

Title 11 ZONING REGULATIONS

Chapter 1 PURPOSE AND DEFINITIONS; DISTRICTS

11-1-1: TITLE:

This Title shall be known, cited and referred to as the *COTTAGE GROVE ZONING ORDINANCE*, except as referred to herein, where it shall be known as "this Title". (1971 Code § 28-1)

11-1-2: INTENT AND PURPOSE:

This Title is adopted for the purpose of:

- A. Protecting the public health, safety, morals, comfort, convenience and general welfare.

- B. Dividing the City into zones and districts and restricting and regulating therein the location, construction, reconstruction, alteration and use of structures and land.

- C. Promoting orderly development of the residential, business, industrial, recreational and public areas.

- D. Providing adequate light, air and convenience of access to property.

- E. Limiting congestion in the public right of way.

- F. Preventing overcrowding of land and undue concentration of structures by regulating the use of land and buildings and the bulk of buildings in relation to the land and buildings surrounding them.

- G. Providing for the compatibility of different land uses and the most appropriate use of land throughout the City.

- H. Providing for an orderly transition from a rural to an urban or suburban environment.

- I. Establishing standards and procedures regulating land use. (1971 Code § 28-2)

11-1-3: RULES OF WORD CONSTRUCTION; DEFINITIONS:

The language set forth in the text of this Title shall be interpreted in accordance with the following rules of construction:

- A. Words used in the present tense shall include the future, and words used in the singular number shall include the plural number, and the plural the singular.
- B. The word "shall" is mandatory and not discretionary; the word "may" is permissive.
- C. The word "lot" shall mean a buildable and properly zoned lot, unless otherwise defined herein and shall include the words "piece", "plot", and "parcel".
- D. The word "building" includes all other structures of every kind, regardless of similarity to buildings.
- E. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for".

For the purposes of this Title, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

ACCESSORY APARTMENT: A separate dwelling unit contained within an existing single-family structure, to be occupied by another family as a separate, complete housekeeping unit, isolated from the original unit, subject to the permit procedures and criteria of Section [11-9A-3](#) of this Title, entry #1, "Accessory apartments". The existence of separate cooking facilities shall distinguish an accessory apartment from the renting of rooms for lodging purposes.

ACCESSORY STRUCTURE: An uninhabited subordinate building or structure that is detached from the principal structure on a lot of record, the use of which is subordinate to the principal use on the property.

ACCESSORY USE: A use incidental and subordinate to the principal use or building and located on the same lot therewith. In no case shall such "accessory use" dominate in area, extent, or purpose of the principal lawful use or building.

ADULT USES: Include adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sports clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction, or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public. Activities classified as "obscene", as defined by Minnesota Statutes section 617.241, are not lawful and are not included in the definition of "adult uses".

ADULT USES ACCESSORY: The offering of goods and/or services which are classified as adult uses on a limited scale and which are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include adult magazines, adult movies, adult novelties, and the like.

ADULT USES PRINCIPAL: The offering of goods and/or services which are classified as adult uses as a primary or sole activity of a business establishment, and include, but are not limited, to the following:

Adult Body Painting Studio: An establishment or business which provides the service of applying paint or other substance, whether transparent or nontransparent, to or on the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas".

Adult Bookstore: A business engaging in the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotapes, videotapes, motion picture film, or any other similar materials, if such shop is not open to the public

generally but only to one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas".

Adult Cabaret: An establishment which provides dancing or other live entertainment if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction, or description of "specified sexual activities" or "specified anatomical areas".

Adult Companionship Establishment: A companionship establishment if such establishment excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Adult Entertainment: Adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels, adult body painting studios, and other adult establishments.

Adult Establishment: A business engaging in any of the following activities or which utilizes any of the following business procedures or practices; either:

- A. Any business which is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage thereat either by law or by the operators of such business; or
- B. Any other business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas".

Specifically included in the term, but without limitation, are adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels, and adult body painting studios.

Adult Hotel Or Motel: A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

Adult Massage Parlor, Health Club: A massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Adult Mini-Motion Picture Theater: A business premises within an enclosed building with a capacity for less than fifty (50) persons used for presenting visual media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

Adult Modeling Studio: An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

Adult Motion Picture Arcade: Any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas".

Adult Motion Picture Theater: A business premises within an enclosed building with a capacity of fifty (50) or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons.

Adult Novelty Business: A business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.

Adult Sauna: A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Specified Anatomical Areas: Anatomical areas consisting of the following:

- A. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast(s) below a point immediately above the top of the areola; and
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities: Activities consisting of the following:

- A. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
- B. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or
- C. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
- D. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast; or
- E. Situations involving a person or persons, any of which are nude, clad in undergarments or in sexually-revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons; or
- F. Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or
- G. Human excretion, urination, menstruation, vaginal or anal irrigation.

AGRICULTURAL, RURAL: A commercial crop-producing use on ten (10) or more contiguous acres and as defined under Minnesota Statutes section 273.111, subdivision 6. Real property shall be considered to be an agricultural use; provided, that annually: a) at least thirty three and one-third percent ($33\frac{1}{3}\%$) of the total family income of the owner is derived therefrom, or the total family income, including rental income from the property, is three hundred dollars (\$300.00) plus ten dollars (\$10.00) per tillable acre; and b) it is devoted to the production for sale of livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grain, bees and apiary products.

AGRICULTURAL, URBAN: An area of less than ten (10) contiguous acres which is used for the purpose of growing produce, including crops, fruits, trees, shrubs, plants, flowers, vegetables and the like; provided, that such produce is intended solely for the use of residents on the property or sale away from the property. It shall not include roadside stands for the sale of products, processing or packaging operations, or similar uses. It shall not include the raising of farm animals on parcels of less than five (5) acres.

ANIMAL HOSPITAL: A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to the hospital use.

ANIMAL UNIT: A unit of measure, as adopted by the Minnesota pollution control agency, used to compare the differences in the production of animal manures.

ANTENNA: Any structure or device used for the purpose of collecting or radiating electromagnetic waves, including, but not limited to, directional antennas, such as panels, microwave dishes, satellite dishes, and omnidirectional antennas such as whips.

ARCHITECTURAL DRAWINGS: Scaled or dimensioned drawings of the general layout of floor plans and elevations of a building or structure. In the case of multi-story buildings, the drawings shall also include sections or cutaway view of the elevations.

AUCTION ESTABLISHMENTS: Any property or structure devoted to public auction or sales, two (2) or more times a year, for selling of private property or consigned goods.

AUTO BODY REPAIR: An establishment engaged in the rebuilding or reconditioning of motor vehicles' body, frame or fender straightening, painting, rust proofing, or other similar activity.

AUTO REDUCTION YARD: A lot or yard where one or more vehicles not in running condition, or parts thereof, are kept for the purpose of dismantling, sale of parts, crushing, sale or processing as scrap, storage or abandonment.

AUTO WRECKING YARD: A lot or yard where one or more unlicensed motor vehicles or the remains thereof are kept for the purpose of dismantling, sale of parts, sale as scrap, storage or abandonment.

BARGE FLEETING AREA: A portion of the riverfront where barges are temporarily secured while awaiting loading, unloading or shipment.

BARGE LOADING FACILITY: A facility located on the riverfront for the loading or unloading of a barge, either as part of transshipment of goods or related specifically to a product manufactured, stored, excavated or utilized at the site.

BASELINE PEAK PERIOD TRIP CONTRIBUTION: Equal to the peak period trips that would have been generated based on the city comprehensive plan prior to December 21, 1994, plus capacity benefits derived from improvements planned for construction and traffic demand strategies that are implemented after the enactment of [chapter 7](#), "Adequate Public Facilities", of this title.

BASEMENT: Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four (4) sides, regardless of the depth of excavation below ground level.

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

BERM: A landscaped linear mound of earth to protect or aesthetically enhance land uses and varying in height from two (2) to eight feet (8').

BOARDING HOUSE: A building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodgings are provided for three (3) or more unrelated persons, but not to exceed eight (8) persons; but where no provision is made for cooking in any guestroom.

BUILDING: Any structure having a roof which may provide shelter or enclosure of persons, animals or chattels. When such structure is divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

BUILDING HEIGHT: The vertical distance from the average elevation of the adjoining ground level, or the established grade adjacent to the building, whichever is lower, to the top of the cornice of a flat roof, to the deck line of a mansard roof, to a point of the roof directly above the highest wall of a shed roof, the uppermost point on a round or other arch type roof, to the highest gable on a pitched or hip roof.

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

CANOPY: The width and/or height of the overall leafy portion of a deciduous tree.

CARPORT: An open sided, roofed automobile shelter, usually formed by extension of the roof from the side of a building.

CEMETERY: A parcel or tract of land used or intended to be used as the final resting place of the dead, including burial grounds, and mausoleums.

CHURCH: A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship; and

which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

CITY COUNCIL: The city council of the city of Cottage Grove, Minnesota.

CLUB OR LODGE: A nonprofit association of persons who are bona fide members, paying annual dues. The use of the premises is restricted to members and their guests. It shall be permissible to serve food and meals on such premises; provided, that adequate dining room space and kitchen facilities are available. Serving of alcoholic beverages to members and their guests shall be allowed; provided, that such serving is secondary and incidental to the operation of the dining room for the purpose of serving food and meals; and provided further, that such serving of alcoholic beverages is in compliance with the applicable federal, state and municipal laws.

CLUSTER DEVELOPMENT: A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, or preservation of environmentally sensitive areas.

COLLOCATION: The location of two (2) or more electromagnetic communication facilities on a structure that is designed structurally and electronically to support multiple electromagnetic communication facilities.

COLUMBARIUM: A place such as a vault for the respectful and usually public storage of cremated human remains within cinerary urns. Columbaria are accessory to places of assembly for worship, cemeteries or mausoleums.

COMMERCIAL HORTICULTURE: The growing of fruits, vegetables, flowers or plants for sale.

COMMERCIAL OR ANIMAL FEEDLOT: The place of confined feeding of livestock or other animals, where the principal use of the facility is for short term feeding for market purposes, or other areas not normally used for pasture or crops and in which substantial amounts of manure or related other wastes may originate by reason of such feeding of animals. No place shall be considered a "commercial feedlot" unless it exceeds ten (10) animal units and would require an animal feedlot permit from the Minnesota pollution control agency.

COMMERCIAL RECREATION: Bowling alley, cart track, jump center, miniature golf, pool hall, golf driving range, vehicle racing or amusement, dance hall, skating, tavern, theater, firearms range and similar uses.

COMMERCIAL STABLE: A stable where horses are kept for remuneration, hire or sale.

COMMERCIAL VEHICLE, CLASS I: Vehicles including, but not limited to, the following: semitrailers, garbage trucks, tank trucks, dump trucks, flatbed trucks, cattle trucks, trucks carrying or designed to carry explosive or flammable materials, well drilling equipment, earthmoving equipment, school buses designed to carry sixty six (66) or more persons or other large vehicles similar either by use or size, except the tractor portion of semitrucks.

COMMERCIAL VEHICLE, CLASS II: Commercial pickup trucks and vans, the tractor portion of semitrucks, tow trucks, recreational vehicles which are used for commercial purposes and other commercial vehicles not defined in "class I".

COMMERCIAL WASTE INCINERATION FACILITY: Any facility that sells services of burning solid waste or hazardous waste materials for generators other than the owner and operator of the facility.

COMMON OPEN SPACE: A parcel or parcels of land or an area of water or a combination of land and water within a residential development site which is designated and intended for the use and enjoyment of the development's residents.

CONDITIONAL USE: A specific type of structure or land use listed in the official control that may be allowed but only after an in depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that: a) certain conditions as detailed in this title exist, and b) the structure and/or land use conforms to the comprehensive land use plan, if one exists, and is compatible with the existing neighborhood.

CONVEYOR CAR AND LIGHT DUTY TRUCK WASH: A full service business where all activities take place fully within the structure, including vacuuming and drying operations. The facility is staffed during all business hours, and work is performed by staff, not by customers, and services performed must include conveyerized machine or hand washing/drying.

COUNTY: Washington County, Minnesota.

CRITICAL AREA: The area known as the Mississippi River corridor critical area, designated by the governor in executive order 130, dated November 1976.

CURRENCY EXCHANGE: Any person, except a bank, trust company, savings bank, savings association, credit union, or industrial

loan and thrift company, engaged in the business of cashing checks, drafts, money orders, or traveler's checks for a fee. Currency exchange does not include a person who provides these services incidental to the person's primary business if the charge for cashing a check or draft does not exceed one dollar (\$1.00) or one percent (1%) of the value of the check or draft, whichever is greater.

DECIDUOUS: Plants which lose foliage and become dormant during winter months.

DEMONSTRATED PARKING: A parking plan which demonstrates that the number, size, and location of parking spaces required by city ordinance can be provided on the site in compliance with all required parking setbacks.

DEVELOPER: Any individual commencing proceedings under [chapter 7](#), "Adequate Public Facilities", of this title, to secure approval of a new development.

DIRECTOR OF COMMUNITY DEVELOPMENT: The person appointed by the city council as the director of community development, as provided by this title.

DRIVE-THROUGH FACILITY: An establishment that, by design of physical facilities or by service or packaging procedures, encourages or permits customers to receive a service or obtain a product that may be used or consumed in a motor vehicle during such business transactions.

DWELLING: A building or one or more portions thereof occupied or intended to be occupied exclusively for residence purposes; but not including rooms in motels, hotels, nursing homes, or boarding houses; nor trailers, tents, cabins or trailer coaches. A "dwelling" shall not be interpreted to include lodging rooms.

DWELLING, ATTACHED: A dwelling which is joined to another dwelling at one or more sides by a party wall or walls.

DWELLING, DETACHED: A dwelling which is entirely surrounded by open space on the same lot.

DWELLING, MULTIPLE: A building used for occupancy by three (3) or more families living independently of each other and containing three (3) or more dwelling units, but not including group, row, quad homes, and townhouses up to a maximum of eight (8) units attached.

DWELLING, SINGLE-FAMILY ATTACHED: A residential building containing two (2) or more dwelling units, each of which has primary ground floor access to the outside and which are attached to each other by party walls without openings. The term is intended primarily for such dwelling types as townhouses and duplexes. Each dwelling unit must be located on a separate lot of record.

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

EASEMENT: The right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose.

ELECTROMAGNETIC COMMUNICATION FACILITY (EMCF): All antennas, towers, attachments, accessory mechanical and electrical equipment designed and erected for transmission, receiving and relaying of commercial electromagnetic, radar and other communication signals, including, but not limited to, radio, short wave, telecommunication, and television.

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

ESSENTIAL SERVICES: Underground or overhead gas, electrical, steam or water transmission or distribution systems; collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants or other similar equipment and accessories in conjunction therewith; but not including buildings.

EVERGREEN: A plant which retains its green color year round and does not drop its fronds or needles in the winter.

EVERGREEN, SPREADING AND GLOBE: An evergreen shrub which maintains a natural global or spreading shape.

EVERGREENS, TREES: Large evergreens which reach mature heights of fifty feet (50') or more.

EVERGREENS, UPRIGHT: An evergreen shrub which maintains a natural columnar or upright shape.

FAMILY: An individual, or two (2) or more persons each related by blood, marriage, or adoption, including foster children, living together as a single housekeeping unit; or a group of not more than four (4) persons not so related, maintaining a common household.

FARM ANIMALS: Horses, cows, sheep, bees, pigs, chickens, ducks and other commonly known animals normally associated with farms, but excluding customary household pets.

FARMERS' MARKET: The area set aside for the use of persons selling food products and plant materials produced primarily by themselves.

FENCE: Any partition, structure, wall or gate erected as a dividing marker, barrier or enclosure and located along the boundary, or within the required yard.

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

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

FLOOD FRINGE: That portion of the floodplain outside of the floodway. "Flood fringe" is synonymous with the term "floodway fringe" used in the flood insurance study for Washington County, Minnesota and incorporated areas.

FLOOD, REGIONAL: A flood which is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.

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

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

FLOODWATER: The water of any river, stream, drainage channel, low area lake or pond which is above and/or outside the channel or banks of such river, lake, stream, drainage channel or pond.

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

FLOOR AREA, BUSINESS AND INDUSTRIAL: The sum of the gross horizontal areas of the several floors of a building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space, such as counters, racks or closets, and any basement floor area devoted to retailing activities, to the production of or processing of goods or to business or professional offices; however, the "floor area" shall not include basement floor area other than area devoted to retailing activities, the production or processing of goods, business or professional offices.

FLOOR AREA RATIO: The numerical value obtained by dividing the floor area of a building or buildings by the lot area on which such building or buildings are located.

FLOOR AREA, RESIDENTIAL: The sum of the gross horizontal areas of the several finished floors of a building or portion thereof, devoted to residential use. The floor area of a residence shall not include any portion of attached garage, breezeways, porches or basement area. A basement area is an area having more than one-half ($1/2$) of its wall area below grade.

GARAGE, ACCESSORY: An accessory building or portion of a principal building having walls and a roof which is used for the storage of motor vehicles and other items owned by the occupants of the principal building.

GENERAL FLOOR PLANS: A graphic representation, with dimensions or scale indicated, of the anticipated utilization of the floor area within a building or structure, but not necessarily as detailed as construction plans.

GROUND COVER: Plants which are used for accents and soil stabilization and are typically twenty four inches (24") or less in height.

HAZARDOUS WASTE: Any refuse, sludge, or other waste material or combinations of refuse, sludge or other waste materials in solid, semisolid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may: a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or b) pose a substantial present or potential hazard to human health or the environment when

improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants, and corrosives. Hazardous waste does not include source, special nuclear, or byproduct material as defined by the atomic energy act of 1954, as amended.

HEALTH/RECREATION FACILITY: A nonmedical service establishment intended to maintain or improve the physical condition of persons, including game courts, exercise equipment, locker rooms, jacuzzi, sauna and/or pro shop.

HOME OCCUPATION: An accessory use of a dwelling unit for gainful employment involving the manufacture, provision or sale of goods and/or services.

HOTEL: A building having provision for nine (9) or more guests, in which lodging is provided with or without meals, for compensation, and which is open to transient or permanent guests or both, and where no provision is made for cooking in any guestroom, and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge.

HOUSEHOLD PET: Animals that are customarily kept for personal use or enjoyment within the home. "Household pets" shall include, but not be limited to, domestic dogs, domestic cats, domestic tropical birds, rabbits, or fish.

INOPERABLE VEHICLE: Any vehicle which cannot be driven or propelled under its own power in its existing condition, or which cannot be driven or propelled under its own power in a safe manner because of its wrecked, junked, or partially dismantled condition, or which cannot be driven because necessary licenses or authorizations have not been obtained and displayed on the vehicle.

INTERIM CONDITIONAL USE: A temporary use of a property until a particular date, until the occurrence of a particular event, or until the zoning regulations no longer permit it.

JUNKYARD: An area where waste or discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, papers, rags, rubber products, bottles and used building materials. Storage of such material in conjunction with a permitted manufacturing process within an enclosed area or building shall not be included. Such use shall not include the deposit or disposal of garbage and other organic material.

KENNEL: Any premises where four (4) or more dogs, cats or other customary household pets six (6) months or older at any one time are kept or accepted for boarding, breeding, training or sale, except when located in a pet shop or veterinary clinic.

LIFT STATION: A facility, usually including pumping facilities, for the lifting of sewage or stormwater runoff to a higher sewage facility or stormwater runoff facility.

LOADING BERTH: An unobstructed area provided and maintained for the temporary parking of trucks and other motor vehicles, for the purpose of loading and unloading goods, wares, materials and merchandise.

LODGING HOUSE: A building containing lodging rooms accommodating, for compensation, three (3) or more persons, but not exceeding twelve (12), who are not of the keeper's family. Lodging may be provided with or without meals.

LOT: A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street or on an approved private street and may consist of:

- A. A single lot of record.
- B. A portion of a lot of record.
- C. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.
- D. A parcel of land described by metes and bounds; provided, that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this title.

LOT AREA: The area of a lot in a horizontal plane bounded by the lot lines, but not including any area which has been dedicated as public thoroughfare or road.

LOT AREA PER UNIT: The number of square feet of lot area per dwelling unit.

LOT, CORNER: A lot situated at the junction of and abutting on two (2) or more intersecting streets, or a lot at the point of deflection in alignment of a continued street, the interior angle of which does not exceed one hundred thirty five degrees (135°).

LOT DEPTH: The mean horizontal distance between the front lot line and the rear lot line of a lot.

LOT LINE: The property line bounding a lot; except, that where any portion of a lot extends into the public right of way or a proposed public right of way, the nearest line of such public right of way shall be the lot line for applying this title.

LOT LINE, FRONT: That boundary of a lot which abuts an existing or dedicated public street and, in the case of a corner lot, it shall be the shortest dimension on a public street.

LOT LINE, REAR: That boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten feet (10') in length or if the lot forms a point at the rear, the rear lot line shall be a line ten feet (10') in length within the lot, connecting the side lot lines and parallel to the front lot line.

LOT LINE, SIDE: Any boundary of a lot which is not a front lot line or a rear lot line.

LOT OF RECORD: Part of a subdivision the plat of which has been recorded in the office of the register of deeds or registrar of titles; or a parcel of land the deed to which was recorded in the office of the register of deeds or registrar of titles, in accordance with subdivision regulations and zoning ordinances of the city in effect at the time of such conveyance.

LOT, THROUGH: A lot which has a pair of opposite lot lines abutting two (2) streets, and which is not a corner lot.

LOT, WIDTH: The maximum distance between the side lot lines of any lot measured parallel to front lot lines at the minimum front yard setback line.

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.

MAJOR ROADS: Principal arterials (TH 61/10) and other minor arterials.

MANUFACTURED SINGLE-FAMILY DWELLING: A structure transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling for one family, with or without a permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. No manufactured dwelling shall be moved into the city that does not meet the manufactured home building code as defined in Minnesota statutes section 327.31, subdivision 3.

MANUFACTURING: All manufacturing, compounding, processing, packaging, treatment or assembly of products and materials.

MARINA: Facilities which may include piers or systems of floating or fixed accessways providing moorings for motor boats and yachts and offering supply, repair and other facilities for such use.

MAXIMUM ALLOCATED SEWER CAPACITY: The monthly average daily contribution of influent from the city of the Cottage Grove sewage treatment plant of no more than 2.54 MGD on a monthly basis.

MEDICAL USES: Those uses concerned with the diagnosis, treatment and care of human beings. These include hospitals, dental services, medical services or clinics, nursing convalescent homes and sanatoriums.

METROPOLITAN URBAN SERVICE AREA: An area designed to achieve orderly, economic and contiguous growth by directing development to areas where roads and sewers already exist or are planned to accommodate development.

MINIMUM NEEDS ASSESSMENT: Shall contain information necessary to determine whether existing or programmed roads and sewers will be adequate to serve the demand generated by the new development.

MINING: The extraction of sand, gravel or other material from the land, in the amount of four hundred (400) cubic yards or more, and removal of such materials from the site.

MOTOR COURT, MOTOR HOTEL OR MOTEL: A building or group of buildings other than a hotel, used primarily as a temporary residence of a motorist.

MOTOR FREIGHT TERMINAL: A building or area in which freight brought by motor truck is transferred and/or stored for movement in intrastate or interstate shipment by motor truck.

MOTOR FUEL STATION: A retail place of business engaged primarily in the sale of motor fuels, but also may be engaged in supplying goods and services generally required in the operation and maintenance of motor vehicles. These may include sale of petroleum products, sale and servicing of tires, batteries, automobile accessories, and replacement items, washing and lubrication services; and the performance of minor automotive maintenance and repair.

MOTOR FUEL STATION CONVENIENCE STORE: A store operated in conjunction with a major motor fuel station or truck stop, for the purpose of offering for sale or rental of goods and services not essential to the motoring public.

MOTOR FUEL STATION, MAJOR: A motor fuel station located within five hundred feet (500') of the right of way of a designated state trunk highway or a federally aided interstate highway and on a major city thoroughfare, city collector street, highway service road or highway.

MOTOR FUEL STATION, MINOR: A motor fuel station located at the intersection of two (2) or more major city thoroughfares; two (2) or more city collector streets; or one or more major city thoroughfares with one or more city collector streets; but not within five hundred feet (500') of the right of way of a designated state trunk highway or a federally aided interstate highway. Such major city thoroughfares and city collector streets shall be those designated by the city council, in accordance with the comprehensive guide plan of the city.

NATURAL RATE OF ABSORPTION: The amount of stormwater absorbed in the soil during a storm of once in twenty (20) year occurrence.

NEW DEVELOPMENT: Proposals for subdivision and site plans for new construction, except: a) minor subdivisions of three (3) lots or less, and b) extension or enlargement of an existing building not exceeding fifty thousand (50,000) square feet which does not generate more than two hundred (200) additional residential equivalent connections, the average daily wastewater flow from a single-family dwelling (gallons per day).

NONCOMMERCIAL VEHICLES: Passenger automobiles, motorcycles, recreational vehicles not used for commercial purposes, pickup trucks not used for commercial purposes and other vehicles designed for and used for passenger travel, except vehicles defined as "commercial vehicles, Class I or II".

NONCONFORMING STRUCTURE: Any structure which is existing upon the effective date of this Title¹, which would not conform to the applicable regulations if the structure were to be erected under the provisions of this Title.

NONCONFORMING USE: Use of land, buildings or structures permitted and existing at the time of adoption of this Title, which does not comply with all the regulations of this Title or any amendments hereto governing the zoning district in which such use is located.

NORMAL HIGH WATER MARK: A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The normal high water mark is commonly that point where the natural landscape changes from predominantly aquatic to predominantly terrestrial.

NOXIOUS MATTER OR MATERIAL: Material which is capable of causing injury or is in any way harmful to living organisms, or is capable of causing detrimental effects upon the health, physical, physiological, social or economic well-being of individuals.

NURSERY, DAY: A use where care is provided for pay for three (3) or more children under kindergarten age, for periods of four (4) hours or more per day.

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 flood plain which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

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

OFFICES: Those commercial activities that take place in office buildings, where goods are not produced, sold or repaired, including banks; general offices; governmental offices; insurance offices; professional offices; real estate offices; taxicab offices, but not taxi stands; travel agencies or transportation ticket offices; telephone exchanges; utility offices; radio broadcasting facilities and similar uses.

- OPEN SALES LOT:** Land devoted to the display of goods for sale, rent, lease or trade, where such goods are not enclosed within a building.
- ORNAMENTAL TREE:** A deciduous tree with a mature height under thirty feet (30') that is used for color accents where an overstory tree is not practical.
- OUTDOOR ADVERTISING:** A sign which directs attention to a business, commodity, service or entertainment, not necessarily conducted, sold or offered upon the premises where such sign is located or to which it is affixed.
- OVERSTORY TREES:** Large, deciduous, shade-producing trees with a mature height over thirty feet (30').
- PARTY WALL:** A wall which divides two (2) adjoining properties and in which each of the owners of the adjoining properties has rights of enjoyment.
- PEAK PERIOD TRIPS:** Vehicular trips generated on Trunk Highway 61 during the weekday hours of six o'clock (6:00) A.M. to eight o'clock (8:00) A.M. and from three o'clock (3:00) P.M. to five thirty o'clock (5:30) P.M.
- PERFORMANCE STANDARDS:** Criteria established to control noise, odor, toxic or noxious matter, vibration, fire and explosive hazards, or glare or heat generated by or inherent in uses of land or buildings.
- PIPELINE:** An underground line of pipe, including associated pumps, valves, control devices and other structures, utilized for conveying liquids, gases, sewage or other finely divided solids from one point to another.
- PLANNED FOR CONSTRUCTION:** That an improvement is scheduled for construction within five (5) years in the city's capital improvement program or a capital improvement plan or similar plan of the county, metropolitan council, or other implementing agency including the transportation improvement program, or is included as part of an improvement to be constructed incident to a new development.
- PLANNED UNIT DEVELOPMENT:** All multiple-family dwellings, involving one or more buildings, all developments having two (2) or more principal uses or structures on a single parcel of land, multi-use structures such as a multiple-family dwelling with retail at ground floor level, townhouses and similar projects.
- PLANNING COMMISSION:** The planning commission of the city.
- PLEASURE CRAFT:** A boat or yacht used primarily for recreational activity.
- POULTRY FARM:** A tract of land located in an agricultural area, being used exclusively for the purpose of raising poultry.
- PUBLIC FACILITIES:** Includes roads and sanitary sewer collection and treatment system.
- PUBLIC PARK:** A recreation area owned or operated by the city, county, state or other governmental unit.
- PUBLIC UTILITY:** Transmission facilities of electric power, gas, water, telephone and railroad companies, including electric power transmission lines and gas pipelines; but not substations; telephone facilities, water pumping, reservoir and distribution facilities and railroad trackage; but not including storage and switching yards.
- PUBLIC UTILITY POLE:** Including, but not limited to, water towers, public safety antennas, lights and signals, power and telephone poles, and poles supporting emergency warning devices.
- PUMP ISLAND SETBACK:** The distance from the street right of way line to the centerline of the motor fuel station pump island, measured as a perpendicular distance from the right of way at the closest point to the pump island.
- QUARTER/QUARTER SECTION:** The northeast, northwest, southeast or southwest quarter section of land delineated by the United States government system of land survey and which is exactly or nearly forty (40) acres in size.
- REACH:** A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or humanmade obstruction. In an urban area, the segment of a stream or river between two (2) consecutive bridge crossings would most typically constitute a "reach".
- RECREATIONAL VEHICLE:** For purposes of [chapter 12](#) of this title, a vehicle that is built on a single chassis, is four hundred (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 [chapter 12](#) of this title, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

RECYCLING COLLECTION POINT: A collection point that serves as a community drop off point for temporary storage of items (e.g., paper, aluminum, cans, glass and plastic) that are to be recycled.

