)

§ 154.141 DWELLING UNIT RESTRICTION.

Excluding the City's camping facilities that has its own rules and regulations for short-term camping, the following dwelling unit restrictions shall apply.

(A) No model home, garage, tent, accessory building or recreational camping vehicle shall at any time be used as living quarters, temporarily or permanently, except as may be approved in emergency cases by the Zoning Administrator as an administrative permit, and during the time of City celebrations, the City will allow the temporary use of tents and recreational camping vehicles.

(B) Tents, play houses or similar structures may be used for play or recreational purposes. When adult supervision is present on the property, children are allowed to camp over night.

(C) Basements may be used as living quarters or rooms as a portion of the principal residential dwelling. Living quarters and bedrooms in basements must follow the regulations of the State Building Code for adequate sized windows for emergency egress.

(D) Energy conservation designs in housing, including earth sheltered residential dwellings, are not prohibited by this provision of the Section, provided that a conditional use permit is approved by the Council and the structure complies with standards imposed by the state and the State Building Code. (Ord. 72, passed 2-9-2004)

§ 154.142 FRONT YARD EXCEPTIONS.

(A) When the majority of residential or commercial buildings have been built in a block at the time of adoption of this chapter, no building or structure hereafter erected or altered, shall project beyond the average setback line established by existing structures; provided, no building will be required to set back more than 45 feet from the property line.

(B) In the following circumstances, a new residential structure may not be required to conform to the minimum setback requirements of the zoning district.

(1) Where 50% or more of the residential lots on the same linear block (see definition) as the lot in question are developed with less than the required front yard setbacks, the average setback of the developed residential lots on the block with less than the required front yard setback shall be observed as the minimum setback for a new residential structure.

(2) Where the lot on which the new residential structure is proposed is between two adjacent existing developed residential lots with less than the required setback front yard setback, the average setback of both adjacent residential lots shall be observed as the minimum front yard setback. (Ord. 72, passed 2-9-2004)

§ 154.143 GREENBELTS.

(A) In all Manufacturing/Industrial Districts adjacent to residential districts and not divided by streets, there shall be provided along the property line an eight-foot wide planting strip composed of

grass, trees and shrubs. Trees at least one and one-half inches in diameter shall be planted not more than 30 feet apart. Shrubs shall be planted not more than five feet apart and be at least five feet in height after five full growing seasons, and attain a height of eight feet at maturity.

(B) A decorative masonry wall not less than five feet in height and not less than eight inches in thickness may be substituted for the above greenbelt upon approval of the Planning Commission.

(C) The greenbelt or wall area shall be maintained in an attractive condition at all times.
(Ord. 72, passed 2-9-2004)

§ 154.144 STRUCTURES, NOT INCLUDED IN HEIGHT OF BUILDING.

Chimneys, exterior solid fuel-fired heating device chimneys, cooling towers, elevator bulk head, fire towers, drive-in movie theater screens, grain elevators, silos, stacks, tanks, water towers, water slides, pumping towers, radio or television towers, monuments, cupolas and mechanical accessories pertaining to and necessary to the permitted use of the district in which they are located, shall not be included in calculating the height of principal structure.

(Ord. 72, passed 2-9-2004)

§ 154.145 LOT AREA REQUIREMENT.

No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum required by this chapter, nor shall the number or area of dwelling units be increased in any manner, except in conformity with the area regulations described herein. No part of a yard or other open space, or off-street parking or loading space provided about any building, structure or use for the purpose of complying with the provisions of this chapter shall be included as part of a yard, open space or off-street parking or loading space required under this chapter for another building, structure or use.

(Ord. 72, passed 2-9-2004)

§ 154.146 LOT, DOUBLE FRONTAGE.

Double frontage lots shall maintain a yard on both streets conforming to the requirements for front yards on those streets.

(Ord. 72, passed 2-9-2004)

§ 154.147 LOT, CORNER.

Corner lots shall maintain a yard on both streets conforming to the requirements for front yards on those streets.

(Ord. 72, passed 2-9-2004)

§ 154.148 LOT OF RECORD.

(A) A parcel legally created and existing at the time of passage of this chapter need not conform to the lot width or lot area of the district in which it is located.

(B) If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter. No portion of the parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this chapter, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this chapter.

(Ord. 72, passed 2-9-2004)

§ 154.149 MAINTENANCE.

In all districts, all structures, signs, required landscaping and fences shall be maintained so as not to be unsightly to the adjoining areas or created hazards to public health or safety.

(Ord. 72, passed 2-9-2004)

§ 154.150 MINIMUM REQUIREMENTS.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals or general welfare. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the highest standards shall govern.

(Ord. 72, passed 2-9-2004)

§ 154.151 PARKING AND STORAGE OF CERTAIN VEHICLES.

Automobile vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings.

(Ord. 72, passed 2-9-2004)

§ 154.152 PRINCIPAL STRUCTURES.

In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot; provided that, yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot.

(Ord. 72, passed 2-9-2004)

§ 154.153 SETBACK MEASUREMENTS.

All setbacks shall be measured from property lines.

(Ord. 72, passed 2-9-2004)

§ 154.154 FENCES, HEDGES, WALLS AND OBSTRUCTIONS IN ALL DISTRICTS.

This section is intended to provide for the regulation of the height and location of fences, walls and similar obstructions, for the purpose of providing for light, air and privacy and safeguarding the public welfare by preventing visual obstructions at street and highway intersections.

(A) *Permits required.* The construction of a fence or wall exceeding three feet shall be subject to a permit from the Zoning Administrator.

(B) *Height.* For the purpose of this section, height shall mean the vertical distance from existing grade to the top of the fence, hedge or wall.

(1) *All residential districts; front and corner yard setbacks.* No fence, hedge or wall over 36 inches in height shall be permitted within any required front and corner setback.

(2) *Rear and side setbacks.* No fence (see exceptions below), hedge or wall greater than six feet in height shall be allowed within any required rear setback or side setback, unless a permit is obtained from the Zoning Administrator. Should the rear lot line be common with the side lot line of an abutting lot, that portion of the rear lot line equal to the required front yard of the abutting lot shall not be fenced to a height of more than 36 inches.

(3) *Corner lots in all districts.* No fence, hedge or wall over 36 inches in height shall be permitted within the clear view triangle of an intersection as is described in this section.

(4) *Business/Commercial and Manufacturing/Industrial Districts.* Fences and walls located in business and industrial districts that exceed the height of eight feet, measured from its top edge to the ground at any point, shall require a conditional use permit.

(5) *Tennis court fences.* Fences up to ten feet in height may be permitted to enclosed tennis courts; provided, all other requirements of this chapter are met, and shall not require a conditional use permit where a tennis court is permitted as an accessory use or when the court is given a conditional use

permit. The fences, if they exceed six feet in height must be constructed to have 50% or less of solid material.

(C) *Location.*

(1) All fences and walls must be installed no closer than six inches from property lines. All hedges shall be planted no closer than 30 inches from property lines. It is the property owner's responsibility to locate the property lines.

(2) No fence, wall or hedge may be placed in a public right-of-way. It is the property owner's responsibility to locate the public right-of-way lines.

(3) Fences, walls and hedges, on corner lots, are subject to traffic visibility requirements as discussed in § 154.156 of this chapter.

(D) *Construction.* All fences hereafter erected shall have the structural components thereof facing the side of the property for and on which the same are erected.

(E) *Prohibited fences.* The following fences are prohibited:

(1) Barbed wire fences. No fence constructed wholly or in part of barbed wire shall be located in the City, except in any industrial, utility areas and AG Districts. Within these industrial and utility areas, the barbed wire fence may be placed above the top of other fencing not less than six feet, six inches high and none of which may be within five feet of any public street, alley or sidewalk. Within AG Districts, barbed wire fences may be used to fence in livestock. Barbed wire fences shall require a conditional use permit;

(2) Snow fences, except for exclusive control of snow between November 1 and March 31 and authorized by the Zoning Administrator for special events or construction sites;

(3) Chicken wire, welded mesh wire and electrically charged wire fences;

(4) Fences made of solid plywood, scrap lumber, temporary fencing and similar non-customary materials;

(5) Fences made of common concrete or cinder block;

(6) Fences on any portion of any public right-of-way, except fences erected by a governmental entity; and

(7) Fences so constructed as to prevent natural water drainage and/or water runoff.

(F) *Swimming pools and hot tubs.* Every owner of an outdoor swimming pool or hot tub located in the City shall erect and maintain a fence or barrier of not less than four feet in height nor more than eight feet in height around the swimming pool of the construction as to safeguard the area. The fence

should have a maximum clearance from the ground of three inches; and shall be equipped with self-closing door and latches not less than four feet above the ground. All fencing shall be in place and approved by the City's Zoning Administrator before water is run into the pool.

(G) *Maintenance.* Every fence shall be maintained in a good and safe condition at all times. Every damaged or missing element of any fence shall be repaired or replaced immediately.
(Ord. 72, passed 2-9-2004)

§ 154.155 RETAINING WALLS.

(A) *Purpose.* The purpose of this section is to protect public and private property from the effects of poorly designed and constructed retaining walls.

(B) *Permit required.*

(1) A permit shall be required for all retaining walls constructed that exceed 48 inches in height, including terraced retaining wall projects where the total height of all walls exceeds 48 inches, and are closer than 15 feet to a property line.

(2) The height requirements shall meet the requirements of § 154.156 of this chapter, intersection visibility obstructions.

(C) *Application.* Application shall be made to the Zoning Administrator on forms provided and shall include a site plan and a set of construction plans. Plans signed by a professional engineer registered in the state and/or other information necessary to adequately review the proposed retaining wall may also be required by the Zoning Administrator.

(D) *Setbacks.* Setbacks for retaining walls shall be the same as for fences.