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

REGULATORY FLOOD PROTECTION ELEVATION: The regulatory flood protection elevation shall be seven hundred feet (700') above mean sea level or at an elevation no lower than one foot (1') 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, whichever is greater. It is the elevation to which uses regulated by this title are required to be elevated or flood protected.

REQUIRED LANDSCAPED AREAS: The front, side and rear yards of a site that are to be landscaped in conformance with subsection [11-6-5D2a](#) of this title.

REQUIRED YARDS: The area of an existing parcel, excluding public right of way, buildings and impervious surface.

RESIDENTIAL DEVELOPMENT: A lot, building or a portion thereof used exclusively for a dwelling unit including concomitant uses and other uses of a residential nature for individuals residing in said dwelling units.

REST HOME: A private home for the care of children or the aged or infirm, or place of rest for those suffering bodily disorders. Such a home does not contain equipment for surgical care or for the treatment of diseases or injury, nor does it include maternity care or care for mental illnesses or infirmities.

RESTAURANT: "Restaurants" shall be classified as class 1, class 2 or class 3, as follows:

A. Traditional restaurants and cafeterias: Class 1.

B. Carryout and delivery restaurants: Class 2.

C. Drive-in and fast food restaurants: Class 3.

Cafeteria Food: Food which is selected by a customer while going through a serving line and taken to a table for consumption.

Carryout And Delivery Restaurant Food: Food which is not intended to be consumed on the premises, but instead is prepared and sold in the assumption that it will be consumed off the premises. Such restaurants do not provide sitting areas for consumption on the premises.

Drive-In Restaurant: A restaurant where most customers consume their food in an automobile, regardless of how it is served.

Fast Food Restaurant: A restaurant where a majority of customers order and are served their food at a counter and then take it to a table or counter where it is consumed; however, a significant number may take the food outside to eat it in an automobile or off the premises.

Traditional Restaurant Food: Food which is served to a customer and consumed by the customer while seated at a counter or table.

RETAIL SHOPPING STORES: Stores and shops selling personal services or goods over a counter, including the following businesses, goods and services: antiques; art and school supplies; auto accessories; bakeries; barbershops; beauty parlors; bicycles; books and stationery; candy; cameras and photographic supplies; carpets and rugs; catering establishments; china and glassware; Christmas tree sales; clothes pressing; clothing and costume rental; custom dressmaking; department stores and junior department stores; drugs; dry goods; electrical and household appliances; sales and repair; florists; food; furniture; furrier shops; garden supplies (year round operation only); gifts; hardware; hats; hobby shops for retail of items to be assembled or used away from the premises; household appliances; hotels and apartment hotels; interior decorating; jewelry, including watch repair;

laboratories, medical and dental research and testing; laundry and dry cleaning pick up processing to be done elsewhere; laundromats; leather goods and luggage; locksmith shops; musical instruments; office supply equipment; optometrists; paint and wallpaper; phonograph records; photography studios; restaurants, when no entertainment or dancing is provided; shoes; sporting goods; tailoring; theaters, except open air, drive-in; tobacco; toys; variety stores; wearing apparel and similar uses.

RETAINING WALL: A structure utilized to hold a slope in a position in which it would not naturally remain.

RIVERFRONT: Every lot or parcel of land which is immediately adjacent to the Mississippi River.

ROAD: A public right of way, intended for vehicular traffic, including freeways, expressways, arterials, parkways, thoroughfares, collector streets, local streets, cul-de-sacs, access streets, avenues, boulevards, lanes, and other public ways, as now or hereafter designated.

SANITARY LANDFILL: An operation in which waste, including dry trash, incombustible rubbish and garbage, is deposited in specified areas in open trenches, ditches or topographical depressions and is systematically compacted by mechanical forces and then covered by a compacted layer of earth, ashes or suitable covering material.

SANITARY SEWER DISCHARGE USER, HIGH CAPACITY: Uses within the industrial park MUSA that have a discharge into the sanitary sewer system averaging above seven hundred fifty (750) gallons per acre per day.

SANITARY SEWER DISCHARGE USER, LOW CAPACITY: Uses within the industrial park MUSA that have a discharge into the sanitary sewer system averaging less than seven hundred fifty (750) gallons per acre per day.

SATELLITE RECEIVE ONLY ANTENNA (SROA): An accessory structure consisting of a device commonly parabolic in shape, mounted at a fixed point and capable of receiving, for the benefit of the principal use, television signals from a transmitter or a transmitter relay located in geostationary orbit, and serving the same or similar function as the common television antenna.

SEPTIC TANK: Any device for the treatment and disposal of human waste which utilizes the percolation of the liquid portion of the waste into the soil, including all portions of such system which are not confined inside a building.

SEWAGE DESIGN CAPACITY: The total available sewage capacity in collectors and interceptors tributary to the new development.

SHELTER, FALLOUT OR BLAST: A structure or portion of a structure intended to provide protection to human life during periods of danger to human life from nuclear fallout, blasts, air raids, storms or other emergencies.

SHRUBS, LARGE: Deciduous shrubs with mature natural growth over six feet (6') in height.

SHRUBS, MEDIUM: Deciduous shrubs with mature natural growth between four (4) to six feet (6') in height.

SHRUBS, SMALL: Deciduous shrubs with mature natural growth less than four feet (4') in height.

SIGN: A name, identification, description, display, illustration, structure or device which is affixed to or represented directly or indirectly upon a building or other surface not within a building and which directs attention to an object, product, place, activity, person, institution, organization or business.

SIGN, ADVERTISING: A structure or portion thereof that is intended for advertising purposes, on which letters, figures or pictorial matters are intended to be displayed for advertising purposes, other than the name, occupation and/or nature of the enterprise conducted on the premises. This definition will not be held to include a real estate sign advertising for sale or rent the property on which it stands.

SIGN, BUSINESS: A sign which directs attention to a business or profession or to the commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is attached.

SIGN, DIRECTIONAL: A sign giving travel directions to a use not located on the premises.

SIGN, GROSS SURFACE AREA: The entire area within a single continuous perimeter enclosing the extreme limits of a sign and in no case passing through or between any adjacent elements of such sign; however, such perimeter shall not include any structural elements lying outside the limits of such sign and not forming an integral part of the display. In computing square foot area, only one side of a double face or V-type structure shall be considered.

SIGN, IDENTIFICATION: In a business or industrial district, a sign or nameplate which states the name or address or both of the business, industry or occupant of the lot; or a directory, listing the names, addresses and business of occupants.

SIGN, IDENTIFICATION, RESIDENTIAL: In a residential district, a nameplate sign identifying a resident (including address and profession or occupation), school, church or other nonbusiness use.

SIGN, ILLUMINATED: Any sign which has characters, letters, figures, design or outline illuminated by electric lights or tubes.

SIGN, PEDESTAL: A ground sign erected on not more than three (3) shafts or posts solidly affixed to the ground.

SIGN, REAL ESTATE: A sign offering property, land and/or buildings for sale, lease or rent.

SIGN, TEMPORARY: Any sign not exceeding ten (10) square feet, placed in such a manner as not to be solidly affixed to any building, structure or land, and advertising an event such as a bazaar, special sale, sporting event or similar activity; in no event, however, shall such signs be placed on any lot or parcel of land for a period to exceed thirty (30) days out of any twelve (12) month period.

SIGNIFICANT TREE: A healthy tree measuring a minimum of six inches (6") in diameter for deciduous trees, defined herein, or a minimum of twelve inches (12") in diameter for softwood deciduous trees as defined herein; or a minimum of ten feet (10') in height for coniferous/evergreen trees.

SIGNIFICANT WOODLAND: A grouping or cluster of coniferous and/or deciduous trees with contiguous crown cover, occupying five hundred (500) or more square feet of property and having a minimum width of twenty feet (20'), which are comprised of deciduous trees between four inches (4") and twelve inches (12") in diameter or coniferous trees between four feet (4') and twelve feet (12') in height.

SLOPE: The inclination of the natural surface of the land from the horizontal.

SOLID WASTE: Garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents or discharges which are point sources subject to permits under section 402 of the federal water pollution control act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or byproduct material as defined by the atomic energy act of 1954, as amended.

SPECIMEN TREE: A healthy hardwood deciduous tree measuring equal to or greater than thirty inches (30") in diameter and/or a coniferous tree measuring fifty feet (50') or greater in height.

STREET: A way for vehicular traffic, whether designated as street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, drive, court or otherwise designated.

STREET LINE: The land covered by a street or land dedicated for public use or for certain private use for vehicular traffic.

STRUCTURE: Anything constructed or erected on the ground or attached to the ground or on site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in section [11-12-9](#) of this title, travel trailers/vehicles, signs and other similar items.

STRUCTURE, PRINCIPAL: A structure which determines the predominant use of the lot on which it is located.

SUBSTANTIAL DAMAGE: For purposes of [chapter 12](#) of this title, damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: For purposes of [chapter 12](#) of this title, within any consecutive three hundred sixty five (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 fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

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

B. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure". For the purpose of [chapter 12](#) of this title, "historic structure" shall be as defined in 44 code of federal regulations, part 59.1.

SUBSTATION: Any utility structure other than lines, pipelines, holes or towers.

TERRACE: A relatively level area bordered on one or more sides by a retaining wall.

TOWER: Any pole, spire, structure, structural support, or combination thereof, which is built specifically for the purpose of mounting an antenna.

TOWNHOME: A residential building containing two (2) or more dwelling units with at least one common wall, each unit so oriented as to have all exits open to the outside.

TRAFFIC IMPACT ANALYSIS OR STUDY: Analyzes the impacts of trips generated by new development on the traffic study area and recommends solutions or strategies to reduce that impact.

TRAFFIC STUDY AREA: The travel shed and includes TH 61/10 and roads tributary to it.

TRANSPORTATION DEMAND MANAGEMENT (TDM): Measures which encourage drivers to use alternative modes to driving alone during the peak period.

TRUCK STOP: A motor fuel station devoted principally to the needs of tractor trailer units and trucks and located within five hundred feet (500') of the right of way of a designated state trunk highway and/or a federally aided interstate highway and on a major city thoroughfare, city collector street, highway service road or highway.

USE: The purpose or activity for which land or a building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained, and shall include the performance standards of this title.

USE, ACCESSORY: A use or structure subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

USE, CONDITIONAL: Either a public or private use which, because of its unique characteristics, cannot be accorded the status of a permitted use in a particular district.

USE, PERMITTED: A public or private use which of itself conforms with the purposes and objectives of a particular district and conforms with all requirements, regulations and performance standards, if any, of such district.

USE, PRINCIPAL: The main use of land or buildings, as distinguished from subordinate or accessory uses. A "principal use" may be either permitted or conditional.

USE, TEMPORARY: A use established for a fixed period of time with the intent to discontinue the use upon a specified expiration date.

UTILITY FACILITY: A physical facility of an electric, telephone, telegraph, cable television, water, sewer, solid waste, gas or similar service operation.

VEHICLE: Any self-propelled device in, or upon, or by which any person or property is or may be transported. A vehicle properly loaded on a trailer shall constitute a single vehicle.

VEHICLE REPAIR: An establishment engaged in performing repairs and service to recreational vehicles and vehicles. Repair may include all activities of repair or service, including major engine and transmission repair and replacement, exhaust system replacement, fluid changes and lubrication, tire repair and changes, wheel alignment, brake repair, suspension repair, air conditioner servicing, and similar minor repairs and service.

WAREHOUSING: The storage of materials or equipment within an enclosed building.

WATER BODY: Any lake, stream, pond, wetland or river.

WATER DEPENDENT USES: Uses which, in order to exist or function, require a location or use of the riverfront, including, but not limited to, barge loading and barge fleeting areas, marinas, industries which receive or ship goods or materials by water as an essential part of their operation, boat and barge construction, dismantling and repair, riverfront recreation, intakes and outfalls, and

water monitoring and measuring facilities.

WETLAND: Any land which is seasonably wet or flooded, including all marshes, bogs, swamps and floodplains.

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

WIND ENERGY CONVERSION SYSTEM (WECS): Any device, such as a wind charger, windmill or wind turbine, which converts wind energy to a form of usable energy.

YARD: A required open space on a lot, which is unoccupied and unobstructed by a structure from its lowest ground level to the sky, except as expressly permitted in this title. A yard shall extend along a lot line and at right angles to such lot line, to a depth or width specified in the yard regulations for the district in which such lot is located.

YARD, FRONT: A yard extending along the full width of the front lot line between side lot lines, and extending from the abutting front street right of way line to a depth required in the yard regulations for the district in which such lot is located.

YARD, REAR: A yard extending along the full width of the rear lot line between the side lot lines and extending toward the front lot line for a depth as specified in the yard regulations for the district in which such lot is located.

YARD, SIDE: A yard extending along the side lot line between the front and rear yards, having a width as specified in the yard regulations for the district in which such lot is located.

ZONING DISTRICT: An area or areas within the limits of the city for which the regulations and requirements governing use, lot and size of buildings and premises are uniform. (1971 Code § 28-3; amd. 1971 Code § 28-68; Ord. 600, 8-3-1994; Ord. 618, 8-2-1995; Ord. 625, 3-20-1996; Ord. 635, 9-18-1996; Ord. 648, 7-16-1997; Ord. 659, 8-19-1998; Ord. 665, 6-16-1999; 2000 Code; Ord. 762, 5-5-2004; Ord. 827, 10-17-2007; Ord. 841, 8-13-2008; Ord. 872, 2-3-2010; Ord. 873, 2-3-2010; Ord. 884, 10-20-2010; Ord. 888, 4-20-2011; Ord. 893, 8-10-2011; Ord. 939, 2-4-2015)

11-1-4: INTERPRETATION; COMPLIANCE:

A. **Minimum Requirements:** In their interpretation and application, the provisions of this title shall be held to the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare.

B. **More Restrictive Conditions Apply:** Where the conditions imposed by any provision of this title are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

C. **Compliance With Provisions:** No structure shall be erected, moved, 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 title. (1971 Code § 28-4)

11-1-5: ZONING DISTRICTS ESTABLISHED:

For the purposes of this title, the city is hereby divided into the following use districts and groups of use districts:

A. **Agricultural districts:**

AG-1 Agricultural preservation district
AG-2 Agricultural district

B. Residential districts:

- R-1 Rural residential district
- R-2 Residential estate district
- R-2.5 Residential district
- R-3 Single-family residential district
- R-4 Low density residential district
- R-5 Medium density residential district
- R-6 High density residential district
- UR Urban reserve residential district
- R-2A Residential single-family district
- R-2B Detached single-family district
- R-2C Detached single-family district
- R-2D Twin home single-family district
- R-2E Residential townhouse district
- R-2F Residential multi-family district

C. Business districts:

- B-1 Limited business district
- B-2 Retail business district
- B-3 General business district
- P-B Planned business district
- N-B Neighborhood business district

D. Industrial districts:

- I-1 Limited industry district
- I-2 General industrial district
- I-3 Heavy industrial district
- I-4 Commercial excavation district
- I-5 Railroad access industrial district

E. Floodway and flood fringe districts.

F. CD Conservancy district.

G. PUD Planned unit development district.

H. Planned development overlay district.

I. Mississippi River corridor critical area overlay district.

All references in this title to R, B, I, CD, AG and PUD districts shall refer to all individual districts having the appropriate prefix. Reference to a specific district shall be for that district only. (1971 Code § 28-5; amd. 1971 Code § 28-69; Ord. 623, 1-17-1996; Ord. 632, 9-18-1996; Ord. 640, 12-4-1996; Ord. 732, 5-21-2003; Ord. 782, 12-21-2005; Ord. 796, 6-21-2006; Ord. 904, 5-16-2012)

11-1-6: ZONING MAP:

The boundaries of the districts enumerated in section [11-1-5](#) of this chapter are hereby established as shown on that certain map titled "official zoning districts of Cottage Grove, Minnesota", which map is properly approved and filed, hereinafter referred to as the "zoning map". Such map and all the notations, references and other information shown thereon shall have the same force and effect as if fully set down herein and are hereby incorporated by reference and made a part of this title. (1971 Code § 28-6)

11-1-7: DETERMINATION OF DISTRICT BOUNDARIES:

Where any uncertainty exists as to the exact location of a boundary line as shown on the zoning map, the location of such line shall be determined by the council. (1971 Code § 28-7)

Chapter 2 ADMINISTRATION AND ENFORCEMENT

11-2-1: DIRECTOR OF COMMUNITY DEVELOPMENT:

- A. Enforcement Official; Appointment: This title shall be administered and enforced by the director of community development, who shall be appointed by the city council. (1971 Code § 28-9; amd. 2000 Code)
- B. Duties: The director of community development shall enforce this title and, in addition thereto and in furtherance of such authority, shall:
1. Determine that all building permits comply with the terms of this title.
 2. Conduct inspections of buildings and use of land to determine compliance with the terms of this title.
 3. Maintain permanent and current records of this title, including, but not limited to, all maps, amendments and special uses, variances, appeals and applications therefor.
 4. Receive, file and forward all applications for appeals, variances, special uses or other matters to the designated official bodies.
 5. Institute, in the name of the city, any appropriate actions or proceedings against a violator, as provided by law.
 6. Serve as an ex officio, nonvoting member of the planning commission. (1971 Code § 28-10; amd. 2000 Code)

11-2-2: BUILDING PERMIT:

- A. Permit Required: No structure shall hereafter be erected or structurally altered until a building permit has been issued indicating that the existing or proposed structure and the use of the land comply with this title and all building codes. (1971 Code § 28-16; amd. 2000 Code)
- B. Application For Permit:

1. Every building permit application for construction or relocation of a new principal building on a lot in all zoning districts shall include a certificate of survey signed by a registered land surveyor showing:
 - a. That permanent iron monuments have been placed at each lot corner. The iron monuments shall be visible at the time of the footing form inspection.
 - b. All lot dimensions, easements of record, and elevations at the property corners, garage floor, and lowest floor.
 - c. Scale of drawing.
 - d. Legal description.
 - e. North arrow.
 - f. Indicate "buildable area". A "buildable area" is a continuous portion of a lot that is suitable for the location of the primary structure and that excludes all existing and proposed easements, setback areas for principal structure, wetlands, floodplains, the neck portion of any neck or flag lot, and other unbuildable areas. Certain easements may be included in the buildable area at the discretion of the city if their inclusion is consistent with the intent of this code.
 - g. Dimension of the proposed driveway if lot is considered a neck or flag lot, or a lot without frontage.
 - h. Location of all existing buildings on the lot.
 - i. Grade elevation to mean sea level at the following points:
 - (1) Each lot corner.
 - (2) Crown of proposed street at each lot line extended.
 - (3) Proposed lawn and driveway elevations at the street side of the building.
 - (4) Proposed drainage patterns.
 - (5) Existing and proposed grades at all major corners of the structure, at walkouts, and top edge of egress window wells.
 - (6) The existing grade next to any existing buildings located on the adjacent lots.
 - (7) Outside dimensions and location of proposed building, including decks, porches, stairways, cants, fireplaces, bay and bow windows and walkouts.
 - (8) Location of all existing manholes, hydrants, catch basins, power poles, utility pedestals, fences, curb and gutter or road edge and/or gutter line, water service valves, and storm inlets.
 - j. Locate and depict all "significant tree(s)" to be removed or preserved on the property.
 - k. Indicate names of abutting streets and right of way widths.
 - l. Style of residential structure; split entry, rambler, full basement, partial, etc. (elevation provided at low opening of structure).
 - m. Location and water elevation of all existing wetlands, stormwater basins, streams, and lakes within one hundred feet (100') of subject property.
 - n. Garage must be noted along with driveway location and slope.
 - o. Emergency overflow elevation and location.
2. The proposed building on the lot shall be staked at the corners, and the survey shall reflect the location of the proposed building and its distance from the property lines.
3. A certificate of survey from a registered land surveyor is required for only that area surrounding the construction site and all other areas establishing the final grades and drainage swales for lots that are one and one-half (1^{1/2}) acres or larger in area. The certificate of survey must include additional information as required by the director of community development or building official if additional grade elevations are necessary to adequately determine drainage and topographic elevations. (Ord. 936, 11-19-2014)

C. Review Of Application; Denial:

1. Applications Generally: All building permit applications for permitted uses shall be reviewed and approved by the building official for compliance with [title 9](#) of this code; the director of community development shall review the application for compliance with city ordinances. The building permit application shall include all information necessary to provide for the enforcement of this title.
2. Conditional Uses: If the building permit application is for a conditional use in addition to the approvals previously requested herein, the application shall be reviewed and approved by the city council.
3. Refusal For Noncompliance: The city may refuse to issue a building permit for noncompliance with the applicable building codes and/or city ordinances or for other reasons, and refer the matter through the appropriate appeals process as determined by the director of community development. (1971 Code § 28-16; amd. 2000 Code)

11-2-3: CERTIFICATE OF OCCUPANCY:

- A. Certificate Required: No building permit for any construction, alteration or moving shall be issued unless such building permit is for the purpose of securing a certificate of occupancy for such existing or contemplated structure.
- B. Application For Certificate; Issuance: The application for a certificate of occupancy shall accompany the application for a building permit, and such certificate shall be issued within ten (10) days after the building official shall have found the building, structure, site plan and use satisfactory. Until such certificate is issued, the property or addition shall not be occupied for intended use. In all districts, when applying for a certificate for a new structure, the enlarging of a structure or a new or enlarged use of a lot, the application shall be accompanied by a site plan, drawn to a scale with dimensions indicating the location of off street parking and loading spaces in compliance with this title and other data as required.
- C. Nonconforming Use; Issuance Of Certificate: A record of each nonconforming use in existence on the effective date of this title¹ shall be made and maintained by the director of community development, and a certificate of occupancy issued by the building official. (1971 Code § 28-17; amd. 2000 Code)

11-2-4: SITE PLAN REVIEW PROCEDURES:

A. Site Plan Required; Purpose; Exceptions:

1. A site plan shall be approved before a building permit for a new structure or major addition to an existing structure may be issued.
2. The purpose of such approval is to assure that new developments conform to the city's development standards and ordinances and provide the most appropriate and compatible site plan for the area.
3. No grading shall be performed on the site and no building permit shall be issued until the site plan has been approved.
4. The planning commission review, city council approval, and notice to surrounding property owners required by subsection E of this section may be waived in the following cases:
 - a. The construction or alteration of a single-family detached dwelling and its associated accessory building on an individual lot.
 - b. Agricultural buildings.

- c. Any other situation where the director of community development determines that the preparation, review and approval by the planning commission and city council of a detailed site plan is unnecessary to meet the objectives of this section.
 5. Where planning commission review and council approval are waived, the applicant shall submit the site plan and supporting documentation in compliance with subsections B through E of this section.
 6. Uses permitted in each zoning district shall be reviewed by City staff for:
 - a. Traffic and pedestrian circulation;
 - b. Parking;
 - c. Drainage;
 - d. Landscaping; and
 - e. Compliance with other applicable ordinances.
- B. Coordination With Other Regulations: It is the intent that site plan review under this Title be coordinated with subdivision review under [Title 10](#) of this Code and with any other permit reviews that may be necessary, including conditional use permits.
- C. Preapplication Conference: The applicant shall meet with the City Planning Division or other designated staff, prior to the presentation of plans, to relate his/her intent. Thereafter, an applicant, at his/her option, may confer with the Planning Commission to obtain information and advice prior to entering into binding commitments or incurring substantial expense in the preparation of plans, surveys and other data.
- D. Application Requirements:
1. Request for site plan approval may be initiated by the owner, user or potential user of the subject property by making application in writing to the Planning Division, on such forms as may be designated from time to time. Each applicant shall reimburse the City for all costs incurred in processing the application.
 2. The application shall include twelve (12) copies of a site plan, drawn at a common, legible scale. The scale used shall be no smaller than one inch equals one hundred feet (1" = 100').
 3. The maximum size of plans shall be thirty inches by forty inches (30" x 40"), and the minimum size shall be eleven inches by seventeen inches (11" x 17").
 4. The site plan shall contain the following minimum information and any other items which the Planning Division considers necessary for the proper consideration of the application. The Planning Division may waive inclusion of one or more of the items if not relevant to an individual application:
 - a. General Information:
 - (1) Name of project/development;
 - (2) Location of project/development;
 - (3) Location map, including area within one-half ($1/2$) mile of site;
 - (4) Name and mailing address of developer/owner;
 - (5) Name and mailing address of engineer/architect;
 - (6) Date of plan preparation;
 - (7) North point indicator; and
 - (8) Scale.

b. Site Information:

- (1) Boundary line of property with dimensions;
- (2) Location, identification and dimensions of existing and proposed:
 - (A) Topographic contours at a minimum interval of two feet (2'); fill quantities, dredging, filling, grading, channel improvements and storage of materials;
 - (B) Adjacent streets and street rights of way;
 - (C) On-site streets and street rights of way;
 - (D) Utilities and utility rights of way and easements, including electric, natural gas, telephone, water (domestic and fire) and sewer (sanitary and storm);
 - (E) Existing and proposed buildings and structures;
 - (F) Parking facilities;
 - (G) Water bodies, flood fringe, flood plain and floodway, if applicable, and relationships and impacts in the flood plain;
 - (H) Sidewalks, walkways, driveways, loading areas and docks and bikeways;
 - (I) Fences and retaining walls;
 - (J) Exterior signs;
 - (K) Exterior refuse collection areas;
 - (L) Exterior lighting;
 - (M) Landscaping, including species, sizes and locations;
 - (N) Traffic flow on-site;
 - (O) Traffic flow off-site;
 - (P) Transit facilities and movements; and
 - (Q) Recreation facilities;
- (3) Cross-sections of property as required by the Director of Community Development;
- (4) Number of employee and nonemployee parking spaces existing and proposed and total square footage of each; and
- (5) Site statistics, including site square footage, percent of site coverage, dwelling unit density and percent of park or open space.

c. Building Information:

- (1) Elevation drawings of all proposed structures and buildings, with dimensions;
- (2) Preliminary floor plans for all stories of proposed structures and buildings, with room usage labeled and dimensions;
- (3) Elevation and height above mean sea level of all floors and the roof, floodproofing measures, and construction materials;
- (4) Gross square footage of existing and proposed structures and buildings;
- (5) Exterior finish materials; and
- (6) Type of construction.

E. Application Review Procedure:

1. Planning Commission Review:

- a. The application for site plan approval shall be referred to the Planning Commission for review and recommendation and to other commissions as directed by the Planning Division. In the case of flood plain applications, the City Engineer shall evaluate the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection and other technical matters.
- b. The Planning Commission shall consider the application at its next regular meeting. Notice of the meeting shall be mailed to all owners of abutting property at least ten (10) days prior to the meeting date. Failure of the property owners to receive this notice shall not invalidate the proceedings.
- c. The Commission shall make a recommendation to the City Council on the site plan within sixty (60) days of the date of review, unless an extension of the review period has been agreed to by the applicant.

2. City Council Action:

- a. The City Council, upon review of the application and recommendations submitted, and upon finding that the proposed site plan is consistent with the Comprehensive Plan and in conformity with the City's development standards and the intent of this Title, may grant approval of the site plan or grant approval subject to conditions or changes.
- b. In the case of flood plain applications, the City Council shall also determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard. Such decisions shall be given within sixty (60) days of receipt of the Planning Commission recommendation, unless an extension of the review period has been agreed to by the applicant.

F. Expiration Of Approval: Site plan approval shall expire one year after it has been issued, unless construction of the use for which the permit has been granted has begun. If construction is not started within one year, the developer may file a written request with the Planning Division for a one year extension. The Director of Community Development may grant the extension of he/she determines that construction will be commenced within the one year extension period. Only one such extension may be granted.

G. Amendments To Approved Site Plans: The Director of Community Development may approve minor changes in the location, siting and heights for buildings and structures or in the landscape plan, if required for engineering or other circumstances not foreseen at the time the final plan was approved. All other changes shall be reviewed and approved according to the procedures for the original site plan approval.

H. Guarantees Of Performances:

1. Before a building permit is issued, the owner shall file a performance bond or an irrevocable letter of credit or place in escrow an amount equal to one hundred twenty five percent (125%) of the estimate of the Director of Community Development or City Engineer of the cost of installation of all landscaping, sidewalks, grading, screening, lighting, recreation facilities, streets and utility extensions or any other improvements required to be furnished or installed by the owner.
2. Upon completion of the various work items, the owner shall apply to the City for a final inspection. If the City finds that all installations meet the requirements of the approved plans and specifications, the security agreement shall be released. A security agreement for landscaping, however, shall be effective and held for one year after completion of the work, in order to ensure that such landscaping will survive. If the improvements are not completed as proposed within the established time limit, the City may proceed to complete such installation and seek reimbursement of its costs from the security agreement.

I. Installation Of Landscaping, Open Space And Recreation Facilities:

1. All landscaping, screening, common open space or recreation facilities shall be installed prior to the issuance of a certificate of occupancy for any building. If seasonal weather conditions present practical difficulties in the installation or completion of the landscaping, an extension of not more than six (6) months may be granted, in writing, by the Director of Community Development.
2. For projects in which construction will be in phases, the installation and completion of all landscaping, screening, common open space or recreation facilities must proceed at the same rate as the construction of dwelling units or other structures. At

least once every three (3) months during construction, the Director of Community Development shall review all of the building permits issued for the project and examine the construction which has taken place on the site. A written report of these inspections shall be placed on file at the City Hall. If it shall be found that the rate of construction of structures is greater than the rate at which the landscaping and other facilities have been provided, the Director of Community Development shall forward the report to the Council, which may suspend the issuance of additional building permits for the site until such additional landscaping or other facilities have been provided. (1971 Code § 28-18.2; amd. 2000 Code)

11-2-5: ENVIRONMENTAL ASSESSMENT WORKSHEETS AND IMPACT STATEMENTS:

A. Requirements Generally:

1. No building permit, site plan approval, variance, conditional use permit or ordinance amendment shall be approved prior to review by the Director of Community Development to determine the necessity for completion of an environmental assessment worksheet (EAW) or environmental impact statement (EIS).
2. Procedures for EAWs and EISs are set forth in the Minnesota Environmental Quality Board (EQB) Regulations for the Environmental Review Program, 1987 edition and amendments thereto (6 MCAR sections 3.021 through 3.056), which are on file in the office of the City Clerk.
3. Environmental reviews (EAWs and EISs) shall be conducted as early as practicable in the development of a proposed project. Time delays in the normal permit process caused by the filing and review of the EAW or EIS shall not be considered part of the permit approval time requirements within this Title. Such delays shall be considered as additional required time for each required permit. The permit process for the proposed project may be continued from the point it was interrupted by the EAW/EIS process. No final decision on granting a permit or other approval required to commence the project may be issued until the EAW/EIS process is completed.

B. Environmental Assessment Worksheets (EAW):

1. Purpose: The purpose of an environmental assessment worksheet (EAW) is to rapidly assess, in a worksheet format, whether or not a proposed action has the potential for significant environmental effects.
2. Mandatory EAWs: The preparation of an EAW shall be mandatory for those projects that meet or exceed the thresholds contained in the State Environmental Review Program Regulations (6 MCAR section 3.038).
3. Discretionary EAWs: A discretionary EAW may be required when it is determined that, because of the nature or location of a proposed project, the project may have the potential for significant environmental effects. The Director of Community Development may require the preparation of a discretionary EAW in the following situations; providing, that the project is not specifically exempted by 6 MCAR section 3.041:
 - a. Where a project has the potential for significant impact on areas of unique wildlife habitat, woodlands, historic sites, steep slopes, wetlands, soils unsuitable for development, surface water bodies, natural watercourses or any other unique or significant environmental features as noted in the Comprehensive Plan or revealed by a site inspection;
 - b. When it is determined, pursuant to the petition process of 6 MCAR section 3.026, that a project may have the potential for significant effects; or
 - c. When the proposer wishes to initiate environmental review to determine if a project has the potential for significant environmental effects.
4. EAW Procedures:
 - a. Preparation And Distribution:
 - (1) If the Director of Community Development determines that an EAW shall be prepared, the proposer of the project shall submit an application for environmental review along with the EAW prepared in draft form. The applicant shall agree in writing, as a part of the application, to reimburse the City prior to the issuance of any permits for all reasonable costs, including legal and consultant fees, incurred in preparation and review of the EAW.

- (2) If sufficient detailed information is not made available from the project proposer, or if the Director of Community Development cannot complete the EAW because of time or workforce constraints, the Director of Community Development may utilize a professional consultant to gather necessary information and complete the worksheet.
 - (3) Within thirty (30) days of submission of the application for environmental review, the Director of Community Development shall review the draft EAW for completeness and accuracy, add supplementary material if necessary and approve the EAW for distribution.
 - (4) If the environmental assessment worksheet is ordered to be prepared pursuant to the petition process of 6 MCAR section 3.026F, the EAW must be prepared within twenty five (25) working days of the date of that decision, unless an extension of time is agreed upon by the proposer of the project and the Director of Community Development.
 - (5) Within five (5) days of approving the EAW for distribution, the Director of Community Development shall distribute copies of the EAW to the Environmental Quality Board (EQB) for publication of the notice of availability of the EAW in the EQB Monitor. Copies shall be distributed at the same time to the official EAW distribution list maintained by the EQB staff. Within five (5) days of submission of the EAW to the EQB, the Director of Community Development shall provide a press release to the City's official newspaper, containing notice of availability of the EAW for public review.
- b. Review By Planning Commission: During the thirty (30) day comment period that follows publication of the notice of availability of the EAW in the EQB Monitor, the Planning Commission shall review the EAW. The Commission shall make recommendations to the City Council regarding potential environmental impacts that may warrant further investigation before the project is commenced and the need for an environmental impact statement (EIS) on the proposed project.
- c. Decision By City Council:
- (1) The City Council shall make its decision on the need for an environmental impact statement (EIS) for the proposed project at its first meeting more than ten (10) days but not more than thirty (30) days after the close of the comment period. The Council shall base its decision on the need for an EIS and the proposed scope of an EIS, on the information gathered during the EAW process and on the comments received on the EAW. In deciding whether a project has the potential for significant environmental effects, the following factors shall be considered:
 - (A) Type, extent and reversibility of environmental effects;
 - (B) Cumulative potential effects of related or anticipated future projects;
 - (C) The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority; and
 - (D) The extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the project proposer, or of EISs previously prepared on similar projects.
 - (2) Within the five (5) days of the Council's decision on the need for an EIS, notice shall be provided to all persons on the EAW distribution list, to all persons who commented in writing during the thirty (30) day comment period, to the EQB staff for publication of the decision in the EQB Monitor and to any person upon written request.

C. Environmental Impact Statements (EIS):

1. Purpose: The purpose of an environmental impact statement (EIS) is to provide information for governmental units, the proposer of the project and other persons to evaluate proposed projects which have the potential for significant environmental effects, to consider alternatives to the proposed projects and to explore methods for reducing adverse environmental effects.
2. Mandatory EISs: An EIS shall be prepared for any project that meets or exceeds the thresholds of any of the EIS categories listed in 6 MCAR section 3.039.
3. Discretionary EISs: An EIS shall be prepared when the City Council determines that, based on the environmental assessment worksheet (EAW) and any comments or additional information received during the EAW comment period, the proposed project has the potential for significant environmental effects; or when the City Council or the proposer of the project agrees that an EIS should be prepared.
4. EIS Procedures:
 - a. All projects requiring an EIS must have an environmental assessment worksheet (EAW) on file with the City, which will be used to determine the scope of the EIS.

- b. All EISs shall be prepared according to the procedures and requirements of the State Environmental Review Program Rules, 6 MCAR sections 3.029 through 3.033.
- c. The costs of preparation of an EIS shall be assessed to the project proposer in accordance with 6 MCAR sections 3.049 through 3.054.
- d. Any proposal, project or use on which an EIS is required shall be considered a "conditional use" as defined in this Title and shall comply with the procedure for approval of a conditional use permit. Mitigating recommendations of the EIS shall be incorporated as conditions of issuance on the conditional use permit. (1971 Code § 28-18.1; amd. 2000 Code)

11-2-6: APPEALS:

- A. Planning Commission As Board Of Zoning Appeals; Authority: The planning commission is constituted of the board of zoning appeals and shall determine, in harmony with the general purpose of this title and the comprehensive plan, by resolution, all appeals from any order, requirement, permit or decision made by the director of community development under this title, and from any interpretation of the text of this title, or any determination by the director of community development as to the location of the boundary of a zoning district as shown on the zoning map. (1971 Code § 28-11)
- B. Filing Of Appeal: At any time within ten (10) working days after a decision of the director of community development under the provisions of this title, except in connection with prosecutions for violations thereof, the applicant or other person or officers of the city affected thereby may appeal to the planning commission by filing a written notice, stating the specific grounds upon which the appeal is made. (Ord. 746, 10-15-2003)
- C. Board Hearing; Notice: The planning commission, as the board of appeals, may conduct such hearings as it may deem advisable and shall prescribe what notice, if any, shall be given of such hearing.
- D. Council Hearing:
 - 1. The council may review and revise any decision of the board of zoning appeals. In reviewing such decisions, the council shall set a date for hearing thereon, not earlier than seven (7) days after, nor more than thirty (30) days after the decision is made by the board of zoning appeals.
 - 2. Notice of the hearing before the council shall be mailed to all appellants. In all cases involving determination of district boundary lines or interpretation of the text of this title, ten (10) days' published notice of hearing in the official newspaper shall be given. (1971 Code § 28-11)

11-2-7: VARIANCES:

- A. Authority And Purpose: The council may grant variances from the strict application of the provisions of this title and impose conditions and safeguards in the variances so granted in cases where there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this title.
- B. Application For Variance: An application for a variance shall be filed with the city and shall state the exceptional conditions and the peculiar and practical difficulties claimed as a basis for a variance. The information necessary for variances shall be:
 - 1. A scaled plot plan, with north indicated, of the proposed site, showing all dimensions as contained in the description indicated in the application and all the structure(s) setback details.

- C. **Public Hearing Notice Requirements:** The city shall hold at least one public hearing, affording an opportunity for all parties interested to be heard, and shall give not less than ten (10) days' nor more than thirty (30) days' notice of the time and place of such hearing, published in the designated legal newspaper for the city. Such notice shall also contain a description of the land and the requested variance. At least ten (10) days before the hearing, an identical notice shall be mailed to the owner and to each of the property owners of record a minimum distance of five hundred feet (500') of the outside boundaries of the land in question. Failure of the city to mail the notice or failure of the property owners to receive the notice shall not invalidate the proceedings.
- D. **Consideration By Planning Commission; Recommendation:** Before authorization of any variances, the request therefor shall be referred to the planning commission, and for its recommendation to the city council for the granting of such variance from the strict application of the provisions of this title so as to relieve such practical difficulties to the degree considered reasonable without impairing the intent and purpose of this title and the comprehensive plan. The planning commission shall recommend such conditions related to the variance, regarding the location, character and other features of the proposed building, structure or use, as it may deem advisable. The planning commission shall make its recommendation within sixty (60) days after the request is referred to it, unless the applicant requests, in writing, that an extension of time for review be granted by the planning commission.
- The planning commission may recommend a variance from the strict application of the provision of this title, if they find that:
1. The variance is in harmony with the purposes and intent of this title.
 2. The variance is consistent with the comprehensive plan.
 3. The proposal puts the property to a reasonable use.
 4. There are unique circumstances to the property not created by the landowner.
 5. That the conditions upon which an application for a variance is based are unique to the parcel of land for which the variance is sought and are not applicable, generally, to other property within the same zoning classification.
 6. That the purpose of the variance is not based exclusively upon a financial hardship.
 7. That the granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the neighborhood in which the parcel of land is located.
 8. That the proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety.
- E. **Consideration By Council; Issuance:** In considering applications for variances under this title, the council shall consider the advice and recommendations of the planning commission. If the council shall determine that the special conditions applying to the structure or land in question are peculiar to such property or immediately adjoining property and do not apply generally to other land or structures in the district in which such land is located, that the granting of the application is necessary for the applicant and that granting the proposed variance will not in any way impair health, safety, comfort or morals or in any other respect be contrary to the intent of this title and the comprehensive plan, and that the granting of such variance will not merely serve as a convenience to the applicant, but is necessary to alleviate demonstrable practical difficulty, the council may grant such variances and impose conditions and safeguards therein.
- F. **Denial Of Variances:** Variances may be denied by motion of the council, and such motion shall constitute a finding and determination that the conditions required for approval do not exist. No application for a variance which has been denied wholly or in part shall be resubmitted for a period of six (6) months from the date of such order of denial, except on grounds of new evidence or proof of change of conditions found to be valid by the planning commission or council.
- G. **Action Without Recommendation Of Planning Commission:** If no recommendation is transmitted by the planning commission within sixty (60) days after referral of the application for variance to the planning commission, the council may take action without further awaiting such recommendation, unless the applicant requests in writing that an extension of time be granted.

- H. Termination, Invalidation Of Variance: A violation of any condition set forth in granting a variance shall be a violation of this title and shall automatically terminate the variance. A variance shall become invalid one year after it was granted, unless made use of within the year or such longer period prescribed by the council. (Ord. 895, 9-7-2011)

11-2-8: AMENDMENTS:

- A. Purpose: The purpose of this section is to permit the city council to amend this title by changing zoning district boundaries and regulations within any district.
- B. Initiation: Proceedings for amendment of this title shall be initiated by:
1. A petition of the owner or owners of record of the actual property, the zoning of which is proposed to be changed;
 2. A recommendation of the planning commission; or
 3. By action of the council.
- C. Application For Amendment: All applications for amendments which are initiated by the petition of the owners of property shall be filed in the office of the director of community development and shall be accompanied by six (6) copies of a set of plans and graphics. Such plans and graphics may contain the following information as available, and folded, where necessary, to the size of eight and one-half inches by eleven inches (8¹/₂" x 11"). The information necessary for rezoning shall be:
1. A location map showing the location of the proposed site in relation to the city and also indicating the locations of buildings and uses within five hundred feet (500') of the proposed site.
 2. A scaled plot plan, with north indicated, of the proposed site, showing all site dimensions as contained in the description indicated in the application.
 3. All types of proposed uses.
 4. An abstractor's certificate showing the names and addresses of all property owners within five hundred feet (500') of the outer boundaries of the property in question.
 5. Any plans for the modification of standards set by this title or any ordinance of the city.
 6. Drainage plan of the proposed site.
 7. For multiple-family district rezonings, the applicant shall also provide:
 - a. Complete details of the proposed site development, including the location of buildings, driveways, parking spaces, dimensions of lots and proposed buildings; and
 - b. Preliminary drawings including perspective sketches of the structures in detail sufficient to determine exterior wall finishes and design.
- D. Public Hearing; Notice Requirements: The Planning Commission shall hold at least one public hearing, affording an opportunity for all parties interested to be heard, and shall give not less than ten (10) days' nor more than thirty (30) days' notice of the time and place of such hearing, published in the designated legal newspaper for the City. Such notice shall also contain a description of the land and the proposed changes in zoning. At least ten (10) days before the hearing, the Planning Commission shall mail an identical notice to the owner and to each of the property owners of record within five hundred feet (500') of the outside boundaries of the land proposed to be rezoned. Failure of the Planning Commission to mail the notice or failure of the property owners to receive the notice shall not invalidate the proceedings. The City Council may waive the mailed notice requirements above in

connection with a Citywide zoning initiated by the Planning Commission or the City Council.

- E. Action By Planning Commission: Within sixty (60) days after the date of receipt of the petition by the Director of Community Development, the Planning Commission shall make a written report to the City Council, stating its findings and recommendations, unless the applicant requests in writing that an extension of time for review be granted by the Planning Commission.
- F. Action By Council:
1. The Council may hold a hearing within thirty (30) days after the receipt of the report and recommendations from the Planning Commission, if deemed necessary. If the Planning Commission fails to make a report within the time period as set forth in subsection E of this Section, the Council shall hold a public hearing within thirty (30) days after the expiration of such period. Failure to receive a report from the Planning Commission as herein provided shall not invalidate the proceedings or actions of the Council. The Council shall give not less than ten (10) days' nor more than thirty (30) days' notice of the time and place of such hearing, published in the designated legal newspaper, and such notice shall contain a description of the land and the proposed change in zoning.
 2. At least ten (10) days before the hearing, the Council shall order the Clerk to mail an identical notice to the owner and to each of the property owners of record within five hundred feet (500') of the outside boundaries of the land proposed to be rezoned. Failure to mail the notice or failure of the property owners to receive the notice shall not invalidate the proceedings.
 3. At the time of the hearing, the Council may take final action upon the application or it may continue the hearing from time to time for further investigation and hearing. The Council may also request further information and reports from the Planning Commission. (1971 Code § 28-13)
 4. Amendments changing the boundaries of any district, changing the regulations of any existing district, or creating any new zoning district, shall require a four-fifths ($\frac{4}{5}$) affirmative vote of the Council for adoption. (Ord. 680, 6-21-2000)
- G. Referral To Planning Commission: The Council shall not rezone any land or area in any zoning district or make any other proposed amendment to this Title without having first referred it to the Planning Commission for their consideration and recommendation.
- H. Denial Of Rezone: Rezoning applications may be denied by motion of the Council, and such motion shall constitute a finding and determination that the proposed rezoning is not in the best interest of the physical development of the City. No application which has been denied wholly or in part shall be resubmitted for a period of six (6) months from the date of such order of denial, except on grounds of new evidence or proof of change of conditions found to be valid by the Planning Commission. (1971 Code § 28-13)

11-2-9: CONDITIONAL USE PERMITS:

- A. Purpose And Interpretation: In order to give the district use regulations of this Title the flexibility necessary to achieve the objectives of the Comprehensive Plan, in certain districts conditional uses are permitted, subject to the granting of a use permit. Conditional uses include those uses generally not suitable in a particular zoning district, but which may, under some circumstances, be suitable. When such circumstances exist, a conditional use permit may be granted. The permit shall be issued for a particular use and not for a particular person or firm.
- B. Conditions Imposed; Performance Bond:
1. Conditions may be applied to issuance of the permit, and a periodic review of the permit may be required. Such conditions for conditional use permits for land designated to be flood plain may include, but are not limited to, the following:
 - a. Modification of waste treatment and water supply facilities;

- b. Limitations on period of use, occupancy, and operation;
 - c. Imposition of operational controls, sureties, and deed restrictions;
 - d. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures;
 - e. Floodproofing measures, in accordance with the State Building Code and this Title. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associate flood factors for the particular area.
2. A performance bond of sufficient duration and amount to complete any of the conditions set forth in a permit may be required and, if so, shall be filed with the Director of Community Development prior to issuance of a building permit.
- C. Application For Permit: An application for a conditional use permit shall be filed with the Director of Community Development and shall be accompanied by twelve (12) copies of a site plan meeting all of the requirements of Section [11-2-4](#) of this Chapter.
- D. Public Hearing By Planning Commission: The Planning Commission shall hold at least one public hearing, giving the same public notice and making its written report to the City Council as required for amendments in subsections [11-2-8D](#) and E of this Chapter.
- E. Action By Council: Action on conditional use permit applications shall be taken by the City Council by the same procedures as required for amendments by subsection [11-2-8F](#) of this Chapter; except, that the granting of a conditional use permit shall require a majority vote of the City Council.
- F. Criteria For Issuance Of Permit: In granting a conditional use permit, the City Council shall find that:
1. The use will be in conformity with the City's Comprehensive Plan and with the purpose, intent and applicable standards of this Title.
 2. The use shall be located, designed, maintained and operated to be compatible with the existing or intended character of that zoning district in which it is located.
 3. The use shall not depreciate values of surrounding property.
 4. The use shall not be hazardous, detrimental or disturbing to present and potential surrounding land uses due to noises, glare, smoke, dust, odor, fumes, water pollution, vibration, general unsightliness or other nuisances.
 5. The use shall generate only minimal vehicular traffic on local streets as defined by the transportation element of the Comprehensive Plan. The use shall not create traffic congestion, unsafe access or parking needs that will cause inconveniences to the adjoining properties.
 6. The use shall be served adequately by essential public services, such as streets, police, fire protection and utilities.
 7. The use shall not create excessive additional requirements at public cost for public facilities and services and shall not be detrimental to the economic welfare of the City.
 8. The use shall preserve and incorporate the site's important natural and scenic features into the development design.
 9. The use shall cause minimal adverse environmental effects.
 10. The use shall not adversely affect the potential development of adjacent vacant land.
 11. In the case of flood plain applications, the following items shall be considered in addition to the aforementioned criteria:
 - a. The danger to life and property due to increased flood heights or velocities caused by encroachments;
 - b. The danger that materials may be swept onto other lands or downstream to the injury of others or that they may block bridges, culverts or other hydraulic structures;

- c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions;
- d. The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner;
- e. The requirements of the facility for a water front location;
- f. The availability of alternative locations not subject to flooding for the proposed use;
- g. The compatibility of the proposed use with existing flood plain development and flood plain development anticipated in the foreseeable future;
- h. The relationship of the proposed use to the Comprehensive Plan and flood plain management program for the area;
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
- k. Such other factors which are relevant to the purposes of locating the proposed use in the flood plain.

G. Revocation Of Permit: A violation of any condition set forth in a conditional use permit shall be a violation of this Title and shall constitute grounds for revocation of the conditional use permit by the City Council.

H. Expiration Of Permit: A conditional use permit shall become void one year after it was granted, unless made use of within the year, or such longer period as the City Council may provide. (1971 Code § 28-14)

11-2-10: INTERIM CONDITIONAL USE PERMITS:

A. Procedures: Procedures for application for interim conditional use permits, the public hearing before the Planning Commission and action by the City Council shall be the same as provided for other conditional use permits in Section [11-2-9](#) of this Chapter.

B. Criteria For Issuance: In addition to the criteria listed in subsection [11-2-9F](#) of this Chapter, the criteria for granting interim conditional use permits shall be as follows:

1. The period of time for which the interim conditional use permit is to be granted will terminate before any adverse effects are felt upon adjacent property.
2. There shall be adequate assurance that the property will be left in suitable condition after the use is terminated.
3. The use conforms to the zoning regulations.
4. The date or event that will terminate the use can be identified with certainty.
5. 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.
6. The user agrees to any conditions that the governing body deems appropriate for permission of the use. (Ord. 610, 2-15-1995)

C. Listing Of Temporary Uses: In all districts, interim conditional uses shall be as follows: (Ord. 610, 2-15-1995; amd. 2000 Code)

Any use, in the event there is a threatened involuntary conversion of a parcel of land within a certain time; provided, that all owners, tenants and lessees waive all rights to relocation benefits and assistance or compensation for leasehold improvements

installed pursuant to the conditional use, by written agreement satisfactory to the condemning authority.

Blacktop or crushing plants for roadway materials.

Housing development promotional signs.

Stockpiling of materials.

Temporary structures. (Ord. 610, 2-15-1995)

11-2-11: FILING FEES; DEPOSITS:

In addition to the filing fees as established by the city council ordinance from time to time, the applicant shall deposit with the city an amount of cash determined by the director of community development necessary to reimburse city staff and consultant costs for the review of such application. If the cash deposited at the time of the filing of the application is not sufficient to cover review costs, the city shall cease further processing of the application, and the applicant shall be required to deposit additional cash as determined by the director of community development. Such cash shall be placed in an escrow account, and the city shall refund any money deposited and not expended within ninety (90) days after final action on the application by the city council. The city shall not pay interest on such escrow accounts. (Ord. 783, 2-15-2006)

11-2-12: VIOLATION; PENALTY:

Any person, firm, corporation or voluntary association which violates or refuses to comply with any of the provisions of this title shall be guilty of a misdemeanor and, upon conviction, shall be punishable as provided in section [1-4-1](#) of this code. Each day that a violation is permitted to exist shall constitute a separate offense. (1971 Code § 28-8; amd. 2000 Code)

Chapter 3 GENERAL ZONING PROVISIONS

11-3-1: NONCONFORMING USES AND STRUCTURES:

A. Continuation Of Nonconformity: Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

1. The nonconformity or occupancy is discontinued for a period of more than one year; or
2. Any nonconforming use is destroyed by fire or other peril to the extent of greater than fifty percent (50%) of its market value, and no building permit has been applied for within one hundred eighty (180) days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body; or
3. A conditional use permit is issued by the city. (Ord. 920, 11-6-2013)

B. Subsequent Use Must Be Conforming: Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. A municipality may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This subsection does not prohibit a municipality from enforcing an ordinance that applies to adults only bookstores, adults only theaters, or similar adults only businesses, as

defined by ordinance. (Ord. 773, 6-15-2005)

- C. Expansion Of Nonconforming Uses And Structures: The city may, by conditional use permit, allow for an expansion of a legal nonconformity, including the lawful use or occupation of land or premises. The city may impose reasonable conditions in order to protect the health, safety and general welfare of the community or adjacent properties. (Ord. 920, 11-6-2013)

11-3-2: LOTS:

- A. Combining Lots; Restrictive Covenants: When it is necessary to combine two (2) or more lots of record or portions of lots of record to create a buildable lot meeting the requirements of this title for lot area, and prior to the issuance of a building permit, the owner of the property shall record a restrictive covenant prohibiting the separate conveyance of one or more of the lots or portions of lots, until such time as the land may be rezoned to a classification in which the lot or portion of lot would meet the minimum lot area requirement.
- B. Existing Lots Of Record: An existing lot of record in an R residential district or AG agricultural district may be used for a single-family detached dwelling; provided, that the following conditions are met:
1. The lot shall be a minimum of one-half ($1/2$) acre in size or seventy percent (70%) of the minimum lot size required by the zoning district in which the lot is located, whichever is less.
 2. It has been demonstrated that a proper and adequate sewage disposal system can be installed, with a minimum separation of seventy five feet (75') between all private wells and sewage disposal systems.
 3. All applicable setback requirements of the district within which the lot is located shall be met.
 4. All applicable requirements of any overlay district within which the lot is located (including the floodway and flood fringe and critical area overlay districts) shall be met.
 5. The lot shall have a minimum of forty feet (40') of frontage on an improved public street or an approved private street. (1971 Code § 28-20)
- C. Street Frontage: No lot shall contain any building used for residential, business or industrial use unless it abuts for at least forty feet (40') on a public street. (1971 Code § 28-29)

11-3-3: ACCESSORY STRUCTURES:

In all zoning districts, accessory structures shall be subject to the following performance standards:

- A. Construction:
1. Accessory structures are prohibited from being taller than or greater in footprint than the principal structure. Building permits are required for all permanent accessory structures. Temporary accessory structures including tents that consist of metal or fiberglass poles, metal hoops and PVC, cotton or nylon fabric covering materials are prohibited except as permitted in conjunction with an approved conditional use, permitted camping area, or special event.
 2. In all zoning districts the exterior finishes of accessory structures sized less than one hundred sixty (160) square feet shall be constructed of quality weather resistant materials consisting of wood, metal, or engineered composite materials that are similar to the color palette of the principal structure.

3. In all zoning districts the exterior finishes of accessory structures sized greater than one hundred sixty (160) square feet shall be constructed of quality weather resistant materials in accordance with table 1 of this section:

TABLE 1
ACCESSORY STRUCTURE EXTERIOR MATERIAL STANDARDS

Property Classification	Exterior Finish
AG-1	Wood, metal, split face block, vinyl lap, or engineered cementitious materials
AG-2	Wood, metal, split face block, vinyl lap, or engineered cementitious materials that are similar to the color palette of the principal structure
R-1	Wood, metal, split face block, vinyl lap, or engineered cementitious materials that are similar to the color palette of the principal structure
R-2	The same design, material, and color palette of the principal structure
UR	The same design, material, and color of the principal structure
R-2.5	The same design, material, and color of the principal structure
R-2A	The same design, material, and color of the principal structure
R-2B	The same design, material, and color of the principal structure
R-2C	The same design, material, and color of the principal structure
R-2D	The same design, material, and color of the principal structure
R-2E	The same design, material, and color of the principal structure
R-2F	The same design, material, and color of the principal structure
R-3	The same design, material, and color of the principal structure
R-4	The same design, material, and color of the principal structure
R-3 and R-4 non-MUSA, 3 acres or greater	Wood, metal, split face block, vinyl lap, or engineered cementitious materials that are similar to the color palette of the principal structure
R-5	The same design, material, and color of the principal structure
R-6	The same design, material, and color of the principal structure
PUD	Site plan review
All properties meeting agricultural definitions	Wood, metal, split face block, vinyl, or engineered cementitious materials
Commercial and industrial	Site plan review

(Ord. 903, 5-16-2012)

- B. Number And Size: The number and size of accessory structures permitted on any lot shall be determined by the following table (table 2 of this section). In addition to the accessory structures listed in table 2 of this section, one accessory storage structure, up to one hundred sixty (160) square feet in size, and swimming pools meeting the criteria established in [title 9, chapter 11](#) of this code shall be permitted on each lot.

TABLE 2
ACCESSORY STRUCTURE SIZE AND NUMBER STANDARDS

Property Classification	Number	Total Size
AG-1	2	2,500 sq . ft.
AG-2	2	2,500 sq . ft.
R-1	2	2,500 sq . ft.
R-2	2	2,000 sq . ft.
UR	1	1,200 sq . ft.
R-2.5	1	1,200 sq . ft.
R-2A	1	780 sq . ft.
R-2B	1	780 sq . ft.
R-2C	1	780 sq . ft.
R-2D	1	480 sq . ft.
R-2E	n/a	n/a
R-2F	n/a	n/a
R-3	1	1,000 sq . ft.
R-4	1	850 sq . ft.
R-3 and R-4 non-MUSA, 3 acres or greater	2	2,500 sq . ft.
R-5	Site plan review	576 sq . ft. per unit
R-6	Site plan review	576 sq . ft. per unit
PUD	1	1,000 sq . ft.
All properties meeting agricultural definitions	Unlimited	300 sq . ft. per acre
Commercial and industrial	Site plan review	Site plan review

C. Setbacks: Setbacks for accessory structures shall be determined by the following table (table 3 of this section):

TABLE 3
ACCESSORY STRUCTURE SETBACK REGULATIONS

Property Classification	Side Yard	Rear Yard	Front Yard
AG-1	25 feet	50 feet	Behind principal structure
AG-2	25 feet	50 feet	Behind principal structure
R-1	20 feet	50 feet	Behind principal structure
R-2	20 feet	20 feet	Behind principal structure
UR	6 feet	15 feet	Behind principal structure
R-2.5	6 feet	15 feet	Behind principal structure
R-2A	10 feet	15 feet	Behind principal structure
R-2B, R-2C, and R-2D	15 feet	15 feet	Behind principal structure

R-2A, R-2B, R-2C, and R-2D adjoining an alley	20 feet	20 feet	Behind principal structure
R-2E and R-2F	50 feet	50 feet	Behind principal structure
R-3	6 feet	10 feet	Behind principal structure
R-4	6 feet	10 feet	Behind principal structure
R-5	Site plan review	Site plan review	Site plan review
R-6	Site plan review	Site plan review	Site plan review
PUD	6 feet	15 feet	Behind principal structure
Commercial and industrial	Not in required yards	Not in required yards	Behind principal structure

D. Height: Height of accessory structures shall be determined by the following table (table 4 of this section):

TABLE 4
ACCESSORY STRUCTURE HEIGHT STANDARDS

Property Classification	Maximum
AG-1	20 feet
AG-2	20 feet
R-1	20 feet
R-2	20 feet
UR	18 feet
R-2.5	18 feet
R-2A, R-2B, R-2C, R-2D, R-2E, R-2F	18 feet
R-3	18 feet
R-4	18 feet
R-5	18 feet
R-6	18 feet
PUD	18 feet
All districts meeting agricultural definitions	Unlimited
Commercial and industrial	20 feet

E. Miscellaneous Requirements:

1. Accessory structures greater than that permitted in subsections B and D of this section may be approved by conditional use permit if in compliance with section [11-2-9](#) of this title and the following standards are met:
 - a. There is adequate setback, screening, or topography changes that buffer the proposed structure from adjacent public roadways or adjacent properties.
 - b. The proposed building height or building square footage does not exceed the ordinance criteria as specified in subsection B or D of this section by more than twenty percent (20%) within the metropolitan urban service area (MUSA) and forty percent

(40%) outside the MUSA.