(E) *Maintenance.*

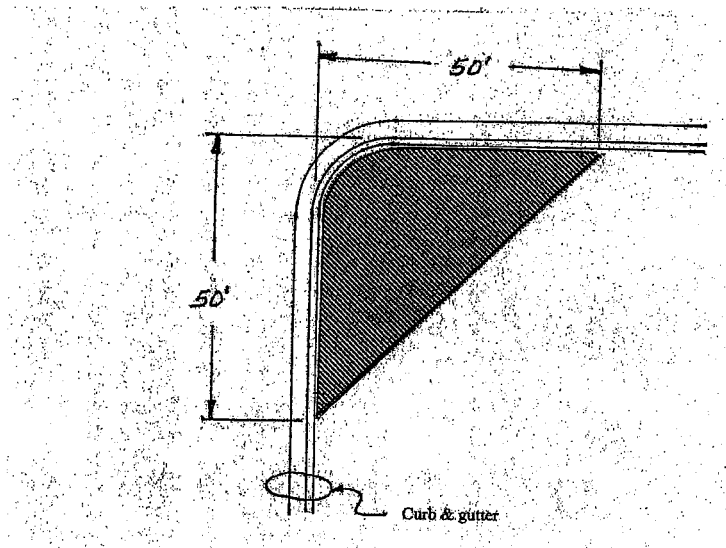
(1) Every wall shall be maintained in a good and safe condition at all times.

(2) Every damaged or missing element of any wall shall be repaired or replaced immediately.
(Ord. 72, passed 2-9-2004)

§ 154.156 VISIBILITY AT INTERSECTIONS AND RAILROAD CROSSINGS.

(A) On a corner lot in all districts, except the B-1 District, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half and ten feet above the centerline grades of the intersecting streets in the area bounded by the street lines of the corner lots and a line joining points along the street lines 50 feet from the point to the intersection.

(B) Nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to obstruct the vision clearance at railroad crossings in any district.



(Ord. 72, passed 2-9-2004; Ord. 92, passed 10-12-2020)

§ 154.157 INTERFERENCE WITH TRAFFIC SIGNALS.

No sign, structure, tree, planting or vegetation or any portion thereof shall protrude over or into any street so as to create confusion around, or otherwise interfere with, traffic signals of any kind, and sight lines thereof.

(Ord. 72, passed 2-9-2004)

§ 154.158 SEWER AND WATER PROVISIONS.

(A) All sewage facilities shall be connected to community sewer facilities when available. Where sewers are not available or in operation, as determined by the Council, all sewage facilities shall be connected to individual sewage disposal systems, under the authority of the county and in accordance with any applicable regulations of state agencies. This provision shall not apply to temporary construction sites or portable units used in farming operations.

(B) (1) All water shall be procured from the public water system when available.

(2) Where it is not feasible to connect to a public water supply or if on-site water supplementation is required, as determined by the Council, a well may be drilled in accordance with the specifications and provisions of the State Department of Health, Water Well Construction Code.

(Ord. 72, passed 2-9-2004)

§ 154.159 STORAGE STANDARDS.

Besides the storage regulations found within the City's ordinances that cover nuisances, the following storage standards shall apply.

(A) *Exterior storage in residential districts.* All materials and equipment shall be stored within a building or fully screened (so as not to be visible) from adjoining properties, except for the following: laundry drying and recreational equipment, construction and landscaping materials and equipment currently being used for construction on the premises, garden equipment and materials if these are used or intended for use on the premises, off-street parking, except as otherwise regulated herein. Boats, recreational vehicles and recreational camping vehicles, less than 35 feet in length, are permissible if stored in the rear or side yard not less than ten feet distant from any property line. All types and kinds of automobiles, trucks and other forms of vehicles and trailers that are required by state law to operate with a current license plate, but are currently without the current license plates, shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings. All inoperable motor and recreational vehicles shall not be parked or stored on any residentially zoned property other than completely enclosed buildings.

(B) *Exterior storage in Business/Commercial and Manufacturing/Industrial Districts.* Exterior storage in Business/Commercial and Manufacturing/Industrial Districts shall meet the following requirements.

(1) Exterior storage and display shall be governed by the respective zoning district in which the use is located.

(2) All exterior storage shall conform with all building setback requirements.

(3) All exterior storage shall be located in the rear or side yard, except for the following permitted activities:

(a) Materials and equipment currently being used for construction on the premises; and

(b) Merchandise being displayed for sale in accordance with zoning district requirements. The merchandise being displayed may not use space required as a parking lot, except which is allowed below in this section under seasonal unenclosed areas and temporary, outdoor promotional events. The following merchandise shall not be given an exception under this section, and thus must meet the exterior storage requirements described above:

1. Automobiles, trucks, tractors and other motorized vehicles which are incapable of movement under their own power due to mechanical deficiency; and

2. Parts for vehicles and machinery.

(4) All exterior storage areas must be on a durable and dustless surface and include storm drainage management facilities as required by the City. The one exception to this section is for storage areas in manufacturing/industrial districts may have a gravel surface, provided the storage area is used only to store heavy machinery and the access to the storage area is not less than 100 feet from a public right-of-way.

(5) The unenclosed sale and display of cut Christmas trees, wreathes, tree branches, pine cones, holly and related plant items during the months of November and December, and the unenclosed sale and display of plants and garden supplies during the months of April through October, shall be permitted as an accessory use; provided that, the sale and display is conducted in connection with the operation of an existing retail use in a Business/Commercial District, and that the area used for the unenclosed sale and display does not exceed 20% of the area of the parcel containing buildings or use more than 20% of the required parking lot.

(6) Temporary, outdoor promotional events which include activities such as grand openings, craft shows, flea markets, sidewalk sales shall be allowed up to four days in length and not more than two times a year per property.

(C) *Bulk storage (liquid)*. All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall comply with the requirements of the State Fire Marshal, the State Pollution Control Agency (PCA), the United States Environmental Protection Agency (EPA) and have documents from those offices stating that the use is in compliance. Buried gas and/or diesel bulk storage for vehicles are not permitted in Residential Districts.

(Ord. 72, passed 2-9-2004)

§ 154.160 TRAFFIC CONTROL.

(A) The traffic generated by any use shall be channelized and controlled in a manner that will avoid:

- (1) Congestion on the public streets;
- (2) Traffic hazards; and
- (3) Excessive traffic through residential areas, particularly truck traffic.

(B) Internal traffic shall be so regulated as to insure its safe and orderly flow. Traffic into and out of business and industrial areas shall in all cases be forward moving with no backing onto streets.

(Ord. 72, passed 2-9-2004)

§ 154.161 BUILDING RELOCATION.

(A) *Review process*. The relocation of any building or structure on a lot or onto another lot within the City shall be subject to approval of a conditional use permit. Accessory buildings less than 200

square feet in floor area shall be allowed without issuance of a conditional use permit, but shall comply with all other provisions of this section.

(B) *Performance standards.*

(1) Upon relocation, the building shall comply with all applicable building, plumbing, heating and electrical codes of the City.

(2) The proposed relocated building shall comply with the character of the neighborhood in which it is being relocated as determined by the Council.

(3) The relocated use will not result in a depreciation of neighborhood or adjacent property values.

(4) Except as otherwise allowed by the Council, the relocated structure shall be ready for occupancy within six months from the date of location on the site.

(Ord. 72, passed 2-9-2004)

§ 154.162 DUMPING AND DISPOSAL OF EXCAVATED MATERIALS.

The dumping of dirt, rock or other earthen material is permitted in any district not part of a drainage channel provided the surface of the material is graded within a reasonable period of time in a manner preventing the collection of stagnant water and that the ground surface is left in a condition suitable for growing of turf or for other land uses permitted in the district. This shall not prevent the development of the property for its best use when adequate facilities are provided to maintain the primary purpose of the drainage way or floodplain (i.e., the uninterrupted flow of surface water).

(Ord. 72, passed 2-9-2004)

§ 154.163 ESSENTIAL SERVICES.

Essential services shall be allowed in all zoning districts.

(Ord. 72, passed 2-9-2004)

§ 154.164 TEMPORARY BUILDINGS.

(A) It shall be unlawful for any person to erect or occupy a temporary dwelling on any lot or parcel of land in the City; except that, travel and motor home coaches can be used for such purpose for a period of not over four weeks. Residing in basement or foundation structures before the completion of the total structure shall not be permitted.

(B) Temporary buildings including mobile homes or travel coaches used as an office, temporary residence or storage for security purposes shall be permitted at construction sites for use other than one or two family residences.
(Ord. 72, passed 2-9-2004)

ADULT ESTABLISHMENTS

§ 154.175 ADOPTION.

The McLeod County Adult Business and Licensing Ordinance as currently stated and as may be amended from time to time is hereby adopted by reference as if set out in full herein.

HOME OCCUPATIONS

§ 154.200 PURPOSE.

(A) It is the intent of this subchapter on home occupations to provide peace, quiet and domestic tranquility within all residential neighborhoods in the City, and in order to guarantee to all residents freedom from excessive noise, excessive traffic, nuisance, fire hazard and other possible effects of commercial uses being conducted in residential areas; to ensure the compatibility of home occupations with other uses permitted in the residential districts; and maintain and preserve the character of residential neighborhoods. It is also the intent of this subchapter to promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than commercial uses.

(B) (1) The City recognizes the need for some citizens to use their place of residence for limited non-residential activities.

(2) However, the City believes that the need to protect the integrity of its residential areas is of paramount concern.

(Ord. 72, passed 2-9-2004)

§ 154.201 STANDARDS.

In all residential zones, home occupations in compliance with the following regulations are permitted as necessary uses, and no conditional use permit shall be required in order to establish and maintain the uses.

(A) The primary use of the unit is a dwelling. The area set aside for home occupations shall not exceed 20% of the total floor area of the residence.

(B) The use shall be conducted entirely within a dwelling and carried on by the inhabitants thereof and no others. Child day care businesses shall be allowed to have outdoor play areas.

(C) There shall be no change in the outside appearance of the dwelling or premises or any visible evidence of the conduct of a home occupation; except that, child day care businesses shall be allowed an outdoor play area.

(D) No interior or exterior business sign shall be permitted.

(1) There shall be no storage of equipment, vehicles or supplies associated with the home occupation outside the dwelling.

(2) No sign shall be allowed other than one non-illuminated name plate measuring not more than three square feet in area mounted flat against the wall of the principal building.

(E) There shall not be conducted on the premises the business of selling stocks of merchandise, supplies or products; provided that, orders previously made by telephone, Internet or at a sales party may be filled on the premises. That is, direct sales of products off display shelves or racks are not allowed, but a person may pick up an order placed earlier as described above.