- c. Setback distances are increased five feet (5') for each one foot (1') of height or one hundred (100) square feet of size increase or fraction thereof.
 - d. If future site development renders the structure nonconforming, the building must be brought into compliance or removed as a condition of the development approval.
2. No accessory structures shall be constructed on any lot prior to the time of construction of the principal structure to which it is accessory unless the building is accessory to the ongoing agricultural land use.
 3. No accessory structure shall be located nearer the front lot line than is the principal building on the lot, except where the lot area of the site is five (5) acres or greater. If the lot area is five (5) acres or greater, the principal structure setbacks of the applicable zoning district will apply.
 4. No tent, trailer, camper, motor home or accessory building shall at any time be used as a habitable building. No tent, trailer, camper, or motor home shall at any time be used as a storage building.
 5. The required setback of accessory buildings or structures from the principal structure shall be determined by the building code as adopted by the city.
 6. When a property is developed and an existing accessory structure made nonconforming, the structure must be brought into conformance as part of the development approval or removed from the property.
 7. At-grade structures such as basketball courts, tennis courts, patios, and dog kennels shall meet the established accessory structure setbacks for the appropriate districts. These structures are not included in the total allowable accessory structure square footage as regulated in subsection B of this section, as long as the total impervious surface of the lot does not exceed thirty five percent (35%) of the rear area of the lot measured from the rear building line of the house to the rear lot line.
 8. Swimming pools and surrounding apron/decks shall meet the established accessory structure setbacks for the appropriate districts. These structures are not included in the total allowable accessory structure square footage as regulated in subsection B of this section, as long as the total impervious surface of the lot does not exceed thirty five percent (35%) of the total rear area of the lot measured from the rear building line of the house to the rear lot line.

F. Garage Requirements In All Residential Districts:

1. Four hundred forty (440) gross square feet of garage space per dwelling unit in the R-1, R-2, R-2.5, R-3, R-4, R-5, and R-6 districts is required for single-family homes constructed or relocated after the adoption of this section, with the following exception: A minimum of one hundred (100) square foot storage shed per dwelling unit is required and must be constructed for licensed manufactured home parks in the Cottage Grove Estates subdivision and licensed manufactured homes in out lot A of Cottage Grove Estates addition. This does not prohibit construction of a garage so long as the storage shed does not exceed one hundred sixty (160) square feet.
2. Two hundred forty (240) gross square feet of garage space per dwelling unit in the R-3, R-4, R-5, and R-6 districts is required for attached dwellings constructed or relocated after the adoption of this section.
3. A minimum of five hundred seventy six (576) gross square feet of garage space per detached single-family dwelling in the R-2A, R-2B, and R-2C districts is required.
4. A minimum of four hundred eighty (480) gross square feet of garage space is required for each twin home unit and townhome unit in the R-2D and R-2E districts.
5. A minimum of three hundred (300) gross square feet of garage space is required for each multi-family dwelling unit in the R-2F district.
6. The garage floor area attached to the principal structure in any residential district must not exceed one thousand (1,000) square feet in gross floor area. (Ord. 796, 6-21-2006)

11-3-4: YARDS¹ AND OPEN SPACES:

- A. Minimum Yards And Open Spaces: No yard or other open space shall be reduced in area or dimension so as to make such yard or other open spaces less than the minimum required by this title, and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced.
- B. Satisfying Other Requirements Prohibited: No required yard or other open space allocated to a building or dwelling group shall be used to satisfy yard, other open spaces or minimum lot area requirements for any other building. (1971 Code § 28-22; amd. 2000 Code)
- C. Allowed Encroachments: The following shall not be considered encroachments on yard requirements:
1. All Yards:
 - a. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, mechanical devices, cornices, eaves, gutters, etc.; provided, that they do not extend more than two and one-half feet ($2\frac{1}{2}'$); and off street parking, except as hereinafter regulated.
 - b. Yard lights and nameplate signs for one- and two-family dwellings, lights for illuminating parking areas, loading areas or yards for safety and security purposes may be located to within five feet (5') of the front lot line; provided, that the direct source of light is not visible from the public right of way or adjacent residential property.
 - c. Notwithstanding any other provisions of this title, hedges may be permitted in any required yard or along the edge of any yard; provided, that no hedge in any front yard obstructs safe view from the driveway or street. (Ord. 849, 11-19-2008)
 2. Side Or Rear Yards Only: Bays not to exceed a depth of two feet (2'), nor to contain an area of more than twenty (20) square feet; fire escapes not to exceed a width of three feet (3'); fences and walls not to exceed a height of six feet (6') above grade and open, off street parking.
 3. Rear Yards Only: Balconies, accessory structures; except, that no structure shall be closer than eight feet (8') to the rear lot line; breezeways, detached outdoor picnic shelters and recreational equipment, except as regulated hereinafter.
 4. Side Yards Only: Accessory structures; except, that no accessory structure shall be closer than five feet (5') to any side lot line. (1971 Code § 28-22; amd. 2000 Code)
- D. Visibility:
1. An accessory structure in the rear forty percent (40%) of a corner lot abutting a local street must set back a minimum of thirty feet (30') from the property boundary line.
 2. An accessory structure in the front sixty percent (60%) of a corner lot zoned R-2A and abutting a local street must set back a minimum of twenty feet (20') from the property boundary line.
 3. An accessory structure in the front sixty percent (60%) of a corner lot zoned R-2B, R-2C, and R-2D and abutting a local street must set back a minimum of twenty five feet (25') from the property boundary line.
 4. A deck without a roof or walls that is on the side of the principal structure that abuts a street must be set back a minimum of fifteen feet (15') from the property boundary line. (Ord. 796, 6-21-2006)
 5. No structure shall be placed within twenty feet (20') of a public street right of way on a corner lot. (Ord. 827, 10-17-2007)
- E. Encroachment Over Easements: In no case shall any structure encroach on or over any easement of record. For the purposes of this subsection, a "structure" shall be defined as that which is built or constructed, an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner, excepting retaining walls, fences, swing sets or the like or other minor intrusions as approved by the director of community development. (1971 Code § 28-22; amd. 2000 Code)

11-3-5: FENCES AND WALLS:

A. General Requirements For All Types Of Fences Or Walls:

1. All chainlink fences must have a top rail, barbed ends must be placed at the bottom of the fence, and vertical posts must be spaced at intervals not to exceed ten feet (10').
2. All fences must be constructed in a substantial, workmanlike manner and of materials reasonably suited for the purpose for which the fence is proposed to be used.
3. All fences must be maintained in a condition of reasonable repair and must not remain in a condition of disrepair or constitute a nuisance.
4. No fence or wall may be closer than one foot (1') from a public walkway.
5. Razor wire fences are prohibited in all districts. Electric fences are prohibited in all districts, unless the property is used to fence livestock and has a minimum of five (5) acres of land. Barbed wire fences are prohibited in all districts, except for industrial zoned properties or properties used to fence livestock and has five (5) or more acres.
6. For fence regulations governing swimming pools, spas and hot tubs, see subsection [9-11-4C](#) of this code.
7. No fence may have boards, planks, or panels larger than one foot (1') in width.
8. All parts of a fence must be on the property of the owner of the fence. The owner of a fence is responsible to verify the location of their property lines.
9. The finished side of any fence or wall must face abutting property or street rights of way.
10. Public buildings and structures, public and private parks, and essential service utilities are exempt from the fence and wall requirements.
11. No fence or wall shall obstruct a motorist's or pedestrian's safe view from the driveway or street.

B. Residential Fence Or Wall: All fences or walls must comply with the following:

1. No fence or wall shall exceed six feet (6') above grade level along rear and side property lines or four feet (4') above grade level in the required front yard.
2. Fences within fifteen feet (15') of the front property line must be less than thirty inches (30") above grade level and not less than fifty percent (50%) transparent.

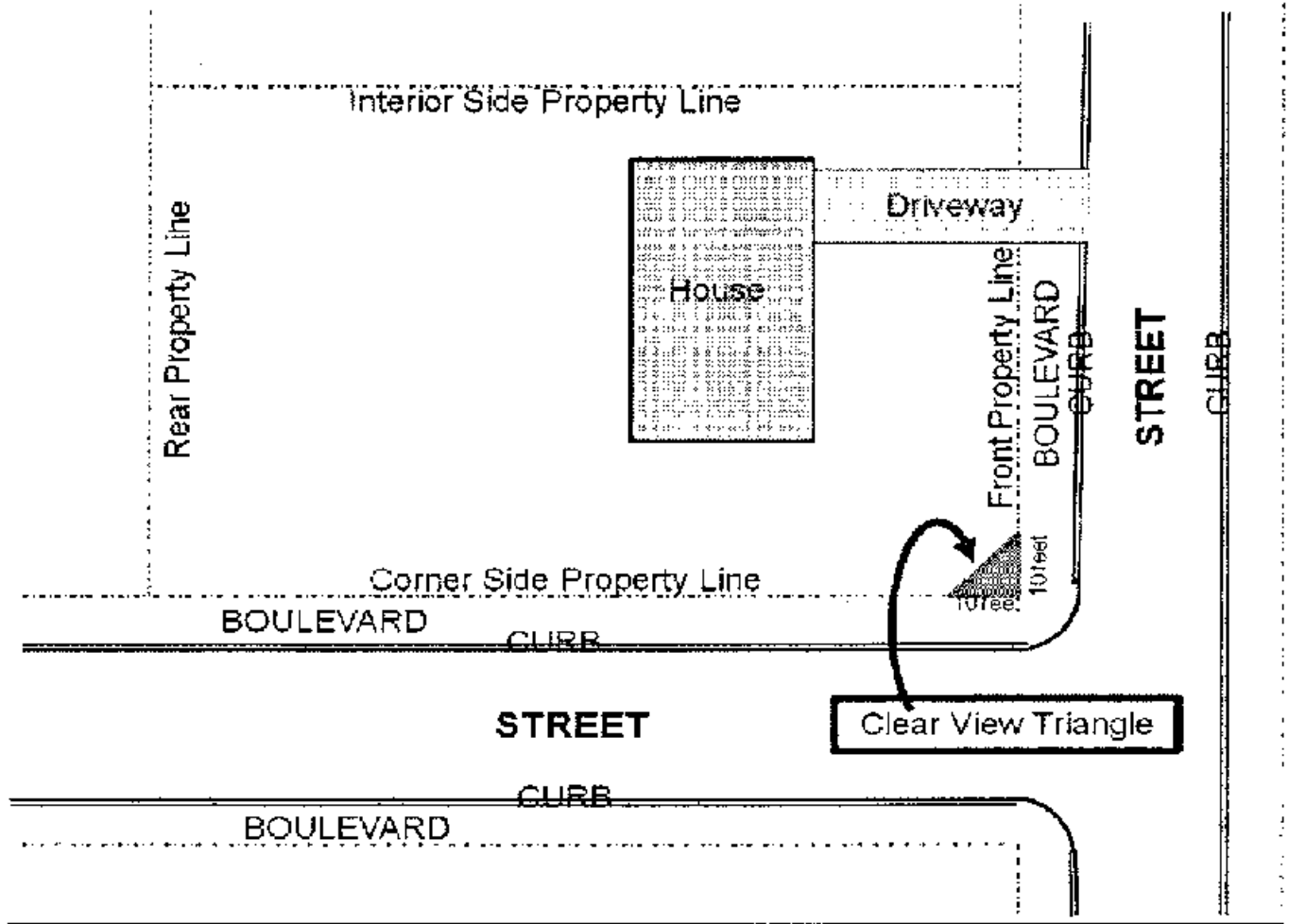
C. Business And Industrial Fence Or Wall: All fences or walls must comply with the following:

1. Fences in business and industrial districts must not exceed eight feet (8') above grade level and are prohibited in the required front yard. Fences in excess of eight feet (8') above grade level and not located in a required front yard require a conditional use permit.
2. Fences in business and industrial districts with barbed wire security extension posts must not exceed a height of six feet (6') (measured without the security extension post) above grade level. The security extension posts must not exceed three feet (3') in length and be angled in such a manner that it does not extend over the owner's property boundary line. Such security fencing is prohibited within a required front yard or within fifty feet (50') of a residential district.

D. Agricultural Fences:

1. Fences for agricultural uses must not be greater than six feet (6') above grade level and may be located along all property boundary lines.

E. Clear View Triangle: On corner lots, no structure or planting in excess of thirty inches (30") above the curb line or less than ten feet (10') above the curb line shall be permitted within a clear view triangle described as that area that begins at the intersection of the front property line and corner side property line and is measured back ten feet (10') along both property lines. Those points are then connected with a straight line.



(Ord. 849, 11-19-2008)

11-3-6: ESSENTIAL SERVICES:

Essential services shall be a permitted use, as authorized and regulated by state law and ordinances of the city, in all zoning districts; except, that within any zoning district, no building, structure or land shall be used for the essential services listed below or for those deemed similar by the city council, except by conditional use permit. Prior to granting such a permit, it shall be found that the architectural design of the service structure or building is compatible to the neighborhood in which it is to be located. Services requiring a conditional use permit shall include:

- A. Those listed as conditional uses within the zoning district in which they are to be located.
- B. Those in which seventy five percent (75%) of the services provided or produced are not provided for, used, consumed or required within the city.
- C. Those higher than the maximum height, as set forth in the zoning districts in which they are to be located.
- D. Those in which the architectural design or use would not normally be compatible to the neighborhood or zoning district in which they are to be located. (1971 Code § 28-24)

11-3-7: FARMING OPERATIONS IN RESIDENTIAL DISTRICTS:

Agriculture is a permitted use in all residential districts, subject to the following:

- A. Sales Of Agricultural Products: Limited sales of products produced on the owner's property may be conducted on the premises from a roadside stand by conditional use permit. Such stand shall not exceed twelve feet (12') in height or five hundred (500) square feet in floor area, and no portion of any such stand shall be located or erected nearer than forty feet (40') to any street line.
- B. Farm Animals:
 - 1. Parcels Less Than Forty Acres: The keeping of any farm animal on parcels of less than forty (40) acres in size shall be permitted, subject to the following conditions:
 - a. The property must contain at least five (5) acres in contiguous ownership or leasehold.
 - b. The property must contain at least one and one-half (1¹/₂) acres of land per animal unit. This number may be exceeded only by conditional use permit.
 - c. All buildings intended to house animals shall be set back at least sixty feet (60') from all property lines and at least three hundred feet (300') from a dwelling other than the dwelling on the property in question.
 - d. All pens, yards or other confinement areas, excluding pastures, where animals are kept shall be set back at least sixty feet (60') from all property lines.
 - e. The Minnesota pollution control agency does not require that a feedlot permit be issued.
 - 2. Keeping Fowl And/Or Poultry On Parcels Between Three And Less Than Five Acres: The keeping of any fowl and/or poultry on parcels between three (3) and less than five (5) acres shall be permitted, subject to the regulations in section [5-4-13](#), "Keeping Of Fowl Or Poultry", of this code.
 - 3. Parcels Larger Than Forty Acres: The keeping of farm animals on parcels larger than forty (40) acres in size is permitted, subject to the following conditions:
 - a. All buildings intended to house animals shall be set back at least sixty feet (60') from all property lines and at least three hundred feet (300') from a dwelling other than the dwelling on the property in question.
 - b. All pens, yards or other confinement areas, excluding pastures, where animals are kept shall be set back at least sixty feet (60') from all property lines.
 - c. The Minnesota pollution control agency does not require that a feedlot permit be issued. (Ord. 915, 7-17-2013)

11-3-8: WATER AND SEWERAGE:

- A. Within Urban Service Area: Within the city's urban service area, as defined by the comprehensive plan, all structures designed for human occupancy shall be connected to the public water and sewage disposal systems where feasible. On site sewage disposal systems and private wells may be allowed within the urban service area on a temporary basis. Such facilities shall be designed so as to be easily connected to the public systems. All private on site sewage disposal systems within the urban service area shall conform with all other standards adopted by the city for their design, installation and maintenance.
- B. Outside Urban Service Area: On site sewage disposal systems and private wells will be permitted outside of the city's urban service area, as defined by the comprehensive plan, only when all of the following conditions are met:
1. All on site sewage disposal systems and private wells shall be designed, maintained and installed in accordance with applicable regulations of the state department of health, the Minnesota pollution control agency standards WPC-40 and all other city regulations.
 2. Where on site sewage disposal systems are to be utilized, the lot shall have a minimum area of one and one-half (1^{1/2}) acres of land on a slope of less than thirteen percent (13%), regardless of more lenient zoning regulations.
 3. No on site sewage disposal systems will be permitted in the following areas:
 - a. Areas where slopes are eighteen percent (18%) or greater;
 - b. Designated floodplains or wetlands;
 - c. Within one hundred fifty feet (150') from the normal high water mark of a body of water or designated bluff lines; or
 - d. Any other areas designated by the utilities element of the Comprehensive Plan as unsuitable.
 4. Special engineering of on-site sewage disposal systems may be required in the following cases:
 - a. Areas where slopes are greater than twelve percent (12%) but less than eighteen percent (18%);
 - b. Where percolation rates are slower than sixty (60) minutes per inch or faster than five (5) minutes per inch;
 - c. Where the ground water table is less than five feet (5') deep;
 - d. Where bedrock is within five feet (5') of the bottom of the system; or
 - e. Where soil classifications require the use of alternative systems. (1971 Code § 28-28; amd. 2000 Code)

11-3-9: OFF-STREET PARKING AND LOADING²:

- A. Intent; Compliance Required: Regulation of off-street parking and loading spaces in this Title is to alleviate or prevent congestion of the public right of way and to promote the safety and general welfare of the public by establishing minimum requirements for off-street parking, loading and unloading from motor vehicles in accordance with the utilization of various parcels of land and structures. The location of off-street parking and loading spaces shall be in compliance with the requirements of this Section.
- B. Application Of Provisions: The regulations and requirements set forth in this Section shall apply to the required and nonrequired off-street parking facilities in all use districts.
- C. Reduction Of Existing Off-Street Parking And Loading Spaces: Off-street parking spaces and loading spaces existing upon the effective date of this Section shall not be reduced in number unless such number exceeds the requirements set forth herein for a

similar new use.

D. General Parking Provisions:

1. Permits Prior To Effective Date: Structures or uses for which a building permit has been issued prior to the effective date of this Title³, but for which work has not been completed, shall be exempt from the parking requirements of this Section if the structure is completed within six (6) months after the effective date of this Title.
2. Floor Area: The term "floor area", for the purpose of calculating the number of off-street parking spaces, shall be the gross floor area of the various floors devoted to retail sales, services, office spaces, processing and fabrication, utility space and storage areas other than warehousing.
3. Benches In Places Of Public Assembly: In stadiums, churches and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each such bench, pew or other similar seating facility shall be counted as one seat for the purpose of determining required parking.
4. Parking Space Specifications: Each parking space shall be not less than nine feet (9') wide and twenty feet (20') in length, and each space shall be served adequately by access drives. For the purposes of calculating parking space requirements, one parking space for one vehicle shall equal three hundred (300) square feet of storage and maneuvering area, including access drives.
5. Use Of Parking Facilities:
 - a. No Class I commercial vehicles shall be allowed to park in a residential district, except while making a pickup or delivery or performing a service. One Class I commercial vehicle may be permitted to park on a residential lot by conditional use permit, as required by Section [11-2-9](#) of this Title, subject to the following additional standards:
 - (1) The Class I commercial vehicle shall be kept within an accessory building at all times.
 - (2) The hours of operation of the vehicle shall not adversely affect adjoining property.
 - (3) The lot shall be five (5) acres or more in size.
 - b. Off street parking accessory to dwelling units, either single- or multiple-family, shall be allowed as follows: one class II commercial vehicle per dwelling unit on the premises; a second class II commercial vehicle shall be allowed only by conditional use permit upon compliance with the criteria in subsection D5g of this section. (1971 Code § 28-30)
 - c. (Rep. by Ord. 709, 3-20-2002)
 - d. No auxiliary motors or engines on any commercial vehicle shall be allowed to operate in residential districts unless making a pick up, delivery or performing a service.
 - e. School buses designed to carry sixty six (66) or more persons may be parked in a residential district during school hours only.
 - f. Property complying with the definition of rural agricultural area under this code shall not be subject to the provisions of subsections D5a, D5b and D5d of this section.
 - g. The applicant for a conditional use permit for a second class II commercial vehicle under subsection D5b of this section shall be required to meet the following criteria, in addition to the criteria for issuance of a conditional use permit as required by section [11-2-9](#) of this title, and prior to issuance of the permit the city council shall find that:
 - (1) The area for parking will be surfaced with a durable and dustless material.
 - (2) The proposed parking area will be sufficiently separated by a distance and screening from adjacent land so that existing homes will not be materially depreciated in value and there will be no deterrents to development of vacant land.
 - (3) The hours of operation of such vehicles will not adversely affect adjoining property.
 - (4) The operation of such vehicles will not constitute a "public nuisance" as defined by section [4-1-1](#) of this code. (1971 Code § 28-30)
6. Location Of Parking Facilities: Required off street parking must be on the same lot as is the principal building and must meet

the following setback requirements:

- a. Off street parking on a corner lot may not be located within any required yard area abutting a street.
 - b. Off street parking for all detached single-family lots must comply with minimum setback requirements for accessory structures.
 - c. Except for the access point or where a joint drive serving more than one property will provide better and safer traffic circulation; access drives, drive aisles, and parking spaces for religious institutions, schools, public parking lots, parks, and municipal facilities must set back thirty feet (30') from the front, side, and rear property lines. (Ord. 807, 10-18-2006)
 - d. Within the B-1 and B-2 districts, parking spaces and/or garages shall be located in areas other than a required yard; except, that parking may be located in a rear yard to within ten feet (10') of the rear or side lot line; except, that where a side or rear lot line is abutting an R district, off street parking shall be not less than thirty feet (30') from such lot lines. (1971 Code § 28-30; amd. Ord. 807, 10-18-2006)
 - e. Within the B-3 and P-B districts, off street parking spaces shall not be less than twenty feet (20') from a street right of way line, nor less than ten feet (10') from any interior side lot line or rear lot; except, that where a side or rear lot line is abutting an R district, off street parking shall be not less than thirty feet (30') from such lot lines. (1971 Code § 28-30; amd. Ord. 623, 1-17-1996; Ord. 807, 10-18-2006)
 - f. Within I-1, I-2 and I-5 districts, off street parking spaces, drive aisles, and truck staging areas must not be less than twenty feet (20') from any street right of way line, nor less than ten feet (10') from any interior side or rear lot line; except, that when a side or rear lot line abuts an R district, off street parking must not be less than one hundred feet (100') from such lot lines. (Ord. 787, 3-15-2006; amd. Ord. 807, 10-18-2006)
 - g. Within any I-3 and I-4 districts, parking space for more than fifteen (15) automobiles shall not be allowed within the front yard setback, nor within the side yard when abutting a street. Parking spaces shall be not less than thirty feet (30') from any interior side or rear property line, nor forty feet (40') from any street right of way line. (1971 Code § 28-30; amd. Ord. 807, 10-18-2006)
7. Off Site Parking Facilities: When required accessory off street parking facilities are provided elsewhere than on the lot on which the principal use served is located, written authority for using such property for off street parking shall be filed with the city, so as to maintain the required number of off street parking spaces during the existence of such principal use. No such parking facility shall, at its closest point, be located more than one hundred feet (100') from the premises nor more than four hundred feet (400') from the principal use or building served.
8. Use Of Parking Area For Other Than Parking: Required off street parking space in all districts shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable, for lease, rent or sale. (1971 Code § 28-30)

E. Design And Maintenance Of Off Street Parking Areas:

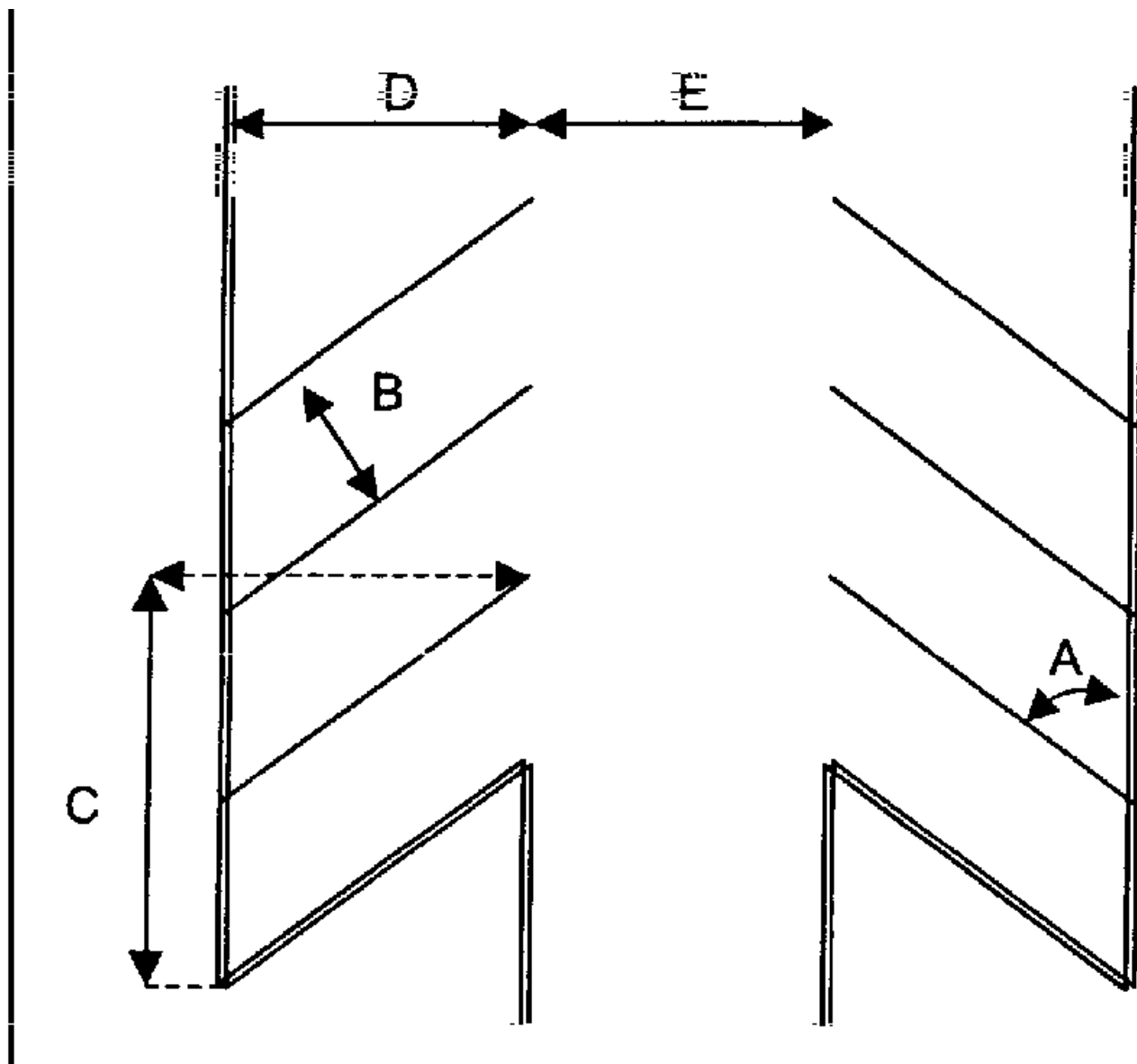
1. General Requirements: Access and parking areas shall be designed so as to provide an adequate means of access to a public alley or street. Such driveway access shall not exceed the driveway dimensions in section [7-2-4](#) of this code and shall be so limited so as to cause the least interference with the traffic movement. Except for single-family, two-family, and townhouse dwellings, head in parking, directly off of and adjacent to a public street, with each stall having its own direct access to the public street shall be prohibited. All parking spaces shall have access from driveways and not directly on a public street.
2. Parking Spaces Striped: All parking spaces shall be striped with suitable paint in accordance with approved plans except for single-family residences.
3. Calculating Space: When the determination of the number of required off street parking spaces results in a fraction, each fraction up to and including of one-half ($\frac{1}{2}$) shall be disregarded; fractions over one-half ($\frac{1}{2}$) shall count as one additional space.
4. Signs: Signs located in any parking area necessary for the orderly operation of traffic movement shall be in addition to accessory signs permitted in other sections of this title. (Ord. 716, 5-15-2002)
5. Surfacing: All parking areas and driveways in the front yard of property in the MUSA must be paved with asphalt, paver bricks, or concrete.
 - a. All development within the MUSA must have a paved driveway with asphalt or concrete. All parking surfaces in front of the

front plane of the principal structure must be in conformance with section [7-2-3](#) of this code and must not exceed forty percent (40%) of the front yard area. A maximum width of two feet (2') of landscape rock or similar landscaping material may additionally be permitted to border such parking or driveway area. The parking or driveway surface may not encroach on any drainage and utility easement, except the front yard drainage and utility easement abutting the street.