(F) Parties for the purpose of selling merchandise or taking orders shall not be held more than four times each month.

(G) A home occupation shall not create greater vehicle or pedestrian traffic than normal for the district in which it is located. In no case shall a home occupation be open to the public at times earlier than 7:00 a.m., nor later than 10:00 p.m.

(H) No highly explosive or combustible material should be used or stored on the premises. No activity shall be allowed that would interfere with radio or television transmission in the area, nor shall there be any offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line.

(I) A home occupation shall not generate the need for parking spaces to cause the parking to be located on the street in front of a neighbor's property.

(J) Deliveries from commercial suppliers may not be made more than once each week, and the deliveries shall not restrict traffic circulation.

(K) Trucks shall not operate out of residential districts. No commercially licensed vehicles shall be utilized in the business.

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(L) The use of mechanical equipment other than is usual for purely domestic or hobby purposes are allowed only when it meets the requirements under division (I) above.

(M) Garage sales are permitted without special permit provided they meet the following standards.

(1) Sales last no longer than three days.

(2) Sales are held no more than twice yearly.

(3) Sales are conducted on the owner's property. Multiple family sales are permitted if they are held on the property of one of the participants.

(4) No goods purchased for resale may be offered for sale.

(5) No consignment goods may be offered for sale.

(6) All directional and advertising signs shall be free-standing and removed after completion of the sale.

(7) All directional and advertising signs placed on private property shall have the owner's permission.

(8) No directional or advertising signs may be larger than two feet by three feet.

(N) The operation of day care homes in residential districts has its own standards and regulations and are found elsewhere in this chapter.

(O) The following uses shall be allowed home occupations (unless listed as prohibited in this section):

(1) Architectural studio;

(2) Art studio;

(3) Child day care services and baby-sitting;

(4) Consulting service;

(5) Data processing;

(6) Direct sale product distribution (Amway, Avon, Shaklee, Tupperware, Herbalife and similar products);

(7) Drafting and graphic service;

- (8) Dressmaking, sewing, tailoring, contract sewing;
- (9) Engineering service;
- (10) Financial planning, investment service;
- (11) Flower arranging;
- (12) Gardening, landscape maintenance;
- (13) Home crafts;
- (14) House cleaning service;
- (15) Insurance sales or broker;
- (16) Interior design;
- (17) Jewelry making, jeweler;
- (18) Laundry, ironing service;
- (19) Locksmith;
- (20) Mail order (not including retail sales from site);
- (21) Real estate sales or broker;
- (22) Sales representative (office only);
- (23) Telephone answering, switchboard, call forwarding;
- (24) Tutoring;
- (25) Typing, word processing service;
- (26) Watch repair; and
- (27) Writing, computer programming.

(P) The following uses shall be prohibited as home occupations, unless authorized by a conditional use permit. In the rare case where the City grants a conditional use permit, the home occupation still must meet the standards shown above for home occupations, and meet any other stipulation placed on the business by the City:

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- (1) Ambulance service;
- (2) Appliance repair;
- (3) Automobile repair, part sales, upholstery or detailing, washing service (including businesses working at customer's homes);
- (4) Beauty salons and barber shops (owner operated only);
- (5) Boarding house, time share condominium;
- (6) Cabinet making;
- (7) Dog kenneling;
- (8) Contracting, masonry, plumbing or painting;
- (9) Health salons, gyms, dance studios, aerobic exercise studios, massage;
- (10) Limousine or pedicabs service;
- (11) Medical or dental office;
- (12) Mortician, hearse service;
- (13) Private clubs;
- (14) Restaurants, taverns, food preparation;
- (15) Retail sales from site (except direct distribution and sales parties);
- (16) Tow truck service;
- (17) Upholstery; and
- (18) Veterinary uses (including care, grooming or boarding).

(Q) All uses not listed in divisions (O) or (P) above shall require a conditional use permit from the City, unless the Council, through a recommendation of the City Planning Commission, determines that the home occupation is similar to uses listed under division (O) above.

(R) The home occupation shall not be considered a non-conforming use in the event of revisions to the applicable provisions of this section.

(S) Persons with demonstrated physical handicaps may be permitted special consideration by the Planning Commission and the Council. The applicant may request waiver of a portion or all of one or more of the foregoing requirements. This special request shall be considered by the Planning Commission at a public hearing after notice to property owners within 350 feet of the subject property. The Planning Commission will make recommendations to the Council, which may only grant waivers on the basis of applicant's physical inability to function within the requirements.
(Ord. 72, passed 2-9-2004) Penalty, see § 154.999

§ 154.202 ENFORCEMENT PROCEDURES.

Any aggrieved person believing that a violation or violations of this subchapter are occurring and who desires that action be taken by the City shall notify the Zoning Administrator of the written allegation(s). Within 30 calendar days after receipt by the Zoning Administrator of the written allegation(s), the Zoning Administrator shall complete an investigation of the allegation(s) to determine the merits thereof. Within ten calendar days after the Zoning Administrator has completed the investigation(s), he or she shall notify in writing the following persons. In all correspondence, the complaining party shall remain anonymous to the violator.

(A) If the Zoning Administrator determines that no violation as alleged or otherwise is occurring, notification of that decision shall be given to the complaining person or a spokesperson for the complaining person by certified mail, return requested.

(B) If the Zoning Administrator determines that a violation is occurring or has occurred as alleged, notification of that decision and a time for compliance shall be sent by certified mail, return requested, to both the violator and the complaining person or a spokesperson for the complaining person. The notification shall also state what action, if any, will be taken if compliance is not timely affected.
(Ord. 72, passed 2-9-2004)

§ 154.203 BED AND BREAKFAST INNS.

(A) Bed and breakfast inns shall only be allowed through the granting of a conditional use permit for those meeting at least the minimum criteria outlined herein, and only after it is determined that the single-family character of the property and the quality of the neighborhood will be preserved. A bed and breakfast inn must be an existing residential building and have no greater impact than, or be perceived to be other than, a private home with house guests. The intent is not to permit or allow yards to be destroyed, landscaping to be removed or the integrity of the neighborhood to be altered in order to convert the property to a bed and breakfast inn.

(B) The bed and breakfast owner shall at all times be subject to all lawful exercise of the police power of the City and to such reasonable regulations as the City hereafter by ordinance provides.

(C) An application for this conditional use permit shall include the following:

- (1) A site plan;
- (2) A landscape plan;
- (3) A set of floor plans indicating the traditional uses of all rooms and the intended uses in the bed and breakfast operation; and
- (4) Sign drawings showing location, dimensions and detail.

(D) Bed and breakfast inns may be granted permits in zones subject to the following standards and conditions.

- (1) The main residential building must contain a minimum of 1,500 square feet of area.
- (2) The proprietor shall be the owner or manager of the property and no dwelling unit other than that of the proprietor, no home occupation, roomers or boarders shall be permitted.
- (3) Two off-street parking spaces for the home occupants, plus one for each guest room, shall be provided.
- (4) Parking layouts and construction shall be considered on a case-by-case basis prior to approval.
- (5) Only breakfast or light refreshments shall be provided to guests. Dining and other facilities shall not be open to the public, but shall be used exclusively by the registered guests and residents, unless allowed by a separate permit.
- (6) There shall be a limitation of no more than six on the number of guest rooms permitted based on the character and size of the building, and guest rooms shall have traditionally been bedrooms.
- (7) One sign may be erected on the property, not to exceed two square feet in size. The signage shall not be illuminated and shall complement the architecture of the structure.
- (8) Guests stays shall be limited to ten consecutive days.
- (9) The bed and breakfast shall be a subordinate use to the single-family use of the structure.
- (10) The bed and breakfast shall employ not more than the equivalent of two full-time persons who are not domicile in the principal structure.
- (11) The inn shall comply with all applicable laws, rules and regulations governing its existence and operation, including the State Fire Code and Health Code.

(12) Such other conditions deemed necessary by the Planning Commission and/or Council to ensure the use complies with the purpose of this section.

(Ord. 72, passed 2-9-2004) Penalty, see § 154.999

MANUFACTURED HOMES/MOBILE HOME PARKS

§ 154.215 PARK PERMIT REQUIRED.

It shall be unlawful for any person to establish, maintain or operate a manufactured home/mobile home park or the facilities therein unless the person shall first procure a permit from the City. Compliance with the provisions of this subchapter is necessary to obtain the conditional use permit.

(Ord. 72, passed 2-9-2004) Penalty, see § 154.999

§ 154.216 PROCEDURE.

The following procedure shall be followed for a park permit application.

(A) Application.

(1) An application for a conditional use permit shall be filed with the Zoning Administrator and shall contain the following information: name and address of developer and landowner; location and legal description of the proposed park property; survey and engineering information, including distances with angles, bearings, lengths and legal descriptions of property involved. This shall be shown on drawings not to exceed one inch equals 50 feet and including the following information:

- (a) Location and size of the park;
- (b) Location and size of each lot with dimensions and boundary lines;
- (c) Limits and location of proposed or existing streets, cartways, curbs, driveways, sidewalks, easements and rights-of-way;
- (d) Location of off-street parking facilities;
- (e) Plans for sanitary sewer collection, water systems and storm water drainage system;
- (f) Plans for electrical services, telephone services, fuel systems and garbage collection;
- (g) Detailed landscaping plans and specifications;

(h) Location and construction plans for park structures such as auxiliary sanitary facilities, laundries and utility buildings;

(i) Location of required park and/or recreation site including type of equipment; and

(j) Such other information as may be requested by the Zoning Administrator to enable him or her to determine if the proposed park will comply with all legal requirements including this chapter.

(2) The following general design requirements shall be incorporated into the park site plan.

(a) *General location and size.*

1. Each park shall comply with applicable ordinances and codes of the City and the laws of the state. The developer shall provide evidence that the plans have been approved by the state's Department of Health before the conditional use permit will be issued.

2. The park shall be located on a well-drained site suitable for the purpose, and so the drainage of the park area will not endanger any water supply. All plans for the disposal of surface storm water must be approved by the City.