- b. Any parking or driveway surface behind the front plane of the dwelling must be one of the following: concrete, asphalt, class V gravel (minimum 6 inches compacted), landscape rock (minimum 6 inches compacted), landscape paver blocks, or brick. All parking surfaces must be contained within a solid edging or other border. The setback for parking surfaces behind the front plane of the dwelling is the same as the setbacks for accessory structures in the zoning district. Such parking or driveway surface cannot encroach on any drainage and utility easements.
- c. All development in non-MUSA areas must have an asphalt or concrete driveway between the roadway edge and the minimum front yard setback line. The city, at its discretion, can require the entire or greater portion of the driveway to be paved if erosion or drainage problems are experienced on public or private land. This requirement also applies to open sales lots. (Ord. 807, 10-18-2006)
6. Lighting: Exterior lighting shall not be directed upon adjacent land or the public right of way.
7. Curbing: All open off street parking areas and loading areas designed to have head in parking along the perimeter of the off street parking area or loading area shall provide a concrete curb or equivalent approved by the city of adequate height. (Ord. 716, 5-15-2002)
8. Drive-Up Facilities: Business establishments containing drive-up facilities, including restaurants and financial institutions, shall provide a motor vehicle stacking area for vehicles on the site. A minimum of six (6) vehicle spaces per lane shall be provided. The vehicle stacking area shall not extend beyond the street right of way line and shall be delineated in such a manner that vehicles waiting in line will not interfere with nor obstruct the primary driving, parking and pedestrian facilities on the site.
9. Bumper Overhang: The minimum parking space length may be decreased by up to two feet (2') for spaces which allow the bumper of the vehicle to project the terminus of the parking space without obstructing other parking spaces or vehicle circulation.
10. Turnarounds: All required parking spaces shall be accessed by adequate maneuvering space. All dead end parking rows shall contain a turnaround area at least thirteen feet (13').
11. Parking Lot Design Standards: Parking areas shall be designed in conformance with the following:

Parking Angle (A)	Stall Width (B)	Curb Length (C)	Stall Depth (D)	Aisle Width (E)
0°	9'	23'	9'	12'
20°	9'	26'4"	15'	11'
30°	9'	18'	17'4"	11'
40°	9'	14'	19'2"	12'
45°	9'	12'9"	19'10"	13'
50°	9'	11'9"	20'5"	12'
60°	9'	10'5"	21'	18'
70°	9'	9'8"	21'	19'
80°	9'	9'2"	20'4"	24'
90°	9'	9'	20'	24'

(Ord. 807, 10-18-2006)



F. Required Off Street Parking: The following minimum areas shall be provided and maintained by ownership, easement or lease, for and during the life of the respective uses hereinafter set forth:

<p>Auto repair, (major), bus terminals, taxi terminals, bottling companies, shops employing 6 people or fewer</p>	<p>At least 8 spaces, plus 1 additional space for each 800 square feet of floor area over 1,000 square feet</p>
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Auto repair (minor)	At least 6 spaces, plus 1 space for every 500 square feet of gross floor area over 1,000 square feet
Banks and financial services	At least 1 space for each 250 square feet of gross floor area
Boarding and rooming houses	At least 2 spaces for each 3 persons for which accommodations are provided for sleeping
Boat and marine sales, garden stores, carpenter shops	4 spaces, plus 1 space for each 500 square feet of floor area over the first 1,000 square feet
Bowling alleys	At least 5 spaces for each alley, plus additional spaces as may be required herein for related uses, such as a restaurant
Churches and auditoriums	At least 1 space for each 3 $\frac{1}{2}$ seats, based on the design capacity of the main assembly hall
Community centers, post offices, YMCAs, YWCAs, physical or cultural activities centers, studios, pool halls, libraries, private clubs, lodges, museums	10 spaces, plus 1 space for each 300 square feet of floor area in excess of 2,000 square feet of floor area in the principal structure, excluding courts, which require 2 parking spaces per court
Funeral homes and mortuaries	1 space for each 5 seats or 35 square feet of seating area where there are no fixed seats, plus 1 space for each 250 square feet of floor area not used for seating
Furniture stores, appliance stores, wholesalers and warehouses up to 6,000 square feet	At least 1 space for each 400 square feet of gross floor area
Hospitals	At least 1 $\frac{1}{2}$ spaces for each patient bed
Hotel or apartment hotels	At least 1 space for each rental unit provided in the design of the building
Libraries, museums, art galleries	At least 1 space for each 300 square feet of gross floor area in the principal structure

Licensed daycare facility	At least 1 parking space for each 6 children based on the licensed capacity of the facility
Manufacturing, fabricating or processing of a product or material	4 spaces, plus 1 space for each 400 square feet of floor area
Medical or dental clinics	At least 3 spaces for each staff doctor or dentist or 1 space for each 150 square feet of gross floor area, whichever is greater
Motels, tourist homes, motor hotels	At least 1 space for each dwelling unit or lodging room, plus 1 additional space for each 8 units
Motor fuel stations and motor fuel station convenience stores	A minimum of 4 outside spaces, plus 3 additional outside spaces for each enclosed service stall; 1 additional outside space shall be provided for each 150 square feet of floor space devoted to retail sales in a motor fuel station convenience store
Multiple-family dwellings	At least 2 spaces per dwelling unit in the multi-family residential districts. Additional spaces for visitor parking shall be provided based on the development characteristics and anticipated demand for visitor spaces as determined by the city, or additional parking spaces for visitor parking shall be provided based on 1.5 spaces for every 10 units
Office buildings and professional offices having less than 6,000 square feet of floor area	1 space per 150 square feet of floor area
Office buildings and professional offices having more than 6,000 square feet of floor area	1 space for each 250 square feet of floor area
Open sales lots, lumberyards, auto sales, auto leasing	1 space for each 2,000 square feet of land up to the first 8,000 square feet, plus 1 space for each 4,000 square feet of land up to a parcel of 24,000 square feet, plus 1 space for each 6,000 square feet thereafter
Restaurants, classes 1 and 2, cafes, cafeteria food, traditional restaurants	At least 1 space for each 3 seats, based on capacity design or, where there is no design layout, 1 space for each 60 square feet of gross floor area, whichever is greater
Restaurants, classes 1 and 2, bars, taverns,	At least 1 space for each 3 seats, based on capacity design or where there is no design layout, 1 space for each 50 square feet of gross floor area, whichever is greater. Except that in cases in which there is a bar area separate from the food service area, a dance area larger than 100 square feet, or other public areas, additional parking will be required as necessary

nightclubs	
Restaurants, class 3, drive in establishments and fast food restaurants	At least 1 space for each 60 square feet of gross floor area in the building
Retail sales and service establishments	At least 1 space for each 200 square feet of gross floor area
Sanitariums, convalescent homes, rest homes, nursing homes or institutions	At least 1 space for each 6 beds for which accommodations are offered, plus 1 additional space for each 15 beds
Schools, elementary and junior high	At least 1 space for each classroom, plus 1 additional space for each 100 student capacity
Schools, high through college	At least 1 space for each 10 students, based on design capacity, plus 1 additional space for each 2 classrooms
Self-service passenger vehicle car wash	2 spaces per bay
Senior citizen housing (multi-story attached units)	At least 1.5 parking spaces for each unit. The city may require proof of parking of 2 spaces per unit if conversion to general housing appears possible
Single-family dwellings	At least 2 spaces for each dwelling unit. A garage may fulfill this requirement. However, a building permit shall not be granted to convert a garage to living space unless other acceptable provisions are made to provide the required parking space
Shopping center (regional)	At least 5.5 spaces per 1,000 square feet of gross floor area. Parking demand for restaurants and theaters located within the center will be added to the shopping center minimum parking requirements
Shopping center (neighborhood or community)	At least 4.5 spaces per 1,000 square feet of gross floor area. Parking demand for restaurants and theaters located within the center will be added to the shopping center minimum parking requirements
Skating rinks, dance halls, miniature golf ranges, private clubs, ice arenas	10 spaces, plus 1 additional space for each 200 square feet of floor area devoted to the principal use
Theaters, ball fields, stadiums	At least 1 space for each 3 seats of design capacity

Two-family dwellings	At least 2 spaces per dwelling unit, but not more than one 2-car garage per dwelling unit
Wholesale business, storage, or warehouse establishment	At least 1 space for each 2,000 square feet of gross floor area for any building used solely in a storage capacity. For mixed use building where storage and warehousing is an incidental use to other activity, required parking spaces shall be based upon the specific requirements for each use appearing in this section
Uses not specifically noted	Parking space requirements shall be determined by the city council, upon advice from the planning commission

(Ord. 716, 5-15-2002)

G. Loading And Unloading Regulations: The regulations and requirements set forth in this section shall apply to the required and nonrequired loading and unloading facilities in all the districts. If, in the application of the requirements of this section, a fractional number is obtained, one loading space shall be provided for a fraction of one-half ($\frac{1}{2}$) or more, and no loading space shall be required for a fraction of less than one-half ($\frac{1}{2}$).

1. Location: All loading berths shall be twenty five feet (25') or more from the intersection of two (2) street right of way lines. Loading berths shall not occupy any yard requirement bordering a street.
2. Size: Unless otherwise specified, the first berth required shall not be less than twelve feet (12') in width and fifty feet (50') in length. Additional berths shall be not less than twelve feet (12') in width and twenty five feet (25') in length; all loading berths shall maintain a height of fourteen feet (14') or more.
3. Access: Each loading berth shall be located with approximate means of access to a public street or alley in a manner which will least interfere with traffic. (1971 Code § 28-30; amd. 2000 Code)
4. Surfacing: All loading berths and accessways shall be paved with asphalt and/or concrete. (Ord. 716, 5-15-2002)
5. Accessory Uses: Any area allocated as a required loading berth or access drive so as to comply with the terms of this title shall not be used for the storage of goods or inoperable vehicles, nor be included as a part of the area necessary to meet the off street parking area. (1971 Code § 28-30; amd. 2000 Code)
6. Number Of Loading Berths: There shall be provided adequate off street loading space in connection with any structure which requires receipt of a distribution of materials by vehicles. (1971 Code § 28-30; amd. 2000 Code; Ord. 923, 12-18-2013)

11-3-10: DRIVEWAYS:

- A. Purpose; Interpretation: The purpose of this section is to establish minimum standards for the design of safe ingress and egress for uses oriented to serving the motoring public, but not including parking lots. A driveway is any area which allows vehicles access from the street to the structure on the premises for purposes of storage or parking vehicles on the premises.
- B. Specifications: Driveways in all districts must conform to driveway dimension specifications set forth in section [7-2-4](#) of this code. The driveway width is measured along the property line between driveway edges. If the driveway width conflicts with existing or future traffic flows on the public roadway, the driveway may have to be moved or resized, subject to city council approval.
- C. Location: Driveways adjacent to the principal structure must not be less than the minimum side yard setback for accessory structures in the zoning district. Driveway surfaces must not encroach on any drainage and utility easement, except for public or

private easements paralleling the street. (Ord. 807, 10-18-2006)

11-3-11: RELOCATION OF STRUCTURES:

A. Permit Requirements:

1. **Permit Required:** Every licensed house mover shall, in each and every instance, before raising, holding up or moving any building, obtain a permit therefor from the building official.
2. **Application For Permit; Contents:** An application for such permit shall designate the origin and destination of such building, the route over which it is to be moved and shall state the time in which the moving of such building shall be accomplished.
3. **Conditions To Issuance Of Permit:** No permit to move a building shall be issued unless and until the following conditions are fully complied with and approved by the building official:
 - a. The building to be moved, after being moved, must be worth at least fifty percent (50%) of the cost of a similar new building, as determined by the building official.
 - b. The finance director must certify that all the sewer charges and water bills payable against the property from which the building is to be moved have been paid, and the director of public works shall affirm that all sewer and water connections have been plugged or discontinued at the curb line or at the main; that all cesspools, septic tanks and cisterns have been filled, all other hazards have been eliminated and all taxes against the property have been paid in full.
 - c. The building to be moved must comply in all respects with the city building code and other applicable ordinances; provided, that the person proposing that a building be moved may present to the building official complete and detailed plans showing changes which will be made in order to attain compliance with such ordinances. In the event that such changes are proposed, a permit authorizing the moving of such building shall not be issued until the owner has agreed in writing to complete the necessary changes within a period of one year, the building official has approved the plans, the building permit fee has been paid and the building permit issued, and a performance bond, guaranteeing completion of such changes and equal to at least one and one-half ($1\frac{1}{2}$) times the cost of such proposed work as estimated by the building official, has been posted with the city.
4. **Action By Planning Commission:** Upon compliance with this subsection and subsections B and C of this section, the building official, licensee and applicant shall submit the application to the planning commission for review and recommendations to the city council at the next stated meeting of the commission. The planning commission shall determine whether such application shall conform to the immediate surrounding community. The planning commission, at its discretion, shall call a public meeting of resident owners, within a radius of five hundred feet (500') from the subject property, to review the proposed application. The planning commission will determine the application on its merits and make its recommendation to the council.

B. Utility Wires:

1. In every case in which a permit shall be issued, as herein provided, for the relocation of a building, the removal or displacement of any overhead electrical or other wires, insofar as such removal or displacement may be necessary to effect the removal of such building, shall be authorized by such permit.
2. The person to whom such permit shall have been issued shall notify the person owning, operating or controlling such wires to remove or displace such wires to facilitate the removal of such building, and shall, at the same time, exhibit to such person the properly issued permit, authorizing the removal of such wires sufficiently to allow the passage of such building along the street over which such wires are suspended.
3. Any expenses incurred or to be incurred in the moving, removing or displacing of such wires shall be paid for by the person who makes application for such permit.

C. Railroad And Bridge Requirements: No buildings shall be moved across any railroad or bridge unless the hour be specified and approved by the company or governmental unit controlling such tracks or bridge.

D. Moving From Without To Within City Limits:

1. Any person desiring to move any building to within the limits of the city from outside such limits shall comply with the following additional requirements:
 - a. The applicant shall notify the city building official during the process of the construction of such building, in sufficient time to allow the building official to make all necessary inspections in order to determine whether such building complies with the applicable ordinances of the city.
 - b. The applicant, at the time of application for a permit, shall pay to the finance director the sum of one hundred dollars (\$100.00) for each house to be moved into the city. Such sum shall be retained by the city whether or not a permit is granted to the applicant.
2. The building official is hereby authorized and required to make the inspections provided for herein, upon compliance with the foregoing requirements. (1971 Code § 28-27; amd. 2000 Code)

11-3-12: ANNEXATIONS:

Annexed territory shall be placed in an R-1 zoning district, until such time as a detailed study determining its proper use district is undertaken, unless the principal use of the annexed territory meets the requirements of any zoning district as provided in this title; in which case, it shall be placed in such district or districts. (1971 Code § 28-25)

Chapter 4 SPECIAL ZONING PROVISIONS

11-4-1: MOTOR FUEL STATIONS:

Motor fuel stations in all districts shall be subject to the following standards:

A. Minimum Yard And Setback Requirements: Notwithstanding anything to the contrary in other sections of this title, the following minimum requirements shall be observed for yards and setbacks for motor fuel stations:

	Minor Motor Fuel Station	Major Motor Fuel Station	Truck Stop
Lot width	150 feet	200 feet	200 feet
Front yard abutting a major thoroughfare	100 feet	100 feet	100 feet
Front yard	60 feet	60 feet	80 feet
Side yard adjacent to another lot	30 feet	30 feet	60 feet
Side yard adjacent to street	60 feet	60 feet	80 feet
Rear yard	30 feet	30 feet	60 feet
Pump setback	25 feet	30 feet	30 feet

B. Canopies:

1. The setback of any overhead canopy or weather protection, freestanding or projecting from the station structure, shall be not less than ten feet (10') from the street right of way line, nor less than twenty feet (20') from an adjacent property line.
2. The total height of any overhead canopy or weather protection shall not exceed twenty feet (20').

C. Architectural Design:

1. Each motor fuel station shall be so architecturally designed as to be as compatible as possible with the general architectural intent of the area in which it is located.
2. For the purpose of architectural appropriateness, each side of a motor fuel station shall be considered as a front face.

D. Landscaping: A minimum twenty foot (20') landscaped yard shall be planted and maintained behind all property lines adjacent to public streets, except at driveway entrances.**E. Screening:** Whenever a motor fuel station abuts an R district, a fence or compact evergreen hedge not less than fifty percent (50%) opaque nor less than six feet (6') high shall be erected and maintained along the side and rear property line that abuts the R district. Application of this provision shall not require a fence within fifteen feet (15') of any street right of way line.**F. Surfacing:** The entire motor fuel station site, other than that part devoted to landscaping and structures, shall be surfaced with concrete or bituminous surfacing to control dust and provide adequate drainage, and such surfaces shall be designed to meet the requirements of a minimum four (4) ton axle load.**G. Curbing:** All interior curbs shall be constructed within the property lines to separate driving and parking areas from landscaped areas. Such curbing shall be constructed of concrete and shall be of six inch (6"), nonsurmountable design.**H. Parking Spaces:** All outside parking spaces shall be located to the side and/or rear of the principal structure.**I. Outdoor Lighting:** All outdoor illumination shall be provided with lenses, reflectors or shades which will concentrate the light upon the premises so as to prevent any undue glare or rays of light therefrom being directly visible upon any adjacent street, roadway or private property occupied for residential purposes.**J. Garbage, Refuse And Junk:** All trash, waste materials and obsolete automobile parts shall be stored within a separate enclosure behind the principal structure of the motor fuel station.**K. Storage Of Vehicles:**

1. Open storage of motor vehicles shall not be permitted for a period of more than forty eight (48) hours.
2. All rental campers, trailers or motor vehicles shall be stored within the rear and/or side yard not adjacent to the street. Such rentals shall not be stored within the front yard setback nor the side yard adjacent to the street.

L. Vehicle Sales: No sales of motor vehicles, trailers, campers or boats shall be permitted without a conditional use permit.

- M. Merchandise Sales: All goods for sale by a motor fuel station convenience store, other than those generally required for the operation and maintenance of motor vehicles, shall be displayed within the principal motor fuel station structure. (1971 Code § 28-32; amd. 2000 Code)

11-4-2: DRIVE-IN ESTABLISHMENTS AND CLASS 3 RESTAURANTS:

Drive-in establishments and Class 3 restaurants in all districts shall be subject to the following performance standards:

- A. Screening: A screening fence not over six feet (6') nor less than four feet (4') in height which is at least fifty percent (50%) opaque throughout its height shall be constructed along the property line; or a planting strip, not less than fifteen feet (15') in width, reserved and planted along the property line, shall be developed according to a submitted planting plan that meets approval of the Planning Commission.
- B. Traffic And Parking: Traffic and parking arrangements shall be so planned and arranged as not to cause a public nuisance.
- C. Outside Lighting:
1. The outside lighting on the premises shall be in accord with a plan approved by the Council.
 2. The outside lighting system shall have no light poles higher than the principal building.
 3. The lighting system shall be so designed as not to cause excessive light beyond the lot line. (1971 Code § 28-33; amd. 2000 Code)

11-4-3: FALLOUT AND BLAST SHELTERS:

- A. Purpose: The purpose of this Section is to establish provisions to permit the construction and maintenance of fallout and blast shelters.
- B. Use Regulations:
1. Fallout or blast shelters are permitted as principal or accessory uses and structures in any district, subject to the yard regulations of the district. Such shelters may contain or be contained in other structures or may be constructed separately and, in addition to shelter use, may be used for any principal or accessory use permitted in the district, subject to the district regulations on such use; but shall not be used for principal or accessory uses prohibited expressly or by implication in the district.
 2. The Council may permit a fallout or blast shelter to be used also for other purposes which are permitted, conditional or accessory uses in the district in which the shelter is located, if the Council finds that all of the general requirements of this Title concerning such uses are satisfied and, in addition, the following are established:
 - a. That the use other than as a shelter is compatible with the shelter proposed;
 - b. That the function as a shelter would not be materially impaired by the proposed use; and
 - c. That if a conditional use permit is required, this permit would have been granted regardless of whether the shelter was

involved. (1971 Code § 28-34)

11-4-4: YARDS¹:

- A. Side Yard Exemption: Buildings may be excluded from side yard requirements if party walls are utilized or if the adjacent buildings are planned to be constructed as an integral structure and a conditional use permit is secured.
- B. Additional Requirements: Required yards in the districts specified shall be subject to the following additional requirements:
1. Through lots in any district shall have a required front yard on each street.
 2. In the B and I districts, where the average depth of at least two (2) existing front yards for buildings abutting the same street within one hundred fifty feet (150') of the lot in question are less or greater than the minimum front yard depth required for the district, required front yards shall not be less than the average depth of such existing front yards; however, the depth of a front yard shall not be less than twenty five feet (25'), nor be required to exceed the required setback in the respective B or I district, except when abutting a major thoroughfare where the setback requirement for the respective district shall be observed.
 3. In any R district, where the average depth of at least two (2) existing front yards for buildings within one hundred fifty feet (150') of the lot in question and within the same block front is less or greater than the minimum front yard depth required for the district, the required front yard shall not be less than the average depth of such existing yard; however, the depth of a front yard shall not be less than twenty feet (20'), nor be required to exceed fifty feet (50'), except when abutting a major thoroughfare where the setback requirement for the respective district shall be observed. (1971 Code § 28-35)

11-4-5: HEIGHT LIMIT MODIFICATIONS:

- A. Scope: The requirements and regulations specified in this Title shall be subject to the provisions of this Section.
- B. Increases In Height Limits:
1. Height limitations set forth elsewhere in this Title shall be increased fifty percent (50%) when applied to the following structures:
 - a. Church spires.
 - b. Belfries.
 - c. Cupolas and domes which do not contain usable space.
 - d. Monuments.
 - e. Water towers.
 - f. Fire and hose towers.
 - g. Observation towers.
 - h. Flagpoles.
 - i. Chimneys.
 - j. Smokestacks.
 - k. Parapet walls extending not more than three feet (3') above the limiting height of the building.

- I. Cooling towers.
 - m. Elevator penthouses.
2. Heights in excess of those allowed under this Section and other sections shall be permitted only by a conditional use permit granted by resolution of the Council, determining that such structure would not be dangerous and would not adversely affect adjoining or adjacent property.
 3. Additional Height For Sloped Lots: On any lot sloping downhill from the street which has an average ground slope on that portion of the lot to be occupied by the main building of twenty five percent (25%) or more, measured in the general direction of the side lot lines, an additional twelve feet (12') of height may be permitted in such main building; provided, that the lowest floor shall not be less than ten feet (10') below the average established property line grades along the front of the lot. The floor of the basement shall be considered the lowest floor, and a cellar floor shall not be counted. (1971 Code § 28-36)
 4. Notification: Any sponsor who proposes any construction or alteration that would exceed a height of two hundred feet (200') above ground level at the site or more than two hundred feet (200') above the established airport elevation, whichever is higher, within three (3) nautical miles of the nearest runway of an airport, or increasing in height that extends upward and outward at a slope of one hundred to one (100:1) from the nearest point of the nearest runway of a public airport shall notify the Minnesota department of transportation commissioner at least thirty (30) days in advance. (Ord. 705, 1-16-2002)

11-4-6: WIND ENERGY CONVERSION SYSTEMS (WECS):

A. Purpose: The purpose of this section is to provide for the regulation of the construction and operation of wind energy conversion systems in Cottage Grove, subject to reasonable conditions that will protect the environment, public health, safety, and welfare.

B. Definitions:

FACILITY OPERATOR: The entity responsible for the day to day operation and maintenance of the wind energy conversion system.

FACILITY OWNER: The entity or entities having controlling or majority equity interest in the wind energy conversion system, including their respective successors and assigns.

SUBSTATION: The apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility's transmission lines.

WECS, LARGE: A wind energy conversion system consisting of one or more wind turbines, a tower(s), and associated control or conversion electronics, which has a total rated capacity of fifty (50) or more kilowatts.

WECS, SMALL: A single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for on site consumption. A small wind energy conversion system consists of a single wind turbine, a tower or roof mounted system, and associated control or conversion electronics, which has a total rated capacity less than fifty (50) kilowatts.

WIND POWER: The conversion of wind energy into another form of energy.

WIND TURBINE HEIGHT: The distance measured from grade at the center of the tower to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

C. Conditional Use: Wind energy conversion systems shall be allowed as a conditional use in the zoning districts listed below: (Ord. 857, 4-15-2009)

District	Roof Mounted	Small WECS	Large WECS

AG-1 and AG-2	CUP	CUP	CUP
R-1 and R-2	CUP	CUP	Not permitted
R-2.5, R-2A, R-2B, R-2C, R-2D, R-2E, R-2F, R-3, R-4, R-5, and R-6	CUP	Not permitted	Not permitted
UR	CUP	Not permitted	Not permitted
B-1, B-2, B-3, P-B, and N-B	CUP	CUP	Not permitted
I-1	CUP	CUP	Not permitted
I-2, I-3 and I-5	CUP	CUP	CUP
I-4	CUP	Not permitted	Not permitted
PUD and PDO	CUP	Site plan review	Not permitted
Mississippi River corridor critical area overlay district	CUP	CUP	Not permitted

(Ord. 857, 4-15-2009; amd. Ord. 904, 5-16-2012)

D. Permit Application: Application for a WECS permit shall be accompanied by drawings that show the following:

1. Location of the proposed WECS, including guywires and any other auxiliary equipment.
2. Property lines and physical dimensions of the lot.
3. A photograph or detailed drawing of the WECS, including the tower.
4. Specific information on the WECS, including type, size, rated power output, rotor material and performance, safety and noise characteristics.
5. Specific information on the type, height and material of the tower.
6. Clearance distances between the farthest extension of the WECS blades to property lines.
7. Location, dimensions and types of existing structures and uses on the lot.
8. Location of all aboveground utility lines within distance equivalent to the total height of the WECS.
9. Location and size of structures, trees and other objects within three hundred feet (300') which are taller than the lowest extent of the blades of the proposed WECS.

E. Size Regulations; Compliance:

1. Rotors:
 - a. No WECS in a residential or commercial district shall have rotors that are longer than thirty five feet (35') in diameter.
 - b. No WECS in an industrial or agricultural district shall have rotors that are longer than fifty feet (50') in diameter.
 - c. The minimum height of the lowest extent of any WECS rotor shall be thirty feet (30') above the ground.
2. Height:
 - a. Freestanding wind turbine height limits: (Ord. 857, 4-15-2009)

District	Small WECS	Large WECS
AG-1 and AG-2	150 feet	250 feet

R-1 and R-2	150 feet	n/a
R-2.5, R-2A, R-2B, R-2C, R-2D, R-2E, R-2F, R-3, R-4, R-5, and R-6	n/a	n/a
UR	n/a	n/a
B-1, B-2, B-3, P-B, and N-B	150 feet	n/a
I-1	150 feet	n/a
I-2, I-3 and I-5	150 feet	250 feet
I-4	n/a	n/a
PUD and PDO	Site plan review	n/a
Mississippi River corridor critical area overlay district	150 feet	n/a

(Ord. 857, 4-15-2009; amd. Ord. 904, 5-16-2012)

- b. Roof mounted wind turbines must not exceed fifteen feet (15') above the height limit established for the principal or accessory structure.
3. Compliance With Regulations: All WECS shall comply with federal aviation administration notification requirements and any other applicable regulations.

F. Installation And Design:

1. Towers:

- a. All WECS tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Minnesota state building code. Indication of compliance may be obtained from the manufacturer's engineering staff or a state professional engineer.
- b. The compatibility of the tower structure with the rotors and other components of the WECS shall be certified by the manufacturer's engineering staff or by a state professional engineer.
- c. WECS towers shall either have tower climbing apparatus located not closer than twelve feet (12') to the ground or be unclimbable by design for the first twelve feet (12').

2. Safety Wires: Safety wires shall be installed on the turnbuckles on guywires of guyed WECS towers.

3. Overspeed Controls: Every WECS shall be equipped with manual and automatic overspeed controls. The conformance of rotor and overspeed control design and fabrication with good engineering practices shall be certified by the manufacturer's engineering staff or by a state professional engineer.

4. Electrical Requirements:

- a. All electrical components of the WECS shall be in compliance with the applicable requirements of the national electrical code as currently adopted by the Minnesota state building code division and shall be inspected by a qualified electrical inspector. The interconnection between the WECS and the electric utility shall be in compliance with the most recent edition of the national electrical code. Certification will be supplied in writing that the WECS will automatically disconnect from the utility when there is no power input from the utility. This certification can be supplied by the manufacturer of the WECS.
- b. The interconnection of the WECS with the local electrical utility shall comply with all applicable federal and state regulations. Every applicant for a WECS permit should notify his/her electrical utility in advance of his/her installation plans.
- c. Every battery storage unit associated with a WECS shall be in compliance with the national electrical code as currently adopted by the Minnesota state building code division and shall be inspected by a qualified electrical inspector.
- d. The WECS, including the blades, shall be grounded and shielded to protect against natural lightning strikes in conformance with the national electrical code.

e. No WECS shall have affixed or attached lights, reflectors, flashers or any other illumination, except for those devices required by the federal aviation administration.

5. Structural Components:

- a. The safety of structural components of every WECS and the compatibility of the rotors with the towers of WECS shall be certified by a state engineer. The safety of electrical components of every WECS shall be certified by a state registered electrical engineer or individual with technical training on WECS.
- b. The safety of all modifications to any WECS shall be certified by a state registered professional engineer. Certification of safety is required before the building permit is granted for modifications made prior to installation. Certification of the safety of modifications made after the WECS is installed and the permit is granted is also required. Failure to have the safety of modifications certified after the permit has been granted shall result in revocation of the permit until certification has been obtained.

6. Signs Required: At least one sign shall be posted at the base of the WECS tower and shall contain the following information:

- a. Notice of no trespassing; and
- b. Warning of high voltage.
- c. The visual appearance of WECS shall at a minimum:
 - (1) Be a nonobtrusive color such as white, off white or gray; and
 - (2) Not display advertising (including flags, streamers or decorative items), except for identification of the turbine manufacturer, facility owner and operator.

G. Siting:

1. Setbacks: The base of the tower of any WECS shall be set back from any property line a minimum of: (Ord. 857, 4-15-2009)

District	Small WECS	Large WECS
AG-1 and AG-2	1.1 times the WECS's height	1,000 feet
R-1 and R-2	1.1 times the WECS's height	n/a
R-2.5, R-2A, R-2B, R-2C, R-2D, R-2E, R-2F, R-3, R-4, R-5, and R-6	n/a	n/a
UR	n/a	n/a
B-1, B-2, B-3, P-B, and N-B	1.1 times the WECS's height	n/a
I-1	1.1 times the WECS's height	n/a
I-2, I-3 and I-5	1.1 times the WECS's height	1,000 feet
I-4	n/a	n/a
PUD and PDO	1.1 times the WECS's height	n/a

(Ord. 857, 4-15-2009; amd. Ord. 904, 5-16-2012)

- 2. Easements: No part of a WECS shall be located within or over drainage, utility or other established easements.
- 3. Property Lines: No part of a WECS shall be located on or over property lines.
- 4. Yards: The base of a WECS or the guywire anchors of a guyed WECS tower shall not be on any required minimum front, side or rear yards.
- 5. Mississippi River Corridor Critical Area Overlay District: No large WECS shall be located within the Mississippi River corridor

critical area overlay district.

6. Vehicular Areas: Efforts should be made when siting a WECS and any related equipment to avoid locations that may be vulnerable to vehicular accidents.
7. Clearance From Electrical Lines: Clearance between a WECS and electrical lines shall be in compliance with the requirements outlined in the most recent edition of the national electrical code.
8. Wind Turbines: A wind turbine must not be within one thousand three hundred twenty feet (1,320') from any conservation easements or public parks.
9. Siting On Top Of Buildings: Every WECS sited on top of a building shall comply with applicable provisions of the Minnesota state building code. Certification of compliance by a state professional engineer is required. The WECS must be less than ten (10) kilowatts and not extend higher than fifteen feet (15') above the maximum height allowed for the structure the WECS is mounted on.

H. Nuisance Concerns:

1. Noise Control: Noise area classification (NAC1, NAC2, etc.), established by the Minnesota pollution control agency shall be used to evaluate and regulate noise from every WECS. The audible sound from a WECS will be measured at the property boundary line. Every owner of a WECS that is found to be in violation of Minnesota pollution control agency's noise standards shall cooperate in taking reasonable mitigating measures.
2. Electrical Or Radio Frequency Interference: Efforts should be taken by the proposed WECS owner to purchase, build or recondition an electrical generator that will not create electrical or radio frequency interference to reception of communication signals. Complaints about electrical or radio frequency interference shall be directed to the federal communications commission.
3. Communication Interference: Efforts should be made to site each WECS to reduce the likelihood of blocking or reflecting television or other communication signals. If signal interference occurs, both the WECS owner and the individual receiving interference shall make reasonable efforts to resolve the problem. If the problem cannot be eliminated or reduced to a reasonable level, the WECS can be shut down.

I. Other Regulations:

1. Supplying More Than One Structure: A WECS that supplies energy to two (2) or more structures shall be allowed as long as the proposed WECS complies with all applicable zoning regulations.
2. Wind Access: Adequate wind access is essential to the safe and efficient operation of a WECS, and the city encourages the use of private and restrictive covenants to protect wind access.
3. Maintenance Requirements; Abandonment; Nuisance:
 - a. It shall be a public nuisance if any of the following conditions exist:
 - (1) A WECS is not maintained in operational condition and poses a potential safety hazard; or
 - (2) A WECS is not maintained and operated in compliance with applicable zoning provisions and state and federal laws; or
 - (3) A WECS has not generated electricity for a period of twelve (12) consecutive months and the wind energy facility owner has failed to remove the WECS or make it operational within thirty (30) days after the city has given written notice to remove the WECS.
 - b. The city has the right to abate a public nuisance under the procedures set forth at section [4-1-6](#) of this code, provided that the maximum notice period set forth at subsection [4-1-6B](#) of this code shall be sixty (60) days and not thirty (30) days for any abatement under this section.
4. Exemptions From Provisions: Any WECS that is by nature ornamental, rather than functional, shall be exempt from this section if total height is less than twenty five feet (25').
5. Inspections: Each WECS shall be inspected yearly by the building official, to verify that the WECS is operational and that all

requirements of installation continue to be met.

6. Wind Turbines: All wind turbines shall comply with all applicable state and federal regulatory standards, including the uniform building code as adopted by the state of Minnesota; national electrical code as adopted by the state of Minnesota; federal aviation administration (FAA) requirements; and Minnesota pollution control agency (MPCA)/environmental protection agency (EPA) regulations (hazardous waste, construction, stormwater, etc.).
7. Violation; Revocation Of Permit: Violation of any provision of this section is grounds for revocation of a conditional use permit for a WECS. (Ord. 857, 4-15-2009)

11-4-7: ELECTROMAGNETIC COMMUNICATION FACILITIES (EMCF):

A. Purpose: The purpose of this section is to establish regulations for the siting, construction and maintenance of electromagnetic communication facilities within Cottage Grove that protect the public health, safety and general welfare of the community.

B. Objectives: The regulations and requirements of this section are intended to:

1. Provide for the appropriate location and development of antennas and towers within the city.
2. Minimize adverse visual effects of EMCFS through uniform design and siting standards.
3. Utilize standard structural and setback requirements to avoid potential damage to adjacent properties from antenna and tower failure.
4. Maximize the use of existing approved structures for siting new antennas in order to reduce the number of new towers needed to serve the community. (Ord. 635, 9-18-1996)

C. Accessory Use: Within all zoning districts, EMCFS which are accessory to the principal use are subject to the established height and setback requirements for the principal structure. (Ord. 635, 9-18-1996; amd. 2000 Code)

D. Conditional Use: EMCFS are a conditional use within all zoning districts subject to the following performance standards:

1. Permit Required; Exemptions; Applications:

- a. It shall be unlawful for any person, firm, or corporation to erect, construct in place, place, replace, or structurally repair any EMCF without first making application to the Building Inspection Division and securing permit approval.
- b. Building permits are not required for adjustment or replacement of the elements of an antenna array affixed to a tower or antenna, erection of temporary antennas or towers utilized for testing purposes, emergency communication, or for broadcast remote pick-up operations.
- c. The applicant shall demonstrate by providing a coverage/interference analysis and capacity analysis that the location of the antenna as proposed is necessary to meet the frequency reuse and spacing needs of the proposed EMCF and to provide adequate coverage and capacity to areas which cannot be adequately served by locating the antenna in a less restrictive district.
- d. All applications for the location of new EMCFS or service shall be accompanied by an intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems.

2. Permitted Locations:

- a. Church sites when architecturally camouflaged as steeples, bell towers, or similar architectural features and attached to the principal structure.

- b. Parks and public open space sites when located on existing structures and designed to be compatible with the nature of the site.
 - c. Government, school and public utility structures.
 - d. Principal structures in commercial, industrial and agricultural zoning districts.
 - e. Accessory structures within industrial districts.
 - f. Freestanding EMCFs in agricultural and industrial zoning districts.
3. Spacing: The minimum spacing between EMCFs is one-quarter ($\frac{1}{4}$) mile, except for co-location.
4. Setbacks: Setback requirements for EMCFs are as follows:
- a. An EMCF attached to a building shall comply with the setbacks of the zoning district.
 - b. Freestanding EMCFs shall not be placed in the front yard.
 - c. Freestanding EMCFs shall not be placed between the principal structure and any adjoining public right of way.
 - d. Freestanding EMCFs shall be set back three feet (3') from any property line for each one foot (1') of structure height.
5. Height: Height calculations are determined by measuring the vertical distance between the grade around supporting structures for EMCFs, and the highest point on the freestanding or mounted facility. Individual EMCF height must comply as follows:
- a. EMCFs attached to existing structures shall not exceed fifteen feet (15').
 - b. The maximum height of any freestanding EMCF is one hundred fifty feet (150').
 - c. The City Council may require a twenty five percent (25%) reduction in the maximum height limits of EMCFs in all zoning districts if the topography of a proposed EMCF site is at a substantially higher elevation than the surrounding public roadways or residential areas.
6. Architectural Design: All proposed EMCFs shall be designed to blend in to the surrounding environment through the use of color and camouflaging architectural treatment, except where color is dictated by Federal or State regulations.
7. Structural Design: The structural design of EMCFs must comply with the following:
- a. Any proposed EMCF over sixty feet (60') shall be designed for co-location of at least one additional EMCF.
 - b. Any proposed EMCF over one hundred feet (100') in height shall be designed for co-location of at least two (2) additional EMCFs.
 - c. EMCFs must be designed to allow for future rearrangement of equipment upon the structure, and to accept attachments mounted at varying heights.
 - d. All freestanding EMCFs must be self-supporting without the use of wires, cables, beams or other means. The design should utilize an open framework or monopole configuration that is designed to collapse in on itself in the event of structural damage. Permanent attachments, exclusive of antennas, that serve to increase off-site visibility, are prohibited.
8. Screening: EMCFs should be located in areas that provide the maximum amount of natural or existing structural screening for off-site views of the facility. The ground level perimeter of all EMCFs shall be screened with a dense vegetative landscaping barrier that consists of seventy five percent (75%) coniferous plantings.
9. Lighting: EMCFs shall not be illuminated by artificial means, and shall not display strobe lights unless such lighting is required by Federal or State regulations. When incorporated into the design of the EMCF, light fixtures used to illuminate ball fields, parking lots or similar areas may be attached to the EMCF.
10. Signs: The use of any portion of an EMCF for signs other than warning or equipment information is prohibited.
11. Fencing: All facility fencing shall be six feet (6') in height or under, and shall not employ barbed wire, electricity or any other similar security devices. Plastic, fabric, mesh or other opaque fencing insert materials are prohibited.
12. Enclosed Mechanical And Electrical Equipment: EMCF mechanical and electrical equipment that is sited within ten feet (10')

of the ground shall be enclosed in a structure.

13. Utility Structures: All utility buildings and structures accessory to an EMCF shall meet the minimum setbacks of the zoning districts, and be architecturally designed, constructed and screened to blend in to the surrounding environment and architectural character of the adjacent land use. Ground mounted structures shall utilize coniferous vegetation for required landscape screening.
 14. Commercial EMCFs: All commercial EMCFs erected, constructed, or located within the City shall not be approved unless the City Council finds that the equipment planned for the proposed EMCF cannot be accommodated on an existing or approved tower, building or structure within a one mile search radius of the proposed tower due to one or more of the following reasons:
 - a. The planned equipment would exceed the structural capacity of the existing or approved structure, as documented by a qualified and licensed professional engineer, and the existing or approved structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 - b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer, and the interference cannot be prevented at a reasonable cost.
 - c. Existing or approved EMCFs and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
 - d. Existing structures are not located within an area that meets the frequency reuse and spacing needs of the proposed EMCF.
 - e. Other unforeseen reasons that make it infeasible to locate the planned equipment upon an existing or approved structure.
 15. Safety; Effects On Others: All construction, installation, wiring and maintenance of EMCFs shall not create a safety hazard or damage to the property of others.
 16. Encroachment Over Public Ways: With the exception of necessary electric and telephone service and connection lines approved by the issuing authority, no part of any antenna or tower nor any lines, cable, equipment or 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.
 17. Signal And Remote Control Conductors: 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 (8') above the ground at all points, unless buried underground.
- E. Change In Zoning: When the property is rezoned and the new zoning classification does not permit an EMCF in conformance with provisions of this Code, any existing EMCF shall be removed prior to preliminary plat approval or building permit issuance, whichever occurs first.
- F. Abandoned, Unused EMCFs: Abandoned or unused EMCFs shall be removed within twelve (12) months of the cessation of operations at the site, unless a time extension is granted by the Director of Community Development. Unused portions of EMCFs above a manufactured connection shall be removed within six (6) months of the time of the antenna relocation. The replacement of portions of a EMCF previously removed requires a conditional use permit amendment.
- G. Interference: No new or existing EMCF service shall interfere with public safety communications. Before the introduction of new services or changes in existing services, EMCF providers shall notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.
- H. Radiation: EMCFs placed within the City shall be subject to State and Federal regulations pertaining to nonionizing radiation and other health hazards related to such facilities. If additional restrictive standards are adopted, the EMCFs shall be made to comply, or continued operation of the conditionally permitted facility may be restricted by the City Council. The cost of verification of compliance shall be borne by the owner and operator of the EMCF.

- I. Existing EMCFs: All EMCFs that are in existence as of September 18, 1996, may continue in use for the purpose now used and as now existing, but may not be replaced or structurally altered without complying in all respects with this Section.
- J. Abrogation And Greater Restrictions: It is not the intention of this Section to interfere with, abrogate, or annul any covenant or other agreement between parties, provided, however where this Section imposes a greater restriction upon the use or premises for antennas or towers than are imposed or required by other sections, rules, regulations, or permits, or by covenants or agreements, the provisions of this Section shall govern. (Ord. 635, 9-18-1996)

11-4-8: SATELLITE RECEIVE-ONLY ANTENNAS (SROA):

- A. Permitted Accessory Use: Satellite receive-only antennas (SROA) shall be a permitted accessory use in all districts, subject to the standards of this Section. (1971 Code § 28-36.2)
- B. Freestanding SROAs:
1. In districts R-2.5, R-3, R-4, R-5 and R-6, no SROA shall be placed within any required front yard. (1971 Code § 28-36.2; amd. Ord. 640, 12-4-1996; 2000 Code)
 2. In all districts, SROAs shall be subject to the same setback requirements in rear or side yards which would apply to other accessory structures within the district.
 3. No antenna shall be placed less than twenty feet (20') from a public street right of way. All such antennas shall be securely anchored.
- C. Roof-Mounted SROAs: Every SROA mounted on a roof shall be subject to the normal height limits of the zoning district in which it is located and shall comply with any applicable requirements of the Uniform Building Code.
- D. Additional Provisions:
1. In business and industrial districts, every exterior display of four (4) or more SROAs for sale shall be considered an open sales lot and shall be subject to regulations for open sales lots applicable to that zoning district.
 2. Advertising shall not be placed on satellite antennas. (1971 Code § 28-36.2)

11-4-9: MOTOR VEHICLE SALES AND LEASING:

Motor vehicle sales and leasing establishments, except for limited automotive sales in the I-2, general industrial district, must conform to the following standards:

- A. Lot Area And Dimensions:
1. Minimum lot size of eight (8) acres.
 2. Maximum lot size of fifteen (15) acres.
 3. Minimum lot width of three hundred feet (300').

4. Minimum lot depth of one hundred fifty feet (150').

B. Building Size And Setbacks:

1. Only one primary building is allowed with a minimum size of forty thousand (40,000) square feet.
2. Minimum front setback of seventy five feet (75').
3. Minimum side yard setback of fifty feet (50').

C. Landscaping And Screening:

1. All vehicle parking and inventory areas which are adjacent to public streets or side and rear property lines must be screened by fencing constructed on top of a continuous brick wall, with a fence design approved by the city.
2. A minimum of thirty five percent (35%) of the site must be landscaped.
3. A minimum thirty foot (30') wide landscaped area must be established along the perimeter of the site. This area must include landscaped berms no less than three feet (3') in height.
4. A minimum of ten percent (10%) of the parking and display area must be landscaped and irrigated.
5. All other landscaping requirements must be met.

D. Other Requirements:

1. Motor vehicle display areas must be on one lot not separated by a public street or other land use.
2. No vehicle parking is allowed in landscaped areas.
3. Customer and employee parking areas must be clearly indicated on the plan. No parking or vehicle display is allowed in driveways, entrances, or customer parking areas.
4. A maximum of two (2) vehicle elevated display areas are allowed. These display areas must be located outside of the thirty foot (30') perimeter landscaped area and must not exceed three feet (3') in height. These display areas must be landscaped and constructed of brick pavers, decorative stamped, colored concrete, or better. No metal ramps or similar devices are allowed. No rooftop parking or display is allowed.
5. Pennants, balloons, streamers, pinwheels, or other attention attracting devices are not allowed. Open hoods of vehicles, windshields, car windows, trunks, roofs, or the like must not be used for signage. A maximum of two (2) flags are allowed. Flagpole locations must be shown on the site plan. Flagpoles may not exceed twenty five feet (25') in height. The length of any flag may not exceed six feet (6').
6. Loading and unloading of vehicles from transport trucks may only take place on the site. No loading or unloading on public streets is allowed.
7. All lighting must be downward directed with cutoff fixtures. No signs may be attached to light poles.
8. No loudspeakers or music systems are allowed outside of the building.

E. Limited Automotive Sales: Limited automotive sales accessory to an automotive repair use (inside the principal structure) must conform to the following standards:

1. Lot Area And Dimensions:
 - a. Minimum lot size of three (3) acres.
 - b. Maximum lot size of five (5) acres.

c. Minimum lot width of four hundred twenty five feet (425').

d. Minimum lot depth of one hundred fifty feet (150').

2. Building Size And Setbacks:

a. Minimum primary building of twenty thousand five hundred (20,500) square feet.

b. The minimum building and parking setbacks are the same minimum yard requirements as required in the I-2, general industrial district.

3. Landscaping And Screening:

a. A minimum of thirty five percent (35%) of the site must be landscaped.

b. A minimum thirty foot (30') wide landscaped area must be established along the perimeter of the site. This area must include landscaped berms no less than three feet (3') in height.

c. A minimum of ten percent (10%) of the parking and display area must be landscaped and irrigated.

d. All other landscaping requirements must be met.

4. Other Requirements:

a. Motor vehicle display areas must be entirely inside the principal building.

b. The maximum floor area inside the principal building designated for motor vehicle display must not be greater than ten percent (10%) of the principal building's gross floor area.

c. Customer and employee parking areas must be clearly indicated on the plan. No parking or vehicle display is allowed in driveways or entrances.

d. Loading and unloading vehicles from a transport vehicle may only take place on the site. Loading or unloading on public streets is prohibited.

e. Outdoor signage displaying automotive sales, leasing or rental is prohibited on the site. (Ord. 914, 5-15-2013)

Chapter 5 ADULT ESTABLISHMENTS

11-5-1: PURPOSE AND FINDINGS:

- A. Purpose: It is the purpose of this chapter to regulate the location of and to prescribe licensing requirements for adult establishments in order to protect the general health, safety and welfare of the citizens of the city of Cottage Grove. This chapter is not intended to limit or restrict the content of adult oriented materials nor is it intended to deny access to adult oriented materials protected by the first amendment.
- B. Findings Of The City Council: Studies conducted by the Minnesota attorney general, the American Planning Association, and cities such as St. Paul, Minnesota; Indianapolis, Indiana; Hopkins, Minnesota; Ramsey, Minnesota; Minnetonka, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; and Seattle, Washington, have studied the impacts that adult establishments have in those communities. These studies have concluded that adult establishments have adverse impacts on the surrounding neighborhoods. These impacts include increased crime rates, lower property values, increased transiency, neighborhood blight, and potential health risks. After studying the experiences of other cities where adult businesses have located, the city council of the city of Cottage Grove concludes:
1. Adult establishments have adverse secondary impacts of the types set forth above.

2. The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by geographic, licensing, and health requirements.
3. It is not the intent of the city council to prohibit adult establishments from having a reasonable opportunity to locate in the city.
4. Minnesota statutes, section 462.357, allows the city to adopt regulations to promote the public health, safety, morals and general welfare.
5. The public health, safety, morals and general welfare will be promoted by the city adopting regulations governing adult establishments.
6. Adult establishments can contribute to an increase in criminal activity in the area in which such businesses are located, taxing city crime prevention programs and law enforcement services.
7. Adult establishments can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.
8. Adult establishments can increase the risk of exposure to communicable diseases including, but not limited to, acquired immune deficiency syndrome (AIDS) for which currently there is no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishments but also the general public.
9. Adult establishments can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.
10. The risk of criminal activity and public health problems can be minimized through a licensing and regulatory scheme as prescribed herein. (Ord. 733, 5-21-2003)

11-5-2: DEFINITIONS:

For purposes of this chapter, the following terms have the meanings given them:

ADULT ESTABLISHMENT: A. Any business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise, or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from, items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to specified sexual activities or specified anatomical areas; or

B. Any business that engages in any "adult use" as defined herein.

ADULT USE: Any of the following activities or businesses:

Adult Body Painting Studio: An establishment or business that provides the service of applying paint or other substance, whether transparent or nontransparent, to or on the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas".

Adult Bookstore: A business engaging in the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotapes, videotapes, movies, motion picture film, or any other similar materials, if a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise consists of, or if a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) is devoted to, or if a substantial or significant portion of its gross revenues is derived from, items, merchandise, devices or materials that are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas".

Adult Cabaret: An establishment that provides dancing or other live entertainment that is distinguished or characterized by an emphasis on the performance, depiction, or description of "specified sexual activities" or "specified anatomical areas" or seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

Adult Companionship Establishment: A business that provides the service of engaging in or listening to conversation, talk or discussion distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Adult Conversation/Rap Parlor: A business or establishment that provides the services of engaging in or listening to conversation, talk or discussion distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Adult Hotel Or Motel: A hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

Adult Massage Parlor, Sport/Health Club: A massage parlor or sport/health club that provides massage services distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Adult Mini-Motion Picture Theater: A business or establishment with a capacity of less than fifty (50) persons that as a prevailing practice presents on premises viewing of movies, motion pictures or other visual media material distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Adult Modeling Studio: An establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in "specified sexual activities" or display "specified anatomical areas" while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.

Adult Motion Picture Arcade: Any place to which the public is permitted or invited wherein coin or slug operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas".

Adult Motion Picture Theater: A business with a capacity of fifty (50) or more persons that as a prevailing practice presents visual media material distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas".

Adult Novelty Business: A business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from items, merchandise, or devices that are distinguished or characterized by an emphasis of material depicting or describing "specified sexual activities" or "specified anatomical areas", or items, merchandise or devices that simulate "specified sexual activities" or "specified anatomical areas", or are designed for sexual stimulation.

Adult Sauna: A sauna that excludes minors by reason of age, or that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Adult Steam Room/Bathhouse Facility: A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

BODY ART: Physical body adornment using, but not limited to, the following techniques: body piercing, tattooing, branding, body modification, and cosmetic tattooing. This definition does not include practices that are considered part of a medical procedure performed by state board certified medical and dental personnel, such as, but not limited to, implants under the skin. Such medical procedures may not be performed in a body art establishment. This definition does not include piercing of the outer perimeter of the lobe of the ear using presterilized single use stud and clasp ear piercing system.

NUDE OR SPECIFIED ANATOMICAL AREAS: A. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast(s) below a point immediately above the top of the areola; and

B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES: A. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or

B. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or

C. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or

- D. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast; or
- E. Situations involving a person or persons, any of which are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons; or
- F. Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or
- G. Human excretion, urination, menstruation, vaginal or anal irrigation.

SUBSTANTIAL OR SIGNIFICANT PORTION: Twenty five percent (25%) or more. (Ord. 733, 5-21-2003; amd. Ord. 825, 10-3-2007)

11-5-3: LOCATION:

- A. An adult establishment may be located within the B-3 general business zoning district as a permitted use.
- B. An adult establishment shall not be allowed within five hundred feet (500') of another existing adult establishment.
- C. An adult establishment shall not be allowed within five hundred feet (500') of a body art establishment.
- D. An adult establishment shall not be located within five hundred feet (500') of any residential building located in any residential or agricultural zoning district in the city.
- E. An adult establishment shall not be located within five hundred feet (500') of an existing school, daycare, library, park, playground or place of worship located in the city.
- F. For purposes of this chapter, the five hundred foot (500') distance shall be a horizontal measurement from the closest point of the nearest residential building, place of worship, school, daycare, library, another adult establishment, or from the closest point of the nearest structure on a playground, or the nearest boundary of the site containing a park, to the nearest point of the proposed adult establishment structure. If the proposed adult establishment is located in a multi-tenant building, the measurement shall be taken to the nearest point of the portion of the building where the adult establishment is located. If a portion of a lot or existing parcel of land is within the five hundred foot (500') buffer area, the portion of the parcel or lot outside of the five hundred foot (500') buffer area shall be considered a permitted location if it is capable of being subdivided or split into a separate parcel or lot. (Ord. 825, 10-3-2007)

11-5-4: LICENSE REQUIRED:

Any person, firm, partnership or corporation wishing to operate an adult establishment must apply for and obtain a license from the city as hereinafter provided. (Ord. 733, 5-21-2003)

11-5-5: APPLICATION FOR LICENSE; EXPIRATION AND RENEWAL:

- A. Execution Of Application: The following individuals must sign the license application and will be considered an applicant for purposes of this chapter:
1. The owner of the adult establishment business;
 2. The operator of the business;
 3. The manager of the business; and
 4. In the case of an applicant that is not an individual, each person who has a ten percent (10%) or greater interest in the business, and each officer, director, general partner or other person who will participate directly in decisions relating to the management of the business.
- B. Contents Of Application: The application for an adult establishment license shall be considered complete if it includes the information required in this section.
1. The name, residence, phone number, and birth date of each individual applicant. If the applicant is a partnership, the name, residence, phone number, and birth date of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers, and birth dates of all persons holding more than ten percent (10%) of the issued and outstanding stock of the corporation;
 2. The address and legal description of the premises where the adult establishment is to be located;
 3. A statement detailing any misdemeanor, gross misdemeanor, or felony convictions relating to sex offenses, obscenity, or the operation of an adult establishment by each applicant, and whether the applicant has ever applied for or held a license to operate a similar type of business in another community. In the case of a corporation, a statement detailing any felony convictions by the owners of more than ten percent (10%) of the issued and outstanding stock of the corporation, and whether or not those owners have ever applied for or held a license to operate a similar type of business in another community;
 4. The activities and types of business to be conducted;
 5. The hours of operation;
 6. The provisions made to restrict access by minors;
 7. A building plan of the premises detailing all internal operations and activities;
 8. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (.6");
 9. A statement that the applicant is qualified according to the provisions of this chapter;
 10. A statement that the premises have been or will be inspected and found to be in compliance with the appropriate state, county, and local law and codes by the health official, fire marshal, and building inspector;
 11. The names and addresses of all creditors of each applicant insofar as credit which has been extended for the purposes of constructing, equipping, maintaining, operating, or furnishing or acquiring the premises, personal effects, equipment, or anything incident to the establishment, maintenance and operation of the business;
 12. If the application is made on behalf of a corporation, joint business venture, partnership, or any legally constituted business association, it shall submit along with its application, accurate and complete business records showing the names, addresses, and dates of birth of all individuals having an interest in the business, including partners, officers, owners, and creditors furnishing credit for the establishment, acquisition, maintenance, and furnishings of said business and, in the case of a corporation, the names, addresses, and dates of birth of all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation, or furnishing of the establishment including the purchase or acquisition of any items of personal property for use in said operation; and
 13. Complete and accurate documentation establishing the interest of the applicant and any other person having an interest in the premises upon which the building is proposed to be located or the furnishings thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise.

C. Issuance Of License:

1. Disqualifications: The city will issue a license to an applicant within sixty (60) days of a complete application unless one or more of the following conditions exist:
 - a. The applicant is under twenty one (21);
 - b. The applicant failed to supply all of the information requested on the license application;
 - c. The applicant gives false, fraudulent, or untruthful information on the license application;
 - d. The adult establishment is not in full compliance with this code and all provisions of state and federal law;
 - e. The applicant has not paid the required license and investigation fees;
 - f. The applicant has been denied a license by the city or any other Minnesota municipal corporation to operate an adult establishment, or such license has been suspended or revoked, within the preceding twelve (12) months;
 - g. The adult establishment holds an intoxicating liquor, 3.2 percent malt liquor, wine license or any other license identified in Minnesota statutes chapter 340A or [title 3, chapter 3](#) of this code or is located in a building that holds such a license;
 - h. Less than one year has elapsed in the case of a previous license revocation;
 - i. The applicant has been convicted of a gross misdemeanor or felony or of violating any law of this state or local ordinance relating to sex offenses, obscenity offenses, or adult establishments for which:
 - (1) Less than two (2) years have elapsed since the date of conviction or the date of release from confinement in the case of a misdemeanor offense;
 - (2) Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is later, in the case of a felony offense; or
 - (3) Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is later, if the conviction is of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty four (24) month period.
2. Approval: If the city fails to act within sixty (60) days of a complete application, the application will be deemed approved.

D. Expiration And Renewal Of License:

1. An application for the renewal of an existing license must be submitted to the city clerk at least thirty (30) calendar days prior to the expiration date of the existing license. Within twenty (20) days of receipt of the renewal application, the city will verify all of the information in the renewal application and complete any necessary investigation. Within ten (10) days after the completed investigation, the city will issue a renewal license unless one or more of the conditions in subsection C of this section exist. If the city denies a renewal application, the city shall notify the applicant in writing and shall state the grounds for nonrenewal.
2. After the city denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. (Ord. 733, 5-21-2003)

11-5-6: LICENSE FEES; TERM:

A. Fee Required:

1. Each application for a license shall be accompanied by a receipt from the city finance director for payment in full of the required fee.

2. The annual fee for an adult establishment license and a nonrefundable investigation fee shall be established by city council resolution from time to time. All fees shall be paid into the general fund of the city.

B. Refund:

1. When an application for a license is rejected, the finance director shall refund the amount paid.
2. No part of the fee paid for any license issued under this chapter shall be refunded except in the following instances upon application to the city administrator within thirty (30) days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one month before expiration of the license because of:
 - a. Destruction or damage of the licensed premises by fire or other catastrophe;
 - b. The licensee's illness;
 - c. The licensee's death; or
 - d. A change in the legal status making it unlawful for the licensed business to continue.