3. The park shall be located on a minimum lot size of 50,000 square feet, shall contain not less than ten home spaces and shall not exceed a gross density of eight units per acre. In addition, the park shall not exceed a maximum size of three acres.

4. Each park shall have frontage to and access to a public street which is deemed adequate to serve the anticipated traffic needs of the park. Access to parks shall be as approved by the City.

(b) *Roads and parking.*

1. Each park shall contain all-weather hard surfaced interior roadways free from dust and mud and includes adequate provisions for surface drainage. This requirement shall be applicable no later than one year following the initial construction of the interior private roadways. The streets shall be private streets. Curbing is required on all streets/roadways per the City Engineer's specifications.

2. An adequate entrance road of 44-foot pavement width shall be constructed to the municipality's street or road specifications capable of handling heavy service vehicles such as fire and garbage trucks without injury to surface or base.

3. Interior roads shall be not less than 36 feet in width for two-lane roads, measured from back of curb to back of curb.

4. Off-street parking for the park shall be provided in the ratio of two all-weather, permanent, hard surfaced spaces per unit. The combined width of these spaces shall be a minimum of ten feet, with a minimum area of 400 square feet.

5. Provisions shall be made for each home site to have access on an approved roadway.

6. Streets approved for dedication to the City shall be constructed in accordance with applicable city standards.

(c) *Bulk and space requirements.*

1. Each home space shall have a minimum area of 4,800 square feet exclusive of roadways and common space.

2. Each home space shall have a minimum width of not less than 50 feet.

3. No home shall be placed closer than 30 feet to any adjacent mobile home; except that, when awnings, porches or cabanas are attached, the minimum distance between each mobile home shall be 20 feet.

4. No home shall be located closer than 20 feet to the traveled portion of an interior street.

5. No home shall be placed closer than 15 feet from the side lot line, closer than 15 feet from the rear lot line.

6. No building or structure hereafter erected or altered in a park shall exceed 25 feet or one and one-half stories in height.

7. No home shall be located nearer than 20 feet to any property line of the park and adjacent properties.

8. The occupied area of a home site shall not exceed 75% of the total area of the individual parcel.

(d) *Utilities and essential services.*

1. Each park shall be served by a sanitary sewer system as provided by this chapter.

2. Each park shall be served by a central water supply system as provided by this chapter and shall include fire hydrants located in accordance with generally accepted practices.

3. Where bottled gas is used, the container shall be firmly connected to the appliance by tubing or copper of suitable metallic material. Cylinders containing bottled gas shall not be located within five feet of any manufactured home door. The container shall not be installed or stored even temporarily inside any manufactured home. No container may be permitted to stand free, but must be firmly mounted in an upright position.

4. All piping from outside fuel storage tanks or cylinders to manufactured homes shall be permanently installed and securely fastened in place. All fuel oil storage tanks or cylinders shall be securely fastened in place and shall not be located inside or beneath any manufactured home or less than five feet from any manufactured home exit. All fuel oil containers shall be mounted upon a stand or rack constructed of a non-combustible material.

5. All electrical and telephone or any other cable service shall be underground facilities from the existing City's distribution system.

6. All utility connections shall be approved by the City.

7. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities and related mobile home equipment.

8. The proposed method of garbage, waste and trash disposal must be as approved by the City.

9. Fire protection shall be provided in accordance with the requirements of the state's Fire Marshal.

(e) *Landscaping and parks.*

1. A boundary of 15 feet around the entire park site shall be provided. This boundary area shall be landscaped and screened as may be required by the Planning Commission.

2. The front yard of each site shall be landscaped, except for driveways and parking needs.

3. Landscaping shall provide for at least one tree on each site.

4. At least 10%, with a minimum of 10,000 square feet of the land area within each park shall be designed for development into a recreational space. The space shall be of appropriate design and provided with appropriate equipment and maintained by the owner of the park.

5. The corners of each home site shall be clearly marked and each site shall be numbered.

6. A compact hedge, wood fence or landscaped area shall be installed around each park and be maintained in first class condition at all times as approved.

7. Additional requirements as to screening, landscaping and space reserved for recreation and playground may be required by the Planning Commission for proper development and protection of the park's occupants and that of the surrounding area.

(B) *Processing.*

(1) At least five copies of the application and park site plan shall be filed with the Zoning Administrator.

(2) The Zoning Administrator shall forward the application and park site plan to the Planning Commission and to other agencies as deemed necessary.

(3) After Planning Commission review, the Council shall consider the application in accordance with its procedures for acting on special exception use permits as provided in this chapter.

(C) *Permit issuance.* Subsequent to Council approval, the Zoning Administrator shall be instructed to issue a conditional use permit; providing, all other provisions of this chapter have been met.

(D) *Compliance required.*

(1) It shall be the duty of the Zoning Administrator to ensure that the approved conditional use permit is followed by the owner and/or developer.

(2) No departure from the approved conditional use permit shall be made without the express written permission of the City. The procedure for review and approval or disapproval of changes shall be the same as for the initial application.

(3) No building or site shall be used or occupied until all requirements and provisions of this chapter and any special conditions as provided by this section have been complied with.

(4) The City may require performance bonds or other forms of security for reasons and in amounts as specified in the City's special assessment policies.
(Ord. 72, passed 2-9-2004) Penalty, see § 154.999

§ 154.217 ADDITIONAL REGULATIONS.

The following additional regulations shall apply to manufactured homes/mobile homes and manufactured homes/mobile home parks.

(A) Other than what is allowed under §§ 154.200 through 154.202 of this chapter, no commercial operation shall be conducted within the park other than those necessary to the operation thereof. Commercial sales lots for homes are prohibited within the home park.

(B) Any enlargement or extension to any existing park shall require application for a conditional use permit as if it were a new establishment.

(C) A request for transfer of the permit shall be treated in the same manner as an original application for a permit.

(D) No additions, building or other structure shall be attached to a home without a City permit and approval of the park operator. The additions shall not encroach upon the setbacks herein provided.

(E) All manufactured homes as defined by M.S. §§ 327.31 through 327.35, as they may be amended from time to time, shall be anchored in accordance with Minn. Rules part 1350.2500.

(F) Skirting for homes is required and shall be in accordance with the decor of the home and in good repair. Each home shall be parked upon a jack or block approved by the park operator.

(G) One accessory building not to exceed 100 square feet in floor area shall be allowed for each home space. Accessory buildings shall be located within the rear yard five feet from lot lines.

(H) In addition to the foregoing, the Planning Commission may impose such other conditions, requirements or limitations concerning the design, development and operation of each park as it may deem necessary for the protection of adjacent properties and the public interest.

(I) The park grounds shall be lighted as approved by the City from sunset to sunrise. Artificial light shall be maintained during all hours of darkness in all buildings containing public toilets, laundry equipment and the like.

(J) Advertising the home park shall be limited to one sign not to exceed six square feet, with lighting, height and location as approved by the City.

(K) There shall be no outdoor camping anywhere in the park.

(L) No public address or loudspeaker shall be permitted.

(M) The operator of every park shall maintain a registry of the park showing both the name and address of the residents and the make, type and license number of each home.

(N) All dwellings within the park shall contain a minimum gross area of 800 square feet.

(O) The park must meet all licensing, rules and regulations from the state's Department of Health. See M.S. Ch. 327, "Hotels, Motels, Resorts and Manufactured Homes", as it may be amended from time to time, for details.

(Ord. 72, passed 2-9-2004) Penalty, see § 154.999

OFF-STREET PARKING AND LOADING**§ 154.230 OFF-STREET PARKING FACILITIES.**

In all districts where off-street parking lots are permitted or required, the off-street parking lots shall be constructed and maintained subject to the following regulations.

(A) Adequate ingress and egress shall be provided.

(B) Off-street parking areas shall be improved with a durable and dustless surface. The areas shall be so graded and drained as to dispose of all surface water accumulation within the area. These requirements shall also apply to open sales for cars, trucks and other equipment.

(C) Necessary curbs or other protections against damage to adjoining properties, streets and sidewalks shall be provided and maintained.

(D) Plans for the construction of any parking lots must be approved by the Planning Commission before construction is started. No such land shall be used for parking until approved by the Planning Commission.

(E) Parking and driveway areas adjacent to the streets must have barriers. The barriers may be vegetative (i.e., shrubs) or physical (i.e., curbs).

(F) Any lighting used to illuminate any off-street parking area shall be arranged to reflect the light away from adjoining premises in any R District.

(G) All off-street parking spaces shall have access off driveways and not directly off the public street. The driveway access shall not exceed 30 feet in width.

(H) Property that constitutes required off-street parking area may not be separated, through sale or other means, from the property containing the principal use for which the parking area is required.

(I) Signs located in any parking area necessary for orderly operation of traffic movement shall be in addition to accessory signs.

(J) Existing off-street parking spaces upon the effective date of this chapter shall not be reduced in number unless the remaining number exceeds the requirements set forth herein for a similar new use.

(K) Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants or customers of nearby business or manufacturing establishments.

(L) All utilities shall be protected against damage as specified by the City's Public Works Director.

(M) Whenever the parking lot boundary adjoins property zoned for residential use, a setback of eight feet from the lot line shall be required.

(Ord. 72, passed 2-9-2004) Penalty, see § 154.999

§ 154.231 OFF-STREET PARKING LOCATION.

All required off-street parking facilities shall be located as follows:

(A) One- and two-family dwellings: on the same lot as principal use served;

(B) Multiple-family dwellings: on the same lot as the principal use served or within 200 feet of the main entrance to the principal building served;

(C) Business and industrial off-street parking spaces shall not be less than 20 feet from an adjacent lot zoned or used for residential purposes. In all other cases, no off-street parking area containing more than four parking spaces shall be located closer than 15 feet from an adjacent lot zoned or used for residential purposes;

(D) Within 800 feet of a main entrance to the principal building served in a Business/Commercial or Manufacturing/Industrial District;

(E) There shall be no off-street parking space within three feet of any street right-of-way;

(F) Nothing in this section shall prevent the extension of, or addition to a building or structure into an existing parking area which is required for the original building or structure when the same amount of space taken by the extension or addition is provided by an enlargement of the existing parking area or an additional area within the required distance of the building; and

(G) Off-street parking space may be located within the required front yard of any B or M District, but no off-street parking shall be permitted in the required front yard of any R District, except upon a driveway providing access to a garage, carport or parking area for a dwelling.

(Ord. 72, passed 2-9-2004) Penalty, see § 154.999

§ 154.232 OFF-STREET PARKING REQUIREMENTS.

In all zoning districts, there shall be provided at the time any use or building is erected, enlarged, expanded or increased, off-street parking spaces for vehicles of employees, residents and/or patrons in accordance with the following requirements. For the purpose of this chapter, an *OFF-STREET PARKING SPACE* shall be a minimum of nine feet wide for angle parking and ten feet wide for 90-degree stall parking. It shall also provide proper access to a public street or alley, in which maneuvering room may be estimated at 300 square feet, but off-street parking requirements will be considered to be met only when the requirements below are provided and maintained, improved in a manner appropriate to the circumstances of the case and in accordance with all applicable ordinances and regulations.

(A) Required off-street parking areas for three or more automobiles shall have individual spaces marked and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley, and so that any automobile may be parked and unparked without moving another.

(B) Loading space shall not be construed as supplying off-street parking space.

(C) When units or measurements used in determining the number of required parking spaces result in requirement of a fractional space and fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.

(D) Whenever a use requiring off-street parking is increased in floor area, and the use is located in a building existing on or before the effective date of this chapter, additional parking space for the additional floor area shall be provided and maintained in amounts hereafter specified for that use.

(E) Floor area in the case of offices, merchandising or service types of uses, shall mean the gross floor area used or intended to be used for services to the public as customers, patrons, clients, patients as tenants, including areas occupied by fixtures and equipment used for display or sale of merchandise.

(F) Off-street parking facilities for dwellings shall be provided and located on the same lot or parcel of land as the building they are intended to serve.

(G) Where a use is not specifically mentioned, off-street parking requirements shall be the same as for a similar use.

(H) Nothing in this section shall be construed to prevent collective provisions of off-street parking facilities for two or more buildings or uses provided, collectively, the facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the following table.

(I) Nothing in this section shall prevent the extension of, or an addition to a building or structure into an existing parking area which is required for the original building or structure when the same amount of space taken by the extension or addition is provided by an enlargement of the existing parking area or an additional area within 300 feet of the building.

(J) Off-street parking space may be located within the required front yard of any B or M District, but no off-street parking shall be permitted in the required front yard of any R District, except upon a driveway providing access to a garage, carport or parking area for a dwelling.

(K) The amount of required off-street parking space for new uses or buildings, additions thereto and additions to existing buildings as specified above, shall be determined in accordance with the following table, and the space so required and shall be irrevocably reserved for the use.

Plato - Land Usage

<i>Use</i>	<i>Required Parking Space</i>
All retail stores, except as otherwise specified	1 for each 100 square feet of gross floor area
Apartments above commercial uses in central business district	1 per dwelling unit
Automobile, truck, boat or similar vehicle sales or rental establishment	1 for each 2 employees during time of maximum employment, plus 1 space for each 2,000 square feet of lot and building area used to display or storage of vehicles
Beauty parlors and barber shops	2 for each barber and/or beauty shop chair
Bowling alley	5 for each alley, plus additional space as may be required herein for related uses such as a restaurant
Business or professional office and bank	1 for each 200 square feet of gross floor space
Churches, theaters, auditoriums, mortuaries and other places of assembly	1 for each 3 seats based on maximum design capacity
Dance hall, pool and billiard rooms, assembly halls and exhibition halls, community centers, civic clubs, fraternal orders, union halls and similar uses	1 for each 4 people allowed within the maximum occupancy load as established by the State Fire Marshal
Drive-in food establishment (no seating for customers)	1 for each 10 square feet of gross floor area
Furniture and appliance stores, personal service shops (not including beauty or barber shops), household equipment or furniture repair shops, clothing, shoe repair or service shops, wholesale stores and machinery sales	1 for each 500 square feet of floor area
Gasoline service station	1 for each employee, plus 1 for the owner and/or management, plus 2 for each grease, service or wash stall
Hospital	1-1/2 for each bed
Industrial establishments including manufacturing, research and testing laboratories, creameries, bottling works, printing and engraving shops, warehousing and storage buildings	1 for each 2 employees on maximum shift or 1 for each 500 square feet of gross floor area, whichever is the larger
Medical and dental clinic	3 for each doctor or dentist
Residential	2 for each dwelling unit; the area of which may include driveways for 1- and 2-family dwellings
Sanitarium, convalescent home, rest home, nursing home or institution	1 for each 2 beds, plus 1 for each 3 employees, plus 1 each resident and staff doctor
Schools, elementary and junior high	2 for each classroom, plus 1 additional for each 200-student capacity
Schools, high school, colleges and other institutions of higher learning	1 for each 7 students based on design capacity, plus 2 additional for each classroom
Senior residential complexes	1 per dwelling unit

<i>Use</i>	<i>Required Parking Space</i>
Service garage, automobile salesroom, automobile repair, body shop	4, plus 2 for each service stall and wash stall
Tourist homes, bed and breakfast inns, motels, hotels, boarding and rooming houses	1 for each guest or sleeping room or suite, 1 per employee, plus 2 if there is a dwelling unit

(Ord. 72, passed 2-9-2004)

§ 154.233 LOADING SPACES.

On the premises with every building, structure, or part thereof, erected and occupied for manufacturing, or commercial use storage, receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interferences with public use of the streets or alleys. The loading berths shall be constructed and maintained subject to the following regulations.

(A) *Size.* Unless otherwise specified in this chapter, the minimum dimensions allowable for a loading space or truck berth shall be 15 feet in width and 75 feet in depth. The space shall be sufficient for the proposed use as determined by the Planning Commission and approved by the Planning Commission and the Council.

(B) *Location.* All required loading berths shall be off street and shall be located on the building or use to be served. A loading berth shall not be located less than 100 feet from the intersection of two street rights-of-way, nor less than 50 feet from a residential district unless within a building. Loading berths shall not occupy the required front yard setback space.

(C) *Access.* Each required loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will least interfere with traffic.

(D) *Surfacing.* All loading berths and accessways shall be improved with a durable material to control dust and drainage.

(E) *Accessory use.* Any space allocated as a loading berth or access drive so as to comply with the terms of this chapter shall not be used for the storage of goods, inoperable vehicles or be included as part of the space requirements necessary to meet the off-street parking area.

(F) *Required loading berths.*

(1) Institutional uses having over 20 units shall have one loading space 25 feet in length minimum for the first 20,000 square feet of gross floor area, plus one for each 40,000 square feet thereafter.

(2) Retail sales, office, shall have one loading space 25 feet in length minimum for the first 6,000 square feet of gross floor area, plus one for each 10,000 square feet thereafter.

(3) Manufacturing, fabrication, warehousing, storing and servicing in a facility over 3,000 square feet shall have at least one loading space, with additional berths as needed to adequately serve the establishment without interfering with off-street parking or flow of traffic in public streets or alleys. (Ord. 72, passed 2-9-2004)

SIGNS

§ 154.245 DEFINITIONS.

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

AWNING. A shelter, of canvas or other material, projecting from and supported by the exterior wall of a building, constructed on a supporting framework.

BANNER. Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags or the official flag of any institution or business shall not be considered **BANNERS**.

BEACON. Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotates or moves.

FESTOON. A string or garland of leaves, flowers, ribbons, tinsel, small flags, pinwheels, ornamental windsocks or other like ornaments.

MARQUEE. A permanent, roof-like structure of rigid materials supported by and extending from the facade of the building and projecting over its entrance.

NAMEPLATE. A non-electric on-premises identification sign limited to the name, address and occupation of an occupancy or a group of occupancies.

SIGN. A structure or device designed or intended to convey information to the public in written or pictorial form.

SIGN, AWNING OR CANOPY. A sign painted, stamped, perforated or stitched, or otherwise applied on the valance of an awning.

SIGN AREA. Measured as follows:

(1) When the sign is on a plate or framed or outlined, all of the area of the plate or the area enclosed by the frame or outline shall be included; and

(2) When the sign consists only of letters, designs or figures engraved, painted, projected or in any manner affixed on a wall, or a fascia panel integrated into the building, canopy, marquee or other covered structure, the total **AREA OF THE SIGN** shall be deemed the area of the smallest triangle, rectangle or circle within which all of the matter the sign consists may be inscribed.

SIGN, BILLBOARD. A sign that identifies or communicates a commercial or non-commercial message related to an activity conducted, a service rendered or a commodity sold at a location other than where the sign is located.

SIGN, FLASHING. Any directly or indirectly illuminated sign which the artificial light is not kept constant in terms of intensity or color at all times when the sign is illuminated.

SIGN, FREESTANDING. A sign supported by one or more upright poles, columns, posts, pylons or braces placed in or on the ground and not attached to any building or structure.

SIGN, ILLUMINATED. A sign illuminated in any manner by an artificial light source.

SIGN, INCIDENTAL. A small sign, emblem or decal informing the public of goods, facilities or services available on the premises, such as a credit card sign or a sign indicating hours of business. A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking", "entrance", "loading zone", "telephone" and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered **INCIDENTAL**.

SIGN, PROJECTING. Any sign other than a wall sign that is attached to and projects from the wall or face of a building or structure, including an arcade/marquee sign.

SIGN, TEMPORARY. A sign or advertising display constructed of cloth, canvas, fabric, plywood or other temporary light material and designed or intended to be displayed for a short period of time. (Ord. 72, passed 2-9-2004)

§ 154.246 PURPOSE AND REGULATIONS.

(A) The purpose of this subchapter is to coordinate and regulate the type, placement and physical dimensions of signs within the City's various zoning districts. The Council considers the standards and regulations in this chapter to be reasonable and necessary to attain the purpose listed below:

- (1) That the public and private investments in improving the quality of life are protected;
- (2) That the economic vitality of the community is maintained;

(3) That the integrity of residential areas and the dignity of public facilities and open space are preserved;

(4) That the general appearance of the City and an attractive business environment is improved;

(5) That attractively designed, appropriately placed, soundly constructed and well-maintained signs enhance both the public and private investments and increase the property values; and

(6) That proper regulation of signs encourages the innovative use of design, promotes both renovation and proper maintenance, allows for special circumstances and guarantees equal treatment under the law through accurate record keeping and consistent enforcement.