C. Term Of License: Each license shall be issued for a period of one year. All licenses shall expire on June 30 of each year.

D. Prorated Fee: If a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month. (Ord. 733, 5-21-2003)

11-5-7: TRANSFER OF LICENSE:

Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another holder or premises without the approval of the city council. If the licensee is a partnership or a corporation, a change in the identity of any partner or holder of more than five percent (5%) of the issued and outstanding stock of the corporation will be deemed a transfer of the license. (Ord. 733, 5-21-2003)

11-5-8: OPERATION OF BUSINESS:

A. Generally: Every adult establishment is subject to the following conditions:

1. **Posting Of License:** All licensed premises shall have the license posted in a conspicuous place at all times.
2. **Access By Minors:** No minor shall be permitted on the licensed premises. Adult items or merchandise distinguished by an emphasis on specified sexual activities or specified anatomical areas may not be offered, sold, transferred, conveyed, given or bartered to a minor, or displayed in a fashion that allows them to be viewed by a minor, whether or not the minor is on the licensed premises.
3. **Conduct Of Business:** Every licensee shall be responsible for the conduct of the place of business and shall maintain conditions of order.
4. **Inspections:** Any designated inspection officer or law enforcement officer of the city shall have the right to enter, inspect, and search the premises of a licensee at any time it is occupied or open for business. Refusal to permit an inspection may result in nonrenewal, suspension or revocation of the license as provided in section [11-5-10](#) of this chapter.

5. Liquor Sales: An adult establishment shall not sell or dispense any intoxicating liquor, 3.2 percent malt liquor, wine or any other alcoholic beverage, nor shall it be located in a building that contains a business that is licensed to sell such products.
6. Signs: Each adult establishment shall prominently display a sign on its main entrance door which reads: "This business sells or displays sexually explicit materials, items, and merchandise. Persons under the age of eighteen (18) shall not enter". All signs must comply with the city's ordinance for signs in [title 9, chapter 8](#) of this code.
7. Off Site Viewing: Any business operating as an adult establishment shall prevent off site viewing of its merchandise, which if viewed by a minor, would be in violation of Minnesota statutes chapter 617 or other applicable federal or state statutes or local ordinances.
8. Entrances: All entrances to the business, with the exception of emergency fire exits that are not usable by patrons to enter the business, shall be visible from a public right of way.
9. Layout: The layout of any display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including, but not limited to, books, magazines, photographs, videotapes, or any other material, or any live dancers or entertainers.
10. Illumination: Illumination of the premises' exterior shall be adequate to observe the location and activities of all persons on the exterior premises.
11. Hours Of Operation: Adult establishments shall not be open between the hours of one o'clock (1:00) A.M. and eight o'clock (8:00) A.M. on the days of Monday through Saturday, nor between one o'clock (1:00) A.M. and twelve o'clock (12:00) noon on Sunday.

B. Adult Cabarets: The following conditions apply to adult cabarets:

1. No owner, operator or manager of an adult cabaret shall permit or allow any dancer or other live entertainer to perform nude.
2. No dancer, live entertainer, performer, patron or any other person shall be nude in an adult cabaret.
3. The owner, operator or manager of an adult cabaret shall provide the following information to the city concerning any persons who dance or perform live entertainment at the adult cabaret: the person's name, home address, home telephone number, date of birth and any aliases.
4. No dancer, live entertainer or performer shall be under eighteen (18) years old.
5. All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two feet (2') from the level of the floor.
6. No dancer or performer shall perform any dance or live entertainment closer than ten feet (10') to any patron.
7. No dancer or performer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.
8. No patron shall pay or give any gratuity to any dancer or performer.
9. No dancer or performer shall solicit or receive any pay or gratuity from any patron. (Ord. 733, 5-21-2003)

11-5-9: NONCONFORMING USES:

Any adult establishment existing on the effective date of this chapter:

- A. Shall be required to apply for and receive a license.

B. May not expand or enlarge except in conformity with the provisions of this chapter. (Ord. 733, 5-21-2003)

11-5-10: SUSPENSION AND REVOCATION OF A LICENSE:

A. Suspension:

1. Reasons For Suspension: The city may suspend a license for a period not to exceed thirty (30) days if it determines that the licensee or an employee of the licensee has:
 - a. Failed to fully comply with any requirements of the ordinances of the city regarding sanitary and safety conditions, zoning requirements, building code requirements or ordinances, or failure to comply fully with any requirements of this chapter;
 - b. Engaged in the sale or use of alcoholic beverages while on the adult establishment premises, other than at an adult hotel or motel;
 - c. Refused to allow an inspection of the adult establishment as authorized by this chapter;
 - d. Knowingly permitted gambling by any person on the adult establishment premises; or
 - e. Demonstrated an inability to operate or manage an adult establishment in a peaceful and law abiding manner, thus necessitating action by law enforcement officers.
2. Notice Of Suspension: A suspension by the city shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof, or by mailing the notice by U.S. mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application.

B. Revocation: The city may revoke a license if the license is suspended for a reason listed in part A and the license has been suspended at least once before within the preceding twelve (12) months. The city may revoke a license if the licensee or the licensee's employee:

1. Gave fraudulent, false or misleading information in connection with the securing of the license;
2. Has knowingly allowed possession, use, or sale of controlled substances on the premises;
3. Has knowingly allowed prostitution on the premises;
4. Knowingly operated the adult establishment during a period when the license was suspended;
5. Was convicted of an offense listed in subsection [11-5-5C1i](#) of this chapter, for which the time period in subsections [11-5-5C1i\(1\)](#) through [C1i\(3\)](#) of this chapter has not elapsed;
6. On two (2) or more occasions within a twelve (12) month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in subsection [11-5-5C1j](#) of this chapter, for which a conviction has been obtained, and the person or persons were employees of the adult establishment at the time the offenses were committed; or
7. Knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur on the licensed premises.

C. Appeal: The fact that a conviction is being appealed shall have no effect on the revocation of the license.

D. Exceptions: Subsection B7 of this section does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.

- E. Granting A License After Revocation: When the city revokes a license, the revocation shall continue for one year and the licensee shall not be issued an adult establishment license for one year from the date revocation became effective. If the license is revoked under subsection B5 of this section, an applicant may not be granted another license until the appropriate number of years required under subsections [11-5-5](#) C1i(1) through C1i(3) of this chapter has elapsed.
- F. Notice: A revocation by the city shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof or by mailing the notice by U.S. mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application. (Ord. 733, 5-21-2003)

11-5-11: PROCEDURES:

The following provisions govern the issuance, suspension, revocation and nonrenewal of an adult establishment license:

- A. If the city council proposes to revoke, suspend or not renew the license, the licensee must be notified in writing of the basis for such action. The council will hold a hearing for the purpose of determining whether to revoke a license within thirty (30) days after the close of the hearing or within sixty (60) days of the date of the notice, whichever is sooner. The council must notify the licensee of its decision within that period.
- B. If the city council determines to suspend or revoke a license, the suspension or revocation is not effective until fifteen (15) days after notification of the decision to the licensee. If, within that fifteen (15) days, the licensee files and serves an action in state or federal court challenging the council's action, then the suspension or revocation is stayed until the conclusion of such action.
- C. If the city council determines not to renew a license, the licensee may continue its business for fifteen (15) days after receiving notice of such nonrenewal. If the licensee files and serves an action in state or federal court within that fifteen (15) days for the purpose of determining whether the city acted properly, the licensee may continue in business until the conclusion of the action.
- D. If the city council does not grant a license to an applicant, then the applicant may commence an action in state or federal court within fifteen (15) days for the purpose of determining whether the city acted properly. The applicant may not commence doing business unless the action is concluded in its favor. (Ord. 733, 5-21-2003)

11-5-12: SEVERABILITY:

Every section, provision, or part of this chapter is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this chapter be held invalid by a court of competent jurisdiction it shall not invalidate any other section, provision, or part thereof. The city council specifically declares that the licensing requirements in this chapter are severable from any and all of the other requirements of this chapter. The city council further declares that it would have adopted the other requirements in this chapter regardless of the validity or invalidity of the licensing requirements. (Ord. 733, 5-21-2003)

11-5-13: PENALTY:

Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be subject to the penalties for a misdemeanor as prescribed by state law. Each day the violation continues shall be considered a separate misdemeanor offense punishable by a separate misdemeanor penalty. The city may also bring any available civil action to enforce this chapter. (Ord. 733, 5-21-2003)

11-5-14: EFFECTIVE DATE:

This chapter shall be effective immediately upon its publication. (Ord. 733, 5-21-2003)

Chapter 6 PERFORMANCE STANDARDS

11-6-1: PURPOSE; COMPLIANCE REQUIRED:

- A. Guiding urban development so as to develop a compatible relationship of uses depends upon certain standards being maintained. Uses permitted in the various districts and conditional and accessory uses shall conform to the standards of this chapter with regard to waste materials, smoke and particulate matter, toxic or noxious matter, odors, air pollution and noise. The various uses in all districts, permitted, conditional and accessory, shall conform to the official standards adopted by the state pollution control agency or the standards established in this chapter, whichever are higher.
- B. Before any building permit is approved, the building official shall determine whether the proposed use will conform to the 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, etc., where required to do so by the building official. (1971 Code § 28-37; amd. 2000 Code)

11-6-2: EXTERIOR STORAGE:

- A. The presence and accumulation of excessive amounts of material and equipment on real property is found to create an unsightly condition tending to reduce the value of real property, to create fire and safety hazards, to promote blight and deterioration in the community, to attract rodents and other vermin, and otherwise adversely affecting residential property values and neighborhood maintenance and improvement. Therefore, accumulation and improper storage of personal property, material and equipment in violation of this section is declared to constitute a public nuisance and may be abated as such, which remedy shall be in addition to any other remedy provided in this code or by state law.
- B. In residential districts, all personal property must be stored within a building except for the following:
1. Clothesline pole and wires;
 2. Swings, slides and other nonmotorized recreational equipment;
 3. Outdoor furniture, lawn decorations, nonmotorized lawn and garden equipment, and outdoor cooking equipment;
 4. Construction and landscaping material and equipment that are used or intended for use on the premises within a twelve (12) month period;

5. Off street parking or storage of vehicles and recreational vehicles as permitted by section [6-2-4](#) of this code. Vehicle parking must comply with the setbacks for accessory structures in the zoning district;
 6. Trash and garbage receptacles that comply with the standards set forth in section [11-6-3](#) of this chapter and section [4-2-5](#) of this code;
 7. Firewood stacks in any residential district that comply with the standards set forth in subsection [4-1-3M](#) of this code.
- C. No exception listed in this section shall be construed to avoid other restrictions imposed by this chapter or [title 4, chapter 1](#) of this code or any conditions imposed on any conditional use permit. The exceptions listed in subsection B of this section are limited to quantities of materials normally or usually associated with residential use. (Ord. 710, 3-20-2002)

11-6-3: SOLID WASTE STORAGE:

- A. Storage In Closed Containers Required: In all districts, all waste material, debris, refuse, or garbage shall be kept in an approved closed container designed for such purposes. (1971 Code § 28-39)
- B. Specifications For Enclosure Structures: For all new construction or major alterations to existing structures, the following standards apply to the placement and construction specifications of trash enclosure structures:
1. The trash enclosure structure must be setback ten feet (10') from all property lines. The enclosure shall not be located in the front yard of the property.
 2. Such structure shall be situated on a poured in place concrete base, which shall be extended a minimum of six feet (6') beyond the door opening to the structure.
 3. The walls shall be a minimum of six feet (6') in height and shall be a masonry material consistent with the principal structure. The interior wall and floor surface shall be completely surfaced with epoxy finish. No roof is required.
 4. Bollards encased in concrete shall be placed at the entrance to the structure. Such bollards shall be a minimum of six inches (6") in diameter, with the height to match the wall height.
 5. The door opening shall be a minimum of nine feet (9') in width and constructed with opaque material to preclude views into the enclosure. Use of chainlink with vinyl slats is not permitted. (Ord. 741, 8-20-2003)

11-6-4: SCREENING REQUIREMENTS:

- A. Screening Required:
1. Screening shall be required in all zones where any off street parking area contains more than four (4) parking spaces and is within thirty feet (30') of an adjoining residential use or zone, and where the driveway to a parking area of more than six (6) parking spaces is within fifteen feet (15') of an adjoining residential use or zone.
 2. Where any business or industrial use, structure, parking or storage is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a developed residential zone, but not on that side of a business or industry considered to be the front or carrying out the theme of the front, as determined by the building official.
 3. In all districts, except heavy industry districts, all exterior storage shall be screened. The exceptions are:
 - a. Retail merchandise being displayed in front of the structure.

- b. Materials and equipment being used for construction on the premises.
- c. Merchandise located on service station pump islands.

B. Specifications:

1. Generally:

- a. The screening required in this section shall consist of a solid fence or wall not less than five feet (5') high but shall not extend within fifteen feet (15') of any street right of way or driveway.
- b. The screening shall be placed along property lines or, in the case of screening along a street, fifteen feet (15') from the street right of way, with landscaping between the screening and the pavement.
- c. A louvered fence shall be considered solid if it blocks direct vision.
- d. Planting of a type approved by the city council may be used as screening. (1971 Code § 28-40; amd. 2000 Code)

2. Rooftop Mechanical Equipment: As viewed from ground levels at a variety of locations, all mechanical equipment located on the roof of a structure must be screened by a raised parapet; or with comparable and compatible exterior building materials.

- a. A raised parapet or other architectural feature that is an integral part(s) of the building may be required as screening for rooftop mechanical equipment or to soften rooftop views.
- b. Screening for rooftop mechanical equipment must incorporate similar architectural features of the building and/or be constructed of a material and color compatible with other elements of the building.

c. Incidental rooftop equipment deemed unnecessary to be screened by the director of community development or designee must be of a color to match the roof or the sky, whichever is more effective.

d. Metal cabinets used to enclose and protect rooftop mechanical equipment must not substitute as screening. (Ord. 820, 6-20-2007)

3. Ground Mounted Mechanical Equipment: All ground mounted mechanical equipment accessory to the principal structure over thirty inches (30") or greater than twelve (12) cubic feet shall be screened from public views with landscaping, berming, or screen wall, except single dwelling unit and double dwelling unit buildings. Acceptable screening materials must be similar to or compatible in design and color with those used on the principal structure. Screening material may include properly maintained wood, vinyl, or metal screens or fencing. (Ord. 745, 10-15-2003)

11-6-5: LANDSCAPING REQUIREMENTS:

A. Purpose: Landscaping promotes immediate and long term public health, safety, economic stability and general welfare of the city. Landscaping improves the livability of residential neighborhoods, enhances the appearance and customer attraction of commercial areas, increases property values, improves the compatibility of adjacent uses, screens undesirable views, and reduces air and noise pollution. Uniform standards of development and maintenance of landscaping are established to promote a reasonable balance between the right of individuals to develop and maintain their property in a manner they prefer, while creating pleasant and attractive surroundings for residents to live, work, shop and recreate.

B. Objectives: Required landscaped areas serve the following objectives:

- 1. Protect against soil erosion.
- 2. Reduce hazards of flooding.
- 3. Absorb carbon dioxide and supply oxygen.

4. Reduce the effects of noise, glare, dust and other objectionable activities.
5. Safeguard and enhance property values.
6. Promote the pleasant appearance and character of neighborhoods and cities.
7. Shade of plants promotes cooling effects.
8. Facilitate the safe movement of traffic.
9. Promote quality development.
10. Promote orderly growth.
11. Provide buffering and screening between different intensities of land use.
12. Aid in water conservation and water quality protection by requiring the use of plant material native to this climate in landscaping and retention of existing natural vegetation thereby reducing the need for irrigation, pesticides, herbicides and fertilizers.

C. Landscape Plan Submittal Requirements:

1. Plan Required:

- a. A detailed landscape plan shall be submitted for review and approval by the planning division with the application for a building permit for a new structure, site plan approval, conditional use permit or subdivision approval. Each landscape plan shall reflect the purpose statement of this section and shall be prepared to meet the objectives and requirements.
- b. An applicant shall submit six (6) professionally designed, legible copies of the plan at the time of application.
- c. Every landscape plan submitted for a site shall be prepared by a professional landscape company, an accredited landscape technician or a landscape architect registered by the state.

2. Exemptions: Individual single- and two-family residential homesites shall be exempt from the general landscaping criteria unless it is otherwise specified in this section.

3. Design Emphasis: Design emphasis shall be placed on the following:

- a. Screening parking areas from view from public roadways and adjoining properties.
- b. Enhancing driveway entrance areas.
- c. Promoting the maintenance of vital sightlines of the principal use on the site.
- d. Mitigating the visual impacts of large areas of impervious surfaces.
- e. Maintaining efficient traffic and parking control.
- f. Reducing the amount of uninterrupted blank walls.
- g. Reducing the amount of contiguous hard surface areas at building entrances, along sidewalks and around other highly visible areas.

4. Plan Requirements: At the time of application, all of the following information shall be indicated graphically and labeled clearly on a one dimension scaled drawing at a sheet size of twenty four inches by thirty six inches (24" x 36"), and an eight and one-half by eleven inch (8.5 x 11") transparency reduction for all exhibits in the plan:

- a. Property lines, easements and other pertinent boundary information.
- b. Adjacent and intersecting street rights of way, widths and street names. (Ord. 618, 8-2-1995)
- c. Existing and proposed structures, buildings, walks, drives, landscaping and parking areas (with number of spaces noted), and any other humanmade structures. Existing items shall be differentiated from proposed. (Ord. 618, 8-2-1995; amd. 2000 Code)

- d. Existing and proposed utilities and utility easements.
- e. Existing and proposed two foot (2') contour lines.
- f. Corner visibility triangle areas required under subsection [11-3-5E](#) of this title.
- g. Existing trees with common name, botanical name, size and whether they are to be saved, relocated or destroyed.
- h. Proposed plantings by location, scientific name, common name, quantity, caliper and planting method.
- i. Total square footage of parcel, buildings, parking lot interior, driveways, sidewalks, and required landscaped areas.
- j. Location, height and material of proposed screening, fencing and berms.
- k. Title block containing: date, name of project, name, address and phone numbers of owner, and the identity of the party who prepared the plan.
- l. Legal description.
- m. North arrow.
- n. Graphic scale of one inch equals forty feet (1" = 40') or larger.
- o. Adjacent land uses.
- p. Fringe information within a distance of one hundred fifty feet (150') from the project.
- q. Vegetation management plan for areas planted with native prairie grasses and wild flowers.
- r. Property identification number.

D. General Landscape Requirements:

1. Minimum Landscape Requirements:

- a. The following areas of a site are required landscaped areas:
 - (1) Required yards.
 - (2) Parking lot perimeters.
 - (3) Parking lot interiors.
 - (4) Building perimeters.
 - (5) Boulevards and right-of-way easements.
 - (6) Storage, loading and mechanical areas of a building.
- b. All required landscaped areas of a site shall contain landscaping.
- c. All landscaping in required landscaped areas shall be proportionately balanced with other features on the site and shall consist of a combination of three (3) or more of the following:
 - (1) Sod.
 - (2) Organic ground cover.
 - (3) Shrubs.
 - (4) Evergreen trees.
 - (5) Ornamental trees.

- (6) Overstory trees.
- (7) Decorative rock.
- (8) Decorative site amenities.
- (9) Any other decorative landscape treatment.
- (10) Berms.

- d. All designated lawn areas of a site shall be sodded.
- e. Clustering of vegetation and landscaping materials is encouraged.
- f. Required landscaping materials of an industrial site may be concentrated in the front yard and other areas of public view if the side or rear yards abut a railroad right of way or a similar industrial use. Sod is required in all developed areas.
- g. Rear and side yard areas of large industrial sites that are not visible from public view and are not disturbed or graded as a part of the site development are exempt from the landscaping material placement requirements.
- h. Native prairie grasses and wild flowers may be placed only in a rear or side yard that is not adjacent to a public roadway. On sites of five (5) acres or more, the community development director may approve plantings of native prairie grasses and wildflowers in front yards, or side and rear yards adjacent to a public roadway.
- i. Vegetation that is planted on the site shall be designed to provide a variety of colors and screening during all seasons.
- j. The use of hardy vegetation native to this climate is a priority of the landscape designer of a developing site. (Ord. 618, 8-2-1995)

2. Minimum Vegetation Requirements:

- a. Open Space: Each development must have at least the minimum percentage open space shown in the following table: (Ord. 834, 12-5-2007)

MINIMUM REQUIRED OPEN SPACE

	All Nonresidential Uses In AG And R Districts, N-B And B-1 Districts	B-2 And P-B Districts	B-3 And I-1 Districts	I-2, I-3, I-4 And I-5 Districts
Total development site	30 percent	25 percent	20 percent	15 percent
Interior parking lot area that is included as part of the total open space requirement	8 percent of interior parking lot area			

(Ord. 834, 12-5-2007; amd. Ord. 904, 5-16-2012)

The open space areas must not be covered by a building or other impervious surface, and must be planted with trees, shrubs, flowers, native plant species or similar plantings and covered with sod, landscape rock or mulch. Areas used for demonstrated parking cannot be used to fulfill the open space requirement. (Ord. 834, 12-5-2007)

- b. Landscaping Vegetation: The following table lists the minimum size requirements for landscaping vegetation:

Vegetation	Caliper/Gallons	Height
Ornamental tree	1.5 inch	
Overstory tree	2.5 inch	
Evergreen tree		6 feet

Large shrubs		36 inches
Medium shrubs		24 inches
Small shrubs		12 inches
Evergreen shrubs	24 inch diameter	
Vertical evergreen shrubs		3 feet

- c. Caliper Measurements: Caliper measurements shall be taken six inches (6") above grade for trees under four inches (4") in diameter and twelve inches (12") above grade for trees larger than four inches (4").
- d. Tree Species: The tree species chosen for parking lot interior plantings shall require little maintenance and shall be able to tolerate harsh growing conditions such as sun, wind, glare, reflected heat, drought, salt and other chemicals as defined by the Minnesota department of transportation. (Ord. 618, 8-2-1995)
- e. Residential Developments: The minimum required tree and shrub requirements for all residential developments zoned R-2A, R-2B, R-2C, R-2D, R-2E, and R-2F districts are as follows:

Vegetation Type	Minimum Size	Single-Family Dwellings	Townhouse Developments (May Be Placed In Private Lots Or In Common Areas)	Multiple-Family Dwellings And Nonresidential Uses In Residential Districts
Coniferous trees	6 foot bb	May be substituted for any of the overstory deciduous trees, except the street tree	1 per unit, but may be substituted on a 1 for 1 basis for the overstory deciduous trees	Minimum of 30 percent of required overstory trees must be coniferous
Ornamental deciduous trees	1.5 inch bb (caliper)	2 may be substituted for 1 overstory tree	1 per unit required. 2 additional may be substituted for 1 overstory (maximum substitution equals 50 percent of required overstory trees)	2 may be substituted for 1 overstory (maximum substitution equals 50 percent of required overstory trees)
Overstory deciduous trees	1 1/2 inch bb (caliper)	2 per lot	4 per unit or 1 per 40 linear feet of site perimeter, whichever is greater	2 per dwelling or 1 per 1,000 gross square feet of building area (grade level floor) or 1 per 40 linear feet of site perimeter, whichever is greater
Understory shrubs	3 gallons potted or 18 inch height	10 per unit	5 per unit	1 per 300 gross square feet of building footprint area or 1 per 30 linear feet of site perimeter, whichever is greater

(Ord. 796, 6-21-2006)

f. Tree And Shrub Requirements:

- (1) The amount of trees required is based upon seventy percent (70%) of the required green space/open space. The calculation takes into account the ground area occupied by the trees when fully grown, and requires that approximately twenty percent (20%) of the green space area be planted with coniferous trees (using an average of 300 square feet of ground area per tree), approximately fifty percent (50%) of the green space area should be planted with overstory deciduous trees (using an average of 700 square feet of ground area per tree), and approximately five percent (5%) of the required open space shall be filled with shrubs, half large and the other half smaller shrubs. Large shrubs shall be calculated to occupy twenty five (25) square feet and smaller shrubs, ten (10) square feet.
- (2) The number of trees and shrubs required shall be calculated by multiplying the site area by the coefficients in the following table for each landscape material: (Ord. 834, 12-5-2007)

Zoning District	Overstory Deciduous	Coniferous	Large Shrubs (5 Gallon)	Small Shrubs (3 Gallon)
All nonresidential uses in all AG and R districts, B-1 and N-B (site area minus stormwater basins)	0.0002786	0.0002600	0.0006	0.0006
B-2 (site area minus stormwater basins)	0.0002321	0.0002167	0.0005	0.0005
B-3 and P-B (site area minus stormwater basins)	0.0001858	0.0001733	0.0004	0.0004
I (site area minus stormwater basins)	0.0001392	0.0001300	0.00039	0.00039

(Ord. 834, 12-5-2007; amd. Ord. 904, 5-16-2012)

g. Additional Landscape Requirements:

(1) All properties adjacent to principal arterials, minor arterials, and major collectors as defined in the comprehensive plan, must provide the following additional trees. These trees may not satisfy the minimum tree and shrub requirements as set forth in this subsection.

	Quantity (Per 100 Linear Feet Of Frontage)	Minimum Size
Overstory deciduous trees	2	13/4" bb
Coniferous trees	2	6' bb
Ornamental trees	2 (for substitution of overstory deciduous only - not required)	2" bb

(2) All portions of a site that are not covered by a building, hard surface coverage or water on a permanent basis must be planted with ground cover and landscaping materials.

h. Ground Cover: All site areas and areas that have been disturbed during construction must be covered with sod to property lines and/or adjacent rights of way. Rock and mulch may be substituted for sod landscaping planting beds and along the perimeter of buildings. Native plant communities may be reestablished in appropriate portions of the site.

i. Quantity Credits: Existing healthy trees that are not susceptible to disease, new larger or smaller sized trees, or decorative landscaping may be credited toward the required trees detailed in this section, and the additional trees required for screening. The following table establishes the landscaping credits.

Vegetation Type	Size	Exchange Credit
Existing trees	2" bb (caliper) deciduous or between 6' and 14' coniferous	1 tree
	4" bb (caliper) deciduous or 14' coniferous or larger	2 trees
New larger trees	4" bb (caliper) or 14' coniferous	2 trees

Ornamental deciduous trees or smaller overstory deciduous	minimum 1.5" (caliper) bb	2 trees may be substituted for 1 overstory deciduous tree (maximum substitution = 50% of required overstory trees)
Shrubs	10 shrubs for 1 tree (2" bb overstory or 6' coniferous). These trees may not be used to fulfill the tree requirements in subsection 11-6-5D2a of this section or those required for screening	
Decorative landscape yard	Exterior sculptures, fountains, decorative walks, courtyards and/or additional ponds beyond those required, shown on a landscape plan that meets the intent of this section to the satisfaction of the community development director and/or city council	

(Ord. 834, 12-5-2007)

E. Landscaping Area Requirements:

1. Required Yards: All required yards and setback areas shall be landscaped with clustered landscape materials.
2. Parking Lot Perimeter: The area within fifteen feet (15') of a parking lot perimeter that lies outside of a required yard or setback area shall be landscaped with clustered landscaped materials.
3. Parking Lot Interiors:
 - a. Parking lots with more than twenty five (25) parking stalls (7,500 square feet) shall contain interior landscaped islands or other landscaped traffic control features, as follows:
 - (1) Islands adjacent to single vehicle perpendicular parking rows must be a minimum of five feet (5') wide and sixteen feet (16') in length; islands adjacent to double vehicle perpendicular parking rows must be a minimum of five feet (5') wide and thirty two feet (32') long.
 - (2) Islands adjacent to single vehicle diagonal parking rows must be a minimum of eighty (80) square feet; islands adjacent to double vehicle diagonal parking rows must be a minimum of one hundred sixty (160) square feet.
 - (3) Islands must be defined by concrete curbing.
 - (4) In lieu of numerous small freestanding landscaped islands, internal landscape area requirements may be met by the placement of large linear landscaped areas that define traffic lanes and break up large hard surface expanses.
4. Building Perimeter:
 - a. The region parallel with and adjacent to the sides of a building that faces a public street or parking lot shall be landscaped for a length equal to one-half ($\frac{1}{2}$) of that building dimension, and have an average depth of four feet (4').
 - b. Sites that were improved before the adoption of this section that are required to submit a landscape plan, and have difficulty providing building perimeter landscape areas because of existing site conditions, may substitute alternative landscape area designs to satisfy the requirements of this section.
5. Boulevards And Right Of Way Easements:
 - a. All boulevard areas shall be sodded from the curb to the property line at the time of the completion of the site landscaping.
 - b. Plantings and locations of materials that are to be placed in boulevard areas shall have the approval of the city's director of public works prior to installation. All maintenance, or replacement of landscape materials placed in the boulevards is the sole responsibility of the property owner.
 - c. Boulevards or other areas abutting a site that are in a dedicated public right of way or right of way easement are not included in the calculations of the total minimum required landscaping of a site.
6. Screening Of Storage, Loading And Mechanical Areas:
 - a. Landscaping must be provided around exterior storage, exterior loading, service and mechanical areas to screen the uses

from view by adjacent property or streets.

- b. Screening may consist of fences, walls, earth berms and landscape plantings.
- c. If landscaping is used, twenty five percent (25%) must be evergreen plantings.
- d. Walls must be compatible with the architectural treatment of the principal structure.

F. Required Screening/Buffers: Transitional buffers are required along common property lines of different land uses (residential to business; business to industrial; or residential to industrial). The buffers shall be constructed in order to mitigate impacts that the higher intensity land use may have upon the adjoining lower intensity land use.