(B) This chapter is not intended to regulate official traffic signs and signals, government signs the Council has no jurisdiction to regulate, the copy or message of signs, produce dispensers, point of purchase displays, scoreboards on athletic fields, flags, religious symbols, commemorative plaques, holiday decorations, display of street numbers, or any display or construction not defined herein as a sign. This subchapter shall not apply to building design unless the sign incorporates a sign, as defined in § 154.245 of this chapter, in which case that part of the design which is a sign shall be subject to the provisions hereof.

(C) (1) *Signs exempt from regulation under this chapter.* The following signs shall be exempt from regulation under this chapter:

(a) Any public notice or warning required by a valid and applicable federal, state or local law, regulation or ordinance;

(b) Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the zone lot or parcel or which the sign is located;

(c) Works of art that do not include a commercial message;

(d) Holiday lights and decorations with no commercial message; and

(e) Traffic-control signs on private property, such as stop, yield and similar signs, the faces of which meet Department of Transportation standards and which contain no commercial message of any sort.

(2) *Prohibited signs.* All signs not expressly permitted under this chapter or exempt from regulation hereunder in accordance with the previous section are prohibited in the City. The signs include, but are not limited to:

(a) Abandoned signs;

(b) Flashing signs;

(c) Hazardous signs (signs that are in danger of falling, breaking off or collapsing);

(d) Billboards and other off-premise advertising signs. Any billboard or off-premises advertising sign that exists at the time of the adoption of this chapter may keep the signs as long as the signs are structurally sound and are well maintained;

(e) Signs imitating or resembling traffic signs or signals or governmental signs;

(f) Signs attached to trees, telephone or utility poles, public benches, streetlights or placed on any public property or street or highway right-of-way by any person other than the one having a permit from the a government to place such a sign;

(g) Signs which obstruct access to fire escapes, exits, doors, standpipes or ventilating systems, or which interfere with the view of traffic signals or signs by those to whom the signs or signals are directed;

(h) Strings of lights not permanently mounted to a rigid background, except those exempt from regulation under this subchapter; and

(i) Signs for which a permit is required under this subchapter, which were constructed before the ordinance was adopted and as to which no procedures provided by this subchapter have been initiated to bring the signs into compliance with the provisions of this subchapter.

(3) *Signs permitted only through the issuance of a special sign permit.*

(a) Types of signs requiring a special sign permit:

1. Off-premises directional sign that are no larger than four square feet in size;
2. Temporary sign in place for more than 30 days;
3. Portable sign;
4. Banners, festoons and pennants in place for more than seven days;
5. Searchlights;
6. Animated signs;
7. Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying the sign;
8. Inflatable signs and tethered balloons; and
9. Any other signs not specifically prohibited or allowed in other sections.

(b) Nothing in this chapter shall prevent the Council from granting temporary permits for lights, banners, signs or decorations relating to civic or community celebrations, subject to such conditions as the Council may see fit to impose.

(4) *Signs in the public right-of-way.* No sign shall be allowed in the public right-of-way, except for the following:

(a) Permanent signs, including:

1. Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information and direct or regulate pedestrian or vehicular traffic;

2. Bus stop signs by a public transit company;

3. Informational signs of a public utility regarding its poles, lines, pipes or facilities;
and

4. Awning, projecting and suspended signs projecting over a public right-of-way in conformity with this subchapter.

(b) Temporary signs for specific or special events shall be issued only for signs meeting the following requirements. Signs are limited to a 30-day period, unless permission from the City grants a longer specific period of time.

1. The signs shall contain no commercial message.

2. The signs shall be no more than four square feet in area each.

(c) Emergency warning signs erected by a governing agency, a public utility company or a contractor doing authorized or permitted work within the public right-of-way.

(d) Any sign installed or placed on public property, except in conformity with the requirements of this section, shall be forfeited to the public hereunder, the City shall have the right to recover from the owner or person placing such a sign the costs of removal and disposal of the sign.

(D) (1) *Residential districts.* In all classes of residence districts, no sign, business sign, nameplate sign or advertising sign shall be erected, except for the following:

(a) A nameplate sign identifying the owner or occupant of a building or dwelling unit; provided, that the surface area does not exceed two square feet. This sign may be placed in any front yard, but in no case may it be placed in any side yard. The sign may not be for the purpose of identifying a home occupation business;

(b) A sign pertaining to the lease or sale of a building or property; provided that, the sign shall not exceed 12 square feet in surface area and shall not be illuminated;

(c) Temporary signs advertising a new subdivision development; each subdivision or development shall be allowed the following signs:

1. One sign not to exceed 96 square feet in surface area, no more than 15 feet in height;

2. One sign not to exceed 12 square feet in surface area, no more than 15 feet in height;

3. Directional signs not to exceed two square feet in surface area; provided that, each subdivision shall be limited to one such sign per major thoroughfare approach to the subdivision or development. No such sign shall be allowed on minor residential streets; and

4. Temporary non-illuminated signs identifying an engineer, architect, contractor or product engaged in or used in the construction of a building; provided that, the signs shall not exceed 32 square feet each in surface areas and are no more than 15 feet in height; and, provided that, the signs are removed prior to occupancy of the building.

(d) One identification sign, not to exceed 30 square feet in area, for the following uses: church; school; college; club; library; or similar uses. The signs shall be solely for the purpose of displaying the name of the institution and its activities or services. It may be illuminated, but not flashing;

(e) Directional signs not to exceed four square feet in surface area for the following uses: church; school; college; hospital; club; library; or similar use; provided that, each shall be limited to one such sign per major thoroughfare approach. No such sign shall be allowed on minor residential streets;

(f) One nameplate sign for a dwelling group of four or more units not exceeding 24 square feet in surface area. The sign may indicate the names and addresses of the buildings or it may be a directory for occupants;

(g) Professional nameplate sign: one identification sign not to exceed 12 square feet may be illuminated;

(h) Directional signs in any area necessary for the orderly movement of traffic; provided that, the signs shall not be used as advertising space and shall not be illuminated;

(i) Temporary signs advertising garage, rummage or household auction sales and placed on the premises where the sale is held;

(j) Political signs;

(k) Public signs or notices placed by any agency of government;

(l) Emergency signs, or signs warning of hazards, whether placed by public or private persons or agencies;

(m) Setback and height: unless otherwise noted, the maximum height of all freestanding signs shall be six feet and all signs shall have a minimum setback of eight feet from any property line; and

(n) Signs not specifically addressed under this subchapter require a variance.

(2) *Business/Commercial and Manufacturing/Industrial Districts.* Business and industry signs and nameplate signs are permitted subject to the following regulations.

(a) Allocation of sign area for wall signs on multiple occupancy buildings shall be controlled by the building owner, who shall be directly responsible for seeing that all signs are in compliance with this subchapter.

(b) All freestanding, projecting, awning, canopy and marquee signs shall have a minimum setback of two feet from any vehicle use area and a minimum clearance of seven and one-half feet over any pedestrian use area and 15 feet for vehicular areas.

(E) (1) *Maintenance.* All signs shall be maintained so that exposed surfaces are clean and painted if painting is required, defective parts are replaced and broken or non-functioning parts are repaired or removed.

(2) *Lighting.* Unless otherwise provided by this subchapter, all signs may be illuminated, provided that no sign may utilize:

(a) The light from any illuminated sign or from any light source, including interior of a building, shall be so shaded, shielded or directed that the light intensity of brightness shall not adversely affect surrounding or facing residential districts, or adversely affect safe vision of operators of vehicles moving on public or private roads, highways or parking areas. Light shall not shine or reflect on or into residential structures;

(b) Any lamp throwing light on the sign, in which the direct light from the lamp is visible from any public street or public sidewalk; and

(c) Any revolving beacon light.

(3) *Changeable copy.* Unless otherwise provided by this chapter, any sign permitted by this subchapter may use changeable copy, changed either manually or electronically.

(4) *Anchoring.*

(a) No sign shall be suspended by non-rigid attachments that will allow the sign to swing in a wind.

(b) All freestanding signs shall have self-supporting structures erected on or permanently attached to concrete foundations.

(c) All portable signs on display shall be braced or secured to prevent motion.

(5) *Electrical components.* Any sign containing electrical components shall conform to current UL, ETL, CSA or ULC standards and display a label from one of these recognized testing labs.

(F) (1) Signs existing on the effective date of this subchapter which do not conform to the regulations set forth in this subchapter shall become a non-conforming use.

(2) Non-conforming signs existing for at least six months prior to the effective date of this subchapter which do not conform to their respective zoning classifications standards will automatically qualify for a special exception permit under the grandfather clause of this subchapter. This special exception permit will be issued upon application following adoption of this subchapter and be good for a term of five years, if the sign is kept in good repair.

(3) All hanging grandfathered non-conforming signs shall be required to meet the minimum height requirements of seven and one-half feet for pedestrian areas and 15 feet for vehicular areas with a minimum setback of two feet from all vehicular traffic areas. Alteration of these non-conforming signs to meet these requirements will not jeopardize their grandfather status in this subchapter.

(4) A non-conforming sign may not be:

(a) Changed to another non-conforming sign;

(b) Structurally altered, except to bring it into compliance with the provisions of this subchapter;

(c) Expanded;

(d) Re-established after its discontinuance for 14 days; and

(e) Repaired or otherwise rehabilitated, except to bring it into compliance after damage more than 50% of the sign market value.

(G) Nothing in this subchapter shall be construed as relieving the owner or user of a legal non-conforming sign or owner of the property on which the legal non-conforming sign is located from the provisions of this subchapter regarding the construction and maintenance standards found in this section; provided, however, that, any repainting, cleaning and other normal maintenance or repair of the sign or sign structure shall not modify the sign structure or copy in any way which makes it more non-conforming or the sign shall lose its legal non-conforming status.

(H) Except as otherwise provided herein, the provisions of this subchapter are not intended to alter, diminish, increase or otherwise modify any rights or liabilities imposed upon non-conforming or

prohibited signs existing prior to the adoption of this subchapter. Any act done, offense committed or signs existing prior to the date of the adoption of this subchapter are not affected by its enactment. (Ord. 72, passed 2-9-2004) Penalty, see § 154.999

TELECOMMUNICATION TOWERS AND ANTENNAS

§ 154.260 PURPOSE.

To meet the communication needs of residents and businesses while protecting the public health, safety and general welfare of the community, the City finds that the following subchapter is necessary in order to:

(A) Facilitate the provisions of the wireless telecommunications services to the residents and businesses of the community;

(B) Through setback requirements and structural standards, avoid potential damage to adjacent properties from tower failure;

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

(D) Reduce the number of towers necessary to serve the area by maximizing the use of existing and approved towers and buildings that can accommodate new wireless telecommunication antennas.

(Ord. 72, passed 2-9-2004)

§ 154.261 CONSISTENCY WITH FEDERAL LAW.

(A) In addition to other findings required by this section, the City shall find that its decision regarding an application is intended to be consistent with federal law, particularly the Telecommunications Act of 1996, being Pub. L. 104-104, Sec. 1(a), Feb. 8, 1996, 110 Stat. 56.

(B) This section does not:

(1) Prohibit or have the effect of prohibiting the provision of personal wireless services;

(2) Unreasonably discriminate among providers of functionally equivalent wireless services;
and

(3) Regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the Federal Communications Commission (FCC) regulations concerning the emissions.

(Ord. 72, passed 2-9-2004)

§ 153.262 DEFINITIONS.

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

ANTENNA. Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including, but not limited to, directional antennas, such as panels, microwave dishes and omni-directional antennas, such as whip antennas.

COMMERCIAL WIRELESS TELECOMMUNICATION SERVICES. Licensed commercial wireless communication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

ESSENTIAL SERVICES. Overhead or underground electrical, gas, steam or water transmission or distribution systems and structures or collection, communication, supply or disposal systems and structures used by public utilities or governmental departments or commissions or as are required for the protection of the public health, safety or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes and accessories in connection therewith, but not including buildings. For the purpose of this subchapter, commercial telecommunication service facilities shall not be considered public utility uses, and are defined separately.

RFI. Radio frequency interference.

RFR. Radio frequency radiation.

TOWER. Any ground or mounted pole, spire, steeple, structure or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces and masts, intended primarily for the purpose of mounting an antenna, meteorological device or similar apparatus above grade.

TOWER, MULTI-USER. A tower to which is attached the antennas of more than one commercial wireless telecommunication service provider or governmental entity.

TOWER, SINGLE-USER. A tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate the antennas of multiple users as required in this subchapter. (Ord. 72, passed 2-9-2004)

§ 154.263 REQUIRED PERMITS.

(A) Prior to any construction activities, the following permits must be secured from the City:

- (1) A land use permit; and

(2) A conditional use permit.

(B) An applicant for a telecommunications tower or facility permit must be a telecommunications provider or must provide a copy of its executed contract to provide land or facilities to an existing telecommunications provider to the City at the time that an application is submitted. A permit shall not be granted for a tower or facility to be built on speculation.

(C) No construction, alteration, modification (including the installation of antennas for new uses) or installation of any telecommunications tower or facility shall commence without a conditional use permit first being obtained from the City.

(Ord. 72, passed 2-9-2004)

§ 154.264 ZONING DISTRICT USE.

(A) Telecommunication towers and antennas shall only be allowed in the Business/Commercial and Manufacturing/Industrial Zoning Districts in the City upon the approval of the two permits required above. A land use permit and a conditional use permit are both required in the Business/Commercial and Manufacturing/Industrial Districts.

(B) The City may, by conditional use permit, authorize the use of City property for towers in accordance with the procedures of this code. The City has no obligation to allow the use of city property for this purpose.

(Ord. 72, passed 2-9-2004)

§ 154.265 AREA, SETBACK AND HEIGHT RESTRICTIONS.

(A) *Lot area.* The minimum lot area requirements are determined by the zoning district in which the tower development site is located and as determined by any additional area needed to meet all setback requirements of this subchapter.

(B) *Tower setbacks.* The minimum setback from all property lines and public rights-of-way for telecommunications towers, exclusive of attached antennas, shall be equal to its height.

(C) *Height restrictions.*

(1) A maximum height for telecommunications towers is 150 feet, excluding attached antennas. Measurement of tower height must include the tower structure itself, the base pad and any other telecommunications facilities attached thereto. Tower height is measured from grade.

(2) Notwithstanding the above, additional height may be approved upon a finding by the City that additional height is necessary in order to provide coverage in the City or to accomplish collocation

of facilities and that the additional height will not cause an undue visual impact on the scenic character or appearance of the area.

(Ord. 72, passed 2-9-2004)

§ 154.266 COLLOCATION REQUIREMENTS.

An application for a new telecommunications tower shall not be approved unless the City finds that the telecommunications facilities planned for the proposed tower cannot be accommodated on an existing or approved tower or structure due to one of the following reasons:

(A) The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility, as documented by a qualified engineer licensed to practice in the state. Additionally, the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility;

(B) The proposed antennas and equipment would cause interference, materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility as documented by a qualified engineer licensed to practice in the state and the interference cannot be prevented at a reasonable cost;

(C) The proposed antennas and equipment, either alone or together with existing facilities, equipment or antennas, would create RFI in violation of federal standards or requirements;

(D) The proposed antennas and equipment, either alone or together with existing facilities, equipment or antennas, would create RFR in violation of federal standards or requirements;

(E) Existing or approved towers and structures cannot accommodate the planned equipment at a height necessary to function reasonably or are too far from the area of needed coverage to function reasonably as documented by a qualified engineer licensed to practice in the state;

(F) Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building;

(G) There is no existing or approved tower in the area in which coverage is sought; and

(H) Other unforeseen specific reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.

(Ord. 72, passed 2-9-2004)

§ 154.267 TOWER DESIGN REQUIREMENTS.

Proposed or modified towers and antennas shall meet the following design requirements.

(A) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities.

(B) Commercial wireless telecommunication service towers shall be of a monopole design unless the Council determines that an alternative design would better blend in to the surrounding environment. Towers must be self-supporting without the use of wires, cables, beams or other means.

(C) Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights when overall permitted height allows. Towers shall be designed structurally, electrically and in all respects to accommodate both the applicant's antennas and additional antennas when overall permitted height allows.

(Ord. 72, passed 2-9-2004) Penalty, see § 154.999

§ 154.268 CONSTRUCTION REQUIREMENTS.

(A) All antennas, towers and accessory structures shall comply with all applicable provisions of this subchapter.

(B) Towers shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Uniform Building Code and Electronics Industry Association.

(C) No part of any antenna or tower nor any lines, cable, equipment, wires or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk or property line.

(D) Towers and associated antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.

(E) All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight feet above the ground at all points, unless buried underground.

(F) Every tower affixed to the ground shall be protected by a security fence to discourage climbing of the tower by unauthorized persons.

(G) Tower locations should provide the maximum amount of screening possible for off-site views of the facility. Existing on-site vegetation shall be preserved to the maximum extent practicable. The area around the base of the tower and any accessory structures shall be landscaped and/or screened.

(Ord. 72, passed 2-9-2004) Penalty, see § 154.999

§ 154.269 SITE PLAN REQUIREMENTS.

In addition to site plan requirements found elsewhere in this chapter or within the City's Subdivision Ordinance and land use permit requirements, site plans for telecommunications facilities shall include the following supplemental information:

(A) Location map. A copy of a portion of the most recent USGS Quadrangle map showing the area within at least a two-mile radius of the proposed tower site;

(B) Vicinity map showing the entire vicinity within a 2,500-foot radius of the tower site, including the telecommunications facility or tower, topography, public and private roads and driveways, buildings and structures, waterbodies, wetlands, landscape features, historic sites and habitats for endangered species. It shall indicate the property lines of the proposed tower site parcel and all easements or rights-of-way needed for access from a public way to the tower;

(C) Proposed site plans of the entire development indicating all improvements including landscaping, utility lines, guy wires, screening and roads;

(D) Elevations showing all facades and indicating all exterior materials and color of towers, buildings and associated facilities;

(E) Construction sequences and time schedule for completion of each phase of the entire project; and

(F) Plans shall be drawn at a minimum at the scale of one inch equals 50 feet.
(Ord. 72, passed 2-9-2004)

§ 154.270 LIGHTS AND OTHER ATTACHMENTS.

(A) No antenna or tower shall have affixed or attached to it in any way, except during time of repair or installation, any lights, reflectors, flashers or other illuminating device, except as required by the Federal Aviation Administration (FAA) or the Federal Communications Commission (FCC), nor shall any tower have constructed on, or attached to, in any way, any platform, catwalk, crow's nest or like structure, except during periods of construction or repair.

(B) The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

(Ord. 72, passed 2-9-2004) Penalty, see § 154.999

§ 154.271 ACCESSORY UTILITY BUILDINGS.

(A) All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the zoning district in which the tower site is located.

(B) Ground-mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

(Ord. 72, passed 2-9-2004) Penalty, see § 154.999

§ 154.272 SCREENING STANDARDS.

(A) When used, walls or fences must provide for full visual screening of accessory buildings or storage areas, as viewed from residential areas and state and county roads.

(B) The materials used for constructing the wall or fence shall be specified in the site plan and shall be subject to recommendation by the Planning Commission and approval by the Council.

(C) Berms, if used, shall be constructed with a slope not to exceed three to one (3:1) and shall be covered with sod or other landscape material sufficient to prevent erosion of the berm.

(D) Trees, hedges or other vegetative materials, when used, must provide at least 75% screening capacity throughout the year. The screening must also conform to all vegetative setback requirements of this chapter.

(Ord. 72, passed 2-9-2004) Penalty, see § 154.999

§ 154.273 SECURITY.

Towers must be reasonably secured to protect against trespass. Appropriate signage shall be posted indicating that trespassing and/or vandalism to the property may be punishable under local, state or federal laws.

(Ord. 72, passed 2-9-2004) Penalty, see § 154.999

§ 154.274 ACCESS.

Parcels upon which towers are located must provide access during normal business hours to at least one paved vehicular parking space on site.

(Ord. 72, passed 2-9-2004)

§ 154.275 MAINTENANCE REQUIREMENTS.

(A) The yard area in front of fences and walls shall be trimmed and maintained in a neat and attractive manner.

(B) Repairs to damaged areas of walls or fences shall be made within 30 days of sustaining the damage.

(C) Areas left in a natural state and vegetative screening areas shall be properly maintained in a sightly and well-kept condition.

(D) Diseased, dying or dead vegetative screening elements shall be removed and then replaced, at a minimum, with healthy plants of the same size required when first planted.

(E) The telecommunications facility owner shall maintain adequate insurance on all telecommunications facilities.

(Ord. 72, passed 2-9-2004) Penalty, see § 154.999

§ 154.276 ABANDONED OR UNUSED TOWERS OR PORTIONS OF TOWERS.

(A) All abandoned or unused towers and associated facilities shall be removed within six months of the cessation of operations at the site unless a time extension is approved by the Council. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and any associated facilities upon the cessation of their operations shall be submitted at the time of application. In the event that a tower is not removed within six months of cessation of operations at a site, the tower and associated facilities may be removed by the City and the cost of removal assessed against the property.

(B) Unused portions of towers above manufactured connection shall be removed within six months of the time of antenna relocations. The replacement of portions of a tower previously removed requires the issuance of a new building/conditional use permit.

(Ord. 72, passed 2-9-2004)

§ 154.277 ANTENNAS MOUNTED ON ROOFS, WALLS AND EXISTING TOWERS.

The placement of wireless telecommunication antennas on roofs, walls and existing towers may be approved by the Council; provided, the antennas meet the requirements of this subchapter, after submittal of:

(A) A site and building plan; and

(B) A report prepared by a qualified and licensed professional engineer indicting the existing structure or tower's suitability to accept the antenna, and the proposed method of affixing the antenna

to the structure. A complete detailing of all fixtures and couplings needed and the precise point of attachment shall be indicated.

(Ord. 72, passed 2-9-2004)

§ 154.278 ADDITIONAL SUBMITTAL REQUIREMENTS.

In addition to the information required elsewhere in this chapter, applications for towers shall include the following supplemental information:

(A) Documentation of the area to be served by the tower including a narrative describing why the site chosen is the most appropriate site for the tower location, the results of any environmental review conducted on the chosen site and a discussion of why existing structures within the search area would not be suitable as locations or co-locations for the purpose of antennas;

(B) A copy of an agreement between the applicant and property owner that the site and tower will be designed for not less than three users. The agreement shall also include a statement that any unused or obsolete tower shall be removed by the property owner or applicant. This agreement shall be signed by the applicant and property owner and shall be attached to and become part of the permit;

(C) A report from a qualified and licensed professional engineer which:

(1) Describes the tower height and design including a cross-section and elevation;

(2) Documents the height above grade for all potential mounting positions for co-locating antennas and the minimum separation distances between antennas;

(3) Provides written evidence from the engineer that at the proposed site the applicant will be in compliance with all FCC regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards and requirements regarding both radio frequency interference (RFI) and radio frequency radiation (RFR). The City may hire independent engineers to perform evaluations of compliance with the FCC regulations, standards and requirements on an annual basis at unannounced times;

(4) Includes an engineer's stamp and registration number; and

(5) Includes other information necessary to evaluate the request.

(D) Before the issuance of a land use permit, the following supplemental information shall be submitted:

(1) Proof that the proposed tower complies with regulations administered by the FAA; and

(2) A report from a qualified and licensed professional engineer that demonstrates the tower's compliance with the aforementioned structural and electrical standards.

(E) Additional liability insurance equivalent to the minimum City requirements and proof of insurance be provided with all other information contained with the submittal materials.

(Ord. 72, passed 2-9-2004)

§ 154.279 EXISTING ANTENNAS AND TOWERS.

Antennas and towers in existence before the adoption of this subchapter, that do not conform to or comply with this chapter, are subject to the following provisions.

(A) Towers and antennas may continue in use for the purpose now used and as now existing, but may not be replaced or materially altered without complying in all respects with this subchapter.

(B) If the towers or antennas are hereafter damaged or destroyed due to any reason or cause whatsoever, the tower or antenna may be repaired and restored to its former use, location and physical dimensions upon obtaining a land use permit therefore, but without otherwise complying with this chapter; provided, however, that, if the cost of repairing the tower to the former use, physical dimensions and location would exceed the cost of a new tower of like kind and quality, then the tower may not be repaired or restored, except in full compliance with this subchapter.

(Ord. 72, passed 2-9-2004)

§ 154.280 TEMPORARY WIRELESS COMMUNICATIONS.

Any telecommunications facility designed for temporary use is subject to the following.

(A) Use of a temporary facility is permitted only if the owner has received a temporary use permit from the City.

(B) Temporary telecommunications facilities are permitted for no longer than five days' use during a special event.

(C) The maximum height of a temporary facility is 50 feet from grade.

(D) Temporary facilities must comply with all applicable portions of these regulations.

(Ord. 72, passed 2-9-2004)

§ 154.281 EVALUATION AND MONITORING.

As a condition of approval for telecommunication facilities, the applicant shall reimburse the City for its costs to retain outside expert technical assistance to evaluate any aspect of the proposed siting of telecommunications facilities. The owner of a telecommunications facility shall provide the City with current, technical evidence of compliance with FCC radiation emission requirements, annually or more frequently at the City's reasonable request. If the owner does not promptly provide the City with

satisfactory technical evidence of FCC radiation compliance, the City may carry out tests to ensure FCC radiation compliance using a qualified expert. The owner shall reimburse the City for its reasonable costs in carrying out the compliance testing.

(Ord. 72, passed 2-9-2004)

§ 154.282 INTERFERENCE WITH PUBLIC SAFETY TELECOMMUNICATIONS.

No new telecommunications facility shall be placed or constructed in such a way as to interfere with public safety telecommunications. All applications for new telecommunications facilities shall be accompanied by an intermodulation study that predicts no likely interference problems and certification that the study has been provided to the appropriate public safety agencies. Before testing or operating new service or changes in existing service, telecommunications providers shall notify the City at least ten calendar days in advance of the changes and allow the city to monitor interference levels during the testing process.

(Ord. 72, passed 2-9-2004) Penalty, see § 154.999

§ 154.283 VARIANCES.

The Council may grant a variance to the setback, separation or buffer requirements, and maximum height provision of this section by the criteria set forth under this subchapter, including the following additional variance criteria for telecommunication towers and antennas:

(A) The location, shape, appearance or nature of use of the proposed tower will not substantially detract from the aesthetics of the area, not change the character of the neighborhood in which the tower is proposed to be located;

(B) The variance will not create a threat to the public health, safety or welfare;

(C) In the case of a requested modification to the setback requirement, that the size of the plat upon which the tower is proposed to be located makes compliance impossible, the only alternative for the applicant is to locate the tower at another site but poses a greater threat to the public health, safety or welfare or is closer in proximity to a residentially zoned land;

(D) In the case of a request for modification of separation requirements, if the person provides written technical evidence from an engineer that the proposed tower and telecommunications facilities must be located at the proposed site in order to meet the coverage needs of the applicant's wireless communications system and if the person agrees to create approved landscaping and other buffers to screen the tower from being visible to the residential area; and

(E) In the case of a request for modification of the maximum height limit, that the modification is necessary to:

(1) Facilities co-location of telecommunications facilities in order to avoid construction of a new tower; or

(2) To meet the coverage requirements of the applicant's wireless communications system, which requirements must be documented with written, technical evidence from an engineer.
(Ord. 72, passed 2-9-2004)

§ 154.284 EFFECTIVE DATE AND FEES.

This subchapter shall take effect from and after its passage and publication. The fees for filing an application to build or alter a telecommunications facility shall be set by the City. Fees may include the reasonable costs of an independent technical assessment of the application.
(Ord. 72, passed 2-9-2004)

§ 154.999 PENALTY.

(A) Any person, firm, corporation or entity who violates any of the provisions of this chapter or any order of the Zoning Administrator issued in accordance with this chapter, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine and/or imprisonment as defined by law for each offense, plus the costs of prosecution. Each day that a violation is committed, or permitted to exist, shall constitute a separate offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this chapter, and the City may pursue, by appropriate actions or proceedings, any or all additional remedies.

(B) Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of §§ 154.200 through 154.202 of this chapter shall, upon conviction, be fined not more than an amount as set by the Council from time to time for each offense. Each day a violation shall exist shall constitute a separate offense.

(C) Any person, corporation or other entity that constructs, erects, places, reconstructs, enlarges, expands or repairs a tower or antenna in violation of §§ 154.260 through 154.284 of this chapter shall be guilty of a misdemeanor and shall be subject to any additional legal or equitable remedies available to the City.
(Ord. 72, passed 2-9-2004)

TABLE OF SPECIAL ORDINANCES

Table

- I. FRANCHISES AND AGREEMENTS**
- II. CORPORATE LIMITS**
- III. TAX DISTRICTS**
- IV. STREETS AND PUBLIC PROPERTY**

Plato - Table of Special Ordinances

TABLE I: FRANCHISES AND AGREEMENTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	--	Entering into a wastewater treatment agreement with the City of Glencoe
80	3-12-2007	Granting an electric distribution franchise to Northern States Power Company, d/b/a Xcel Energy
84	3-9-2009	Granting a gas distribution franchise to CenterPoint Energy Minnesota Gas

Plato - Table of Special Ordinances

TABLE II: CORPORATE LIMITS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
26	5-5-1981	Extending the corporate limits to include certain unincorporated lands (part of the west half of the southwest quarter of Section 11, Township 115 North, Range 27)
90	12-12-2016	Extending the corporate limits to include certain unincorporated lands (part of the west half of the southwest quarter of Section 11, Township 115, Range 27)

TABLE III: TAX DISTRICTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
87	7-8-2013	Creating a rural service district and an urban service district for tax purposes

TABLE IV: STREETS AND PUBLIC PROPERTY

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
11	3-5-1900	Laying out and opening a street over and across the lands of Eva and Albert Wuethrich