G. Landscaping And Installation Standards:

1. Plant Materials: All plant material shall conform to and be installed in accordance with the most current edition of the American Standard For Nursery Stock as published by the American Association of Nurserymen, and professional horticultural standards as established by the most current edition of the Landscape Construction Reference Manual as published by the Minnesota Nursery and Landscape Association.
2. Species: No required overstory trees shall include the species of the genus *Ulmus* (elm), the species of the genus *Populus* (poplar), box elder or ginkgo (female only).
3. Berms: The slope of berms in sodded lawn areas shall not exceed thirty three percent (33%) (3:1). Berms planted with ground covers and shrubs may be no steeper than a four to one (4:1) ratio. Berms shall be graded to appear as smooth, rounded, naturalistic forms. Berms shall be entirely vegetated with lawn grass or ground cover.
4. Walls And Fences:
 - a. Walls or fences shall be constructed entirely on the project property and may not exceed the height limitations of subsection [11-3-4C1c](#) of this Title.
 - b. Retaining wall materials shall be of industry accepted quality and standards so as to prevent unstable retaining walls.
 - c. Construction techniques shall be properly followed in order to prevent unstable retaining walls.
 - d. Retaining walls over four feet (4') in height must be designed by a registered architect or engineer and be reviewed and approved by the City Engineer.
 - e. Retaining walls over thirty inches (30") in height that are located in pedestrian traffic areas or other areas of potential danger shall be completely fenced along the top edge with a permanent fencing material.

H. Preservation Of Existing Trees And Natural Landscape:

1. Site plans shall make all feasible attempts to accommodate existing unique landscape features, trees and vegetation within their design.
2. Grading plans for sites shall not alter the supply of water to existing stands of trees.
3. Trees which are to be preserved on-site shall be protected before, during and after the development process utilizing accepted practices.
4. Trees selected for preservation shall be shown on the landscape plan and clearly marked in the field. In woodland areas, groups of trees shall be selected for preservation rather than single trees wherever possible.
5. Where grade changes in excess of six inches (6") from the existing natural grade level are necessary, permanent protective structures such as tree wells or walls shall be specified on the site plan and be properly installed.
6. Trees and groups of trees which are to be preserved shall be enclosed by a temporary fence or barrier to be located and maintained five feet (5') outside of their drip line during construction. Such a fence or barrier shall be installed prior to clearing

or construction. In no case shall materials, vehicles or equipment be stored or stockpiled within the enclosure. Within the fenced area, the topsoil layer shall not be disturbed except in accordance with accepted tree protection practices. Existing trees damaged through the construction shall be immediately repaired and if damaged beyond repair, replaced per the mitigation specifications outlined in this Section.

7. The developer shall be responsible for notifying all construction personnel of the presence and purpose of clearing limits and protective fences or barriers and for ensuring that they are observed. (Ord. 618, 8-2-1995)
8. Relocation of trees must be done by a professional forester and nursery person. Mitigation plans for tree loss shall consist of replacement with trees of a caliper equal to the combined caliper of the trees removed. No tree for mitigation shall be less than two inches (2") in caliper and shall be of no less quality species than the tree removed. If on site replacement is not possible, the replacement shall take place on an adjacent public site in a total equal to the caliper lost on the developing property. (Ord. 618, 8-2-1995; amd. 2000 Code)

I. Building Permits And Certificates Of Occupancy:

1. Financial Guarantees: No building permit shall be issued until the required landscaping plan has been submitted to and approved by the Planning Division, and a performance bond, or irrevocable letter of credit from a banking institution, has been posted and approved by the City. The required financial guarantee shall be one hundred fifty percent (150%) of the cost of the landscaping project, and shall be in effect for one year from the date of installation to ensure the installation, survival and replacement of the landscaping improvements. The landscaping improvements must survive one year from the date of the installation, and any plantings that do not survive shall be replaced.
2. Installation Of Landscaping: After a bond or irrevocable letter of credit has been posted, the landscaping material required in the approved landscaping plan shall be installed within six (6) months after the date of posting the bond or irrevocable letter of credit. A one month extension of the planting period may be granted by the Planning Division upon a demonstration by the property owner or developer that such an extension is warranted because of adverse weather conditions or unavailability of required plant materials. No more than three (3) such one month extensions may be granted. The City may draw upon any posted financial guarantee, or make a claim upon any posted bond if the required landscaping improvements have not been installed by the specified completion time or any plantings that have not survived a period of one year have not been replaced.
3. Inspections: The completed landscaping shall be reviewed for acceptance by an on-site inspection by the Planning Division prior to the release of any financial guarantees. (Ord. 618, 8-2-1995)

J. Maintenance Of Landscaped Areas:

1. General Maintenance Requirements: The landscaping shall be kept free of refuse, debris and all plants not included on the approved landscape plan. The owner and the owner's respective agents shall jointly and severally be responsible for the regular weeding, mowing of grass, irrigation, fertilizing, pruning, and other maintenance of all plantings as needed. Required landscaping must be maintained in a healthy, growing condition at all times. (Ord. 618, 8-2-1995; amd. 2000 Code)
2. Irrigation: Irrigation shall be provided for all sodded and landscaped areas. Said irrigation shall consist of an underground sprinkling system that is designed by a professional irrigation installer to meet the water requirements of the site's specific vegetation. The system shall be detailed on the landscape plan. Systems are permitted in the public right of way. The maintenance and repair of all private irrigation systems placed in public rights of way shall be the responsibility of the system owner. Irrigation systems that will interfere with any improvement projects in the public right of way shall upon notification be moved by the system owner prior to the project commencement. Any costs incurred as a result of irrigation systems that are not removed after notification shall be the responsibility of the system owner. Irrigation systems shall be so designed and installed that they do not spray across public streets or sidewalks.
3. Inspections: City officials are authorized to periodically inspect all landscape approved by the Planning Division or to investigate complaints made by any official or private citizen.
4. Replacement: Plant materials which exhibit evidence of insects, pests, diseases or damage shall be treated when appropriate, and all dead plant material shall be removed and replaced with another living plant that complies with approved landscape plan.
5. Public Landscaping Care: The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within any public right of way or public grounds as may be necessary to ensure the proper health of the vegetation or surrounding vegetation, the general public safety or to preserve or enhance the symmetry and beauty of such public ground.

- K. Alternative Compliance; Design Flexibility: The standards contained in this Section are intended to encourage development which is economically viable and environmentally satisfying. The standards are not intended to be arbitrary or to inhibit creative solutions. Project conditions may justify approval of alternative methods of compliance with the standards. (Ord. 618, 8-2-1995)

11-6-6: TREE PRESERVATION:

A. Purpose And Objective:

1. Purpose: Within the city of Cottage Grove, trees and woodlands are considered a valuable asset to the community composite. The city places a priority on protecting this asset and finds that it is in the best interest to regulate the development and alteration of wooded areas within the community. The city also finds that a certain amount of tree removal is an inevitable consequence of the development process, and seeks to establish comprehensive standards related to reasonable tree removal and preservation.
2. Objective: In order to achieve a realistic balance between tree protection and development, the city has established standards that with compliance and enforcement will:
 - a. Protect, preserve and enhance the integrity of the natural environment;
 - b. Allow for orderly development within wooded areas;
 - c. Minimize tree and wildlife habitat loss and maintain wildlife corridors;
 - d. Protect privacy by maintaining buffers between land uses;
 - e. Increase and maintain property values;
 - f. Prevent and reduce soil erosion and sedimentation;
 - g. Promote sound stormwater management practices;
 - h. Improve air quality;
 - i. Reduce noise pollution;
 - j. Enhance energy conservation through natural insulation and shading.

B. Definitions:

ACTIVELY DEVELOPING SUBDIVISION: A residential subdivision that has an approved tree preservation plan, and vacant platted lots controlled by a development company that is actively promoting or selling or building residential units.

dbh: Diameter at breast height.

DYNAMIC DEVELOPMENT PROPERTY: Any platted or unplatted property that has had an application before the city for zoning or land use review within the previous five (5) years.

HEALTHY TREE: A healthy tree has:

1. A live top (live crown) that is greater than one-third ($\frac{1}{3}$) the total tree height,
2. Newly dead branches that make up less than fifteen percent (15%) of the total crown,

3. Less than fifteen percent (15%) of the tree crown with missing branches,
4. Foliage that is dense throughout the live portion of the crown,
5. A tree trunk with open wounds that are less than one-third ($\frac{1}{3}$) the diameter of the tree, no wounds in contact with the ground, and no wounds that have soft, punky wood or other indication of decay.

LARGE WOODLAND TRACT: A healthy grouping of coniferous and/or deciduous trees with contiguous crown cover, occupying five hundred (500) or more square feet of property and having a minimum width of twenty feet (20') at the canopy drip line.

QUALIFYING TREE: Healthy trees excluding buckthorn meeting one of the following definitions:

Qualifying Buffer Tree: A healthy tree measuring a minimum of six inches (6") dbh for hardwood deciduous trees, defined herein, or a minimum of twelve inches (12") dbh for softwood deciduous trees as defined herein; or a minimum of ten feet (10') in height for coniferous/evergreen trees.

Qualifying Specimen Tree: A healthy deciduous tree measuring equal to or greater than thirty inches (30") dbh and/or a coniferous tree measuring fifty feet (50') or greater in height.

Qualifying Standard Tree: A healthy tree measuring a minimum of six inches (6") dbh for hardwood deciduous trees, defined herein, or a minimum of twelve inches (12") dbh for softwood deciduous trees as defined herein; or a minimum of ten feet (10') in height for coniferous/evergreen trees.

Qualifying Woodland Tree: A deciduous tree that is between four inches (4") and twelve inches (12") in diameter dbh or a coniferous tree between four feet (4') and twelve feet (12') in height, and is located in a large woodland tract.

C. Performance Standards Regulating Tree Removal:

1. **Plan Required:** A tree preservation plan shall be submitted to and approved by the city and implemented in accordance therewith in connection with any of the following:
 - a. The disturbance of qualifying trees within the metropolitan urban service area (MUSA) on a vacant residential parcel.
 - b. The disturbance of qualifying trees on any property, in any zoning district within the Mississippi River critical area overlay district.
 - c. The disturbance of qualifying trees on any dynamic development property.
 - d. Any project for which a city grading permit is required.
 - e. Subdivisions, minor subdivisions or lot splits in any zoning district where a qualifying tree will be disturbed.
 - f. New construction of commercial, industrial or institutional buildings.
 - g. Expansion of any existing commercial, industrial or institutional building or impervious surface by ten percent (10%) or greater square feet, where an approved tree preservation plan is not on file with the city.
 - h. The removal of more than twenty five (25) trees associated with agricultural or commercial horticultural use, where an approved agricultural tree management/harvest plan is not on file with the city.
2. **Tree Inventory Individual:** Prior to submittal of a tree preservation plan, the applicant shall have a tree inventory for the entire site completed by a certified forester or arborist that shall include all of the following:
 - a. An identification system linked to metal field tags located five feet (5') from grade on all qualifying trees or woodland boundaries.
 - b. Graphic and tabular identification tally of quantity, size, species, health, and location of all existing qualifying trees.
 - c. Delineation of the outline of the existing canopy coverage area(s).

3. Tree Inventory Sampling: As an alternative to an individual tree inventory, the city may approve the use of a sampling inventory for all or portions of a site to be completed by a certified forester or arborist that shall include all of the following:
 - a. Methodology for sampling.
 - b. Identification ribbon around perimeter of sampling areas, and metal field tags located five feet (5') from grade on all qualifying trees in sampling areas.
 - c. Graphic and tabular identification tally of quantity, size, species, health, and location of all existing qualifying trees in sampling area.
 - d. Graphic and tabular identification tally of quantity, size, species, health, and location of all existing qualifying specimen trees in areas to be disturbed on site.
 - e. Total estimates of qualifying trees based on sampling, and field location of qualifying specimen trees.
4. Tree Inventory Combination: Sites with large woodland tracts of qualifying trees that will not be disturbed, can be inventoried utilizing a combination of the individual and sampling survey methods.
5. Tree Inventory Woodland: In lieu of the completion of an individual or sampling inventory for sites with large woodland tracts of qualifying trees, the woodland inventory can be utilized. The use of the woodland inventory is the easy and cost effective method in which to complete an inventory, but note that the replacement ratio schedule is one hundred fifty percent (150%) greater than the standard qualifying tree replacement formula utilized for the individual or sampling inventory method.
6. Inventory Buffer Area: All deciduous qualifying trees within one hundred feet (100') of the property lines shall be measured at six inches (6") and greater dbh.
7. Hardwood Deciduous Identification: Hardwood deciduous trees shall include the following species:
 - a. Ironwood, oak, maple (hard), walnut, ash, hickory, birch, black cherry, hackberry, locust, and basswood.
8. Softwood Deciduous Identification: Softwood deciduous trees shall include the following species:
 - a. Cottonwood, catalpa, poplars, aspen, silver maple, basswood, box elder, elm and willow.
9. Buckthorn: Buckthorn trees are not required to be inventoried, but can be identified if predominant in a tree protection area.
10. Plan Submittal: A tree preservation plan prepared in accordance with the provisions of this section shall be submitted as part of the application process required by this code. All tree preservation plans must be designed or certified by an arborist, forester, landscape architect or other agent retained by the applicant and approved by the city. The tree preservation plan shall include the following information:
 - a. Contact information of applicants, property owners, developer/builder, and signature of the person(s) preparing the plan, the certification, and employer or firm.
 - b. Delineation of the existing buildings, structures, or impervious surfaces situated on the site.
 - c. Delineation of the proposed buildings, structures, or impervious surfaces planned on the site.
 - d. Delineation of all areas to be graded and limits of land disturbance.
 - e. Graphic and tabular identification tally of quantity, size, species, health, and location of all existing qualifying trees.
 - f. Delineation of the outline of the existing canopy coverage area(s).
 - g. Delineation of the outline of the proposed canopy coverage area(s).
 - h. Graphic and tabular identification of all qualifying trees proposed to be removed within the construction area.
 - i. Measures designed to protect the qualifying trees.
 - j. Tree replacement schedule including graphic and tabular identification of quantity, size, species, and location of all replacement trees proposed to be planted on the property.
11. Agricultural Management/Harvest Plan: Properties in active agricultural production of trees/tree farms shall have an

agricultural management/harvest plan filed with the city for planned tree removal in excess of twenty five (25) trees that shall include the following:

- a. Legal description of property.
- b. Crop/tree identification.
- c. Acres to be managed.
- d. Soil erosion control measures.
- e. Removal staging plan.

12. Plan Modification: The tree preservation plan shall be reviewed by the city to assess the best possible layout to preserve significant trees, specimen trees, and significant woodlands and to enhance the efforts to minimize damage to specimen trees, significant trees and significant woodlands. The applicant shall meet with city staff prior to submission of the development application or prior to application for the grading permit, whichever is sooner, to determine the most feasible and practical placement of buildings, parking, driveways, streets, storage and other physical features, in order that the fewest qualifying trees are destroyed or damaged.

- a. The city may require modification to a tree preservation plan based on the proposed tree removal being in excess of what is allowed by this section.
- b. The city may declare an application requiring a tree preservation plan incomplete based on the lack of required submittal information, or proposed tree removal being in excess of what is allowed by this section.
- c. The city may deny an application requiring a tree preservation plan based on the proposed tree removal being in excess of what is allowed by this section.
- d. The city may require a dedication of a deed restricted conservation easement designed to ensure that specific tree preservation areas are not negatively impacted or destroyed.
- e. The city may require relocation of proposed private and public utilities, hard surface, and structures to increase preservation opportunities within the site.

D. Administration:

1. Permit Required: No qualifying trees shall be removed without a grading permit unless exempt under this section.
2. Permit Application: The applicant shall submit any proposed grading plan for a site with an approved tree preservation plan to the city at least fourteen (14) working days prior to the issuance of the grading permit to ensure compliance with the approved tree preservation plan. All sites shall be staked, as depicted in the approved grading plan, and the required tree protection fencing shall be installed before grading is to commence. Grubbing of protection fencing routes may be permitted prior to commencement of grading with written city approval.
3. Monitoring: The applicant will hire a project arborist that is a certified arborist or forester approved by the city to assist with all facets of tree preservation on the site.
 - a. The project arborist will review installation and maintenance of tree preservation fencing prior to tree removal occurring on the site.
 - b. The project arborist will complete on site monitoring of grading activity occurring near qualifying trees to be preserved. Should grading occur within the drip line of a qualifying tree slated for preservation, the project arborist must be contacted.
 - c. When appropriate, the arborist shall monitor and ensure the completion of the mitigating actions listed in subsection D5 of this section and other recommended measures designed to aid in preservation of qualifying trees.
 - d. After initial site grading, the project arborist will review the site and make recommendations for tree mitigation or tree removal.
 - e. Qualifying trees designated for preservation which are found to be diseased, or dying, or are not suited for location into the project may be removed without penalty based upon the recommendation of the project arborist and in agreement between the city and the applicant.

- f. Qualifying trees designated for preservation which are found to be negligently harmed during construction shall be replaced in accordance with the schedule in subsection F of this section.
4. Preconstruction: The applicant shall arrange for the city and project arborist to inspect the construction site prior to the beginning of the grading to ensure that protective fencing and other protective measures are in place and installed correctly. Minor encroachment, grading, trenching, filling, compaction, or change in soil chemistry may occur within the fenced areas protecting the critical root zone of the trees to be saved under the direct supervision of the project arborist.
5. Protection: The applicant shall complete all recommendations made by the project arborist, and shall implement the following measures to be utilized to protect qualifying trees:
 - a. Installation of snow/construction fencing or polyethylene laminate safety netting placed at the drip line or at the perimeter of the critical root zone, whichever is greater, of qualifying trees designated for preservation. No grade change, construction activity, or storage of materials shall occur within this fenced area.
 - b. Placement of mulch bedding around protected qualifying trees near grading limits.
 - c. Therapeutic pruning.
 - d. Identification of any oak trees requiring pruning between April 15 and July 1. Pruned oak trees shall be sealed with an appropriate nontoxic tree wound sealant.
 - e. Prevention of change in soil chemistry due to concrete washout and leakage or spillage of toxic materials, such as fuels or paints.
 - f. Installation of retaining walls or tree wells to preserve trees as directed by the project arborist or approved tree preservation plan.
 - g. Placement of utilities in common trenches outside of the drip line of significant trees, or use of tunneled installation, as directed by the city engineer or the project arborist.
 - h. Transplanting of significant trees into a protected area for later moving into permanent sites within the construction area.
 - i. Use of tree root aeration, fertilization, and/or irrigation systems.

E. Tree Removal:

1. Tree Removal Prohibited: The removal of qualifying trees on any property by means of clear cutting en masse or in a systematic removal method shall be prohibited, except in accordance with a city approved tree preservation plan or agricultural management/harvest plan.
2. Tree Removal Permitted: The removal of qualifying trees completed on any property in compliance with this section, and below the threshold allowances established below and in accordance with a city approved tree preservation plan shall be permitted.
 - a. Single lot development:
 - (1) Single unit residential, twenty percent (20%).
 - (2) Commercial, industrial, institutional and multi-unit residential, thirty percent (30%).
 - b. Single phase, multi-lot development:
 - (1) Single unit residential, forty percent (40%).
 - (2) Commercial, industrial, institutional and multi-unit residential, fifty percent (50%).
 - c. Two-phase development:
 - (1) Initial site development, twenty five percent (25%).
 - (2) Individual lot development:
 - (A) Single unit residential, twenty percent (20%).

(B) Commercial, industrial, institutional and multi-unit residential, thirty percent (30%).

3. **Tree Removal Exception:** When practical difficulties or practical hardships result from strict compliance with the provisions of this subsection, the city may permit qualifying tree removal in excess of the allowable limits. In the event such exception is granted, a reforestation plan or cash mitigation will be implemented by the applicant. The city shall determine which form of mitigation shall be utilized.
4. **Tree Removal Mitigated:** The removal of qualifying trees completed on any property in excess of the threshold exceptions established in subsection E2 of this section shall be required to be mitigated in accordance with subsection F of this section.
5. **Tree Removal, Damaged Or Diseased:** Notwithstanding the above, the removal of trees seriously damaged by storms, other catastrophic events or disease is allowed without mitigation requirements.
6. **Tree Removal Hazards:** Notwithstanding the above, the removal of trees with potential to cause serious damage as determined by the city or project arborist is allowed without mitigation requirements.
7. **Tree Removal, Nonqualifying:** Shrubs, brush, buckthorn and other invasive or nonqualifying trees may be removed by a property owner without submittal of a tree preservation plan, with the practice of all tree protection measures included in this section, or as modified and approved by the city.
8. **Tree Removal, Existing Developments:** Individual qualifying trees may be removed on a residentially zoned property that is not in a pending or actively developing subdivision without submittal of a tree preservation plan, and without requirement of replacement or mitigation. Tree removal under this subsection shall be completed with the practice of all tree protection measures included in this section, or as modified and approved by the city.
9. **Tree Removal Without Permit:** No qualifying trees shall be removed until a tree preservation plan is approved by the city, and a permit is issued.

F. **Tree Mitigation:** In any development or site that the allowable qualifying tree removal limits are exceeded, the applicant shall mitigate the tree loss by either reforestation or payment of a cash in lieu of replacement fee to the city. The form of tree replacement or cash dedication to be completed by the applicant shall be determined by the city. On site replacement will be the primary goal; however, replacement may occur within the greater development area or within public land. The city, in agreement with the applicant, shall determine the location for replacement plantings.

1. **Tree Replacement:** The number and size of replacement trees will be calculated based upon the following tree replacement schedules:

a. **Tree Replacement Schedule; Quantity:**

Size Of Qualifying Tree Damaged Or Destroyed	Category A	Category B	Category C
Coniferous:			
12 to 24 feet high	1	2	4
24 feet or higher	2	4	8
Hardwood deciduous:			
6 to less than 20 inches dbh	1	2	4
20 to less than 30 inches dbh	2	4	8
Softwood deciduous¹:			
12 to 24 inches dbh	1	2	4
Greater than 24 inches dbh	2	4	8
Specimen tree	3	6	12

Woodland:				
Per 1,000 square feet	1.5	3	6	

Note:

1. All softwood deciduous trees that are 6 to 30 inches dbh and are removed or damaged within 100 feet of any property line shall be replaced at the hardwood deciduous ratio.

b. Tree Replacement Schedule; Size:

Replacement Tree	Category A	Category B	Category C
Deciduous	No less than 4 inches	No less than 2.5 inches	No less than 1.5 inches
Coniferous	No less than 12 feet	No less than 6 feet	No less than 4 feet

- 2. Species: Native hardwood deciduous trees shall be utilized for replacement trees, and the use of nonnatives can be approved by the city where appropriate. Where ten (10) or more replacement trees are required, not more than thirty three percent (33%) of the replacement trees shall be of the same species of tree without the approval of the city. The applicant is encouraged to plant species indigenous to the area.
- 3. Warranty: Any replacement tree which is not alive or healthy, as determined by the city, or which subsequently dies, other than those damaged by storms or other acts of God, or diseased, unless caused by construction activity, within one year after the date of project closure, shall be removed by the applicant and replaced with a new, healthy tree meeting the same minimum size requirements immediately after removal.
- 4. Cash Mitigation: The cash fee in lieu of replacement mitigation fee will be set forth in the city fee schedule, and payment shall be deposited into the public landscaping initiative account prior to tree removal activities.
- 5. Damage: If a qualifying tree that was intended to be preserved is removed without permission of the city, or damaged so that it is in a state of decline within one year from the date of project closure, the applicant shall mitigate the tree removal through replacement as approved by the city, or a payment of a cash mitigation fee.
- 6. Addition To Other Landscape: The planting of trees for replacement purposes shall be in addition to any other city landscape requirements.

G. Performance Guarantee:

- 1. Amount Of Guarantee: Any applicant of a new development shall provide the required performance guarantee following preliminary approval of the tree preservation plan and prior to any construction and/or grading. The amount of the performance guarantee to be submitted, specific to the tree preservation fulfillments, shall be calculated as follows:
 - a. One hundred fifty percent (150%) of the cost as determined by the city for completing the tree replacement mitigation required in subsection F of this section.
 - b. One hundred fifty percent (150%) of the cost as determined by the city for completing the tree protection requirements listed in subsection D5 of this section.
- 2. Release Of Guarantee: The performance guarantee will be released or reduced upon verification by the city that the tree preservation plan was followed and that the tree replacement schedule was complied with, but in no event shall the performance guarantee be released earlier than one year after the date of the substantial completion of the project. Project completion will be determined by the city, but may consist of issuance of a certificate of occupancy, completion of final grading or completion of one phase of the development project.

H. Compliance With Plan:

1. Implementation: The applicant shall implement the tree preservation plan prior to and during any construction. The tree protection measures shall remain in place until all grading and construction activity is terminated or until a request is made to and approved by the city staff.
2. Inspection: The city shall have the right to inspect the development and/or building site in order to determine compliance with the approved tree preservation plan. The city shall determine whether compliance with the tree preservation plan has been met.

I. Maintenance:

1. The applicant or property owner is responsible for maintenance of trees to be preserved and recommended mitigation until such time as the property is sold to the homeowner, or turned over to a homeowners' association. Prior to closing on a house, the applicant will review the status of the trees on the site and remove and replace trees designated for preservation if found dead or dying.
2. On public property, the applicant will be responsible for tree preservation and recommended mitigation until such time as the area included in the tree preservation plan is no longer in an actively developing subdivision. Review of the public property land will occur before final development build out and any tree removal and replacement will be the responsibility of the applicant.
3. Individual private property owners shall be responsible for the maintenance of vegetation on the property owner's property. Qualifying trees preserved as a part of the tree preservation plan are prohibited from being removed until such time as the entire plat is no longer an actively developing subdivision, or written approval is obtained from the city.
4. Homeowners' associations shall be responsible for the maintenance of vegetation in common areas after title to the common areas has been transferred to the homeowners' association.
5. Shrubs, brush and buckthorn and other invasive or nonqualifying trees/woodlands may be periodically removed by a property owner without submittal of a tree preservation plan, with the practice of all tree protection measures included in this section, or as modified and approved by the city. (Ord. 861, 6-17-2009)

11-6-7: MAINTENANCE REQUIRED:

In all districts, all structures, landscaping and fences shall be maintained so as not to be unsightly or present harmful health and safety conditions to the adjoining areas. Any building temporarily or permanently closed or requiring modification of the exterior appearance shall be required to make such modifications consistent with the regular appearance of the existing and adjacent buildings. (1971 Code § 28-42)

11-6-8: GLARE:

- A. In all districts, any lighting used to illuminate an off street parking area, sign, building, or yard shall be so arranged as to deflect light away from any adjoining residential zone or from the public streets and will be compatible with adjacent lighting in adjoining districts. Reflected glare of spill light shall not exceed five-tenths (0.5) foot-candle as measured on the property line when abutting any residential parcel and one foot-candle as measured at the property line when abutting any commercial or industrial parcel. Streetlights installed in public rights of way shall be exempt from these standards. Direct or sky reflected glare, whether from floodlights or from high temperature processes, such as combustion or welding, shall not be directed into any adjoining property.
- B. Exterior lighting shall be employed to limit glare and spill light to protect neighboring parcels and to maintain traffic safety on public roads. These measures shall include lenses, shields, louvers, prismatic control devices, and limitations on the height and type of fixtures. The city may also limit the hours of operation of outdoor lighting if it is deemed necessary to reduce impacts on the surrounding neighborhood.

- C. No flickering or flashing lights shall be permitted. Holiday lighting shall be exempt from this provision.
- D. The city may require submission of a light distribution plan if deemed necessary to ensure compliance with the intent of this section. (Ord. 711, 3-20-2002)

11-6-9: SIGNS:

Signs shall be as regulated by [title 9, chapter 8](#) of this code. (1971 Code § 28-44)

11-6-10: PARKING AREAS¹:

- A. Surfacing And Drainage: Off street parking and driveways must be paved with asphalt, landscape paver bricks, bricks, or concrete. Parking areas and driveways must be so graded to dispose of all surface water accumulation within the area in a manner that will prevent water from draining onto adjacent or nearby private property. These requirements also apply to open sales lots for cars, trucks and other equipment.
- B. Location: All required off street parking facilities must be located as follows:
1. One- and two-family dwellings, on the same lot as the principal use served.
 2. Multiple-family dwellings, on the same lot as the principal use served or within four hundred feet (400') of the main entrance to the principal building served.
 3. Business or industrial districts, within eight hundred feet (800') of a main entrance to the principal building served.
 4. There may be no off street parking space within any street right of way.
- C. Access: All off street parking spaces must have access off driveways and not directly off the public street.
- D. Size Of Areas Determined: A parking space may not be less than three hundred feet (300') of standing and maneuvering area. When application of these regulations results in a requirement of a fractional space, any fraction up to and including one-half ($1/2$) shall be disregarded; fractions over one-half ($1/2$) shall count as one additional space.
- E. Other Parking In Residential Areas:
1. Parking in residential areas, off street and on street, shall be limited to the use of the residents of those homes except for short term parking for six (6) hours or less.
 2. Parking of agricultural vehicles and equipment in residential areas is prohibited except upon property complying with the definition of "rural agricultural area".
- F. Sale Of Parking Areas: Property that constitutes required off street parking area must not be separated, through sale or other means, from the property containing the principal use for which the parking area is required.

G. Joint Facilities:

1. Required parking facilities serving two (2) or more uses may be located on the same lot or in the same structure; provided, that the total number of parking spaces furnished is not less than the sum of the separate off street parking requirements for each use during any peak hour parking period when the parking facility is utilized at the same time by two (2) or more uses.
2. The city council may approve the joint use of parking facilities under the following conditions:
 - a. The proposed joint parking space conforms to subsection [11-3-9D7](#) of this title.
 - b. The applicant must show that there is no structural conflict in the principal operating hours of the two (2) buildings or uses for which joint use of off street parking facilities is proposed.
 - c. A properly drawn legal instrument, executed by the parties concerned, for joint use of off street parking facilities must be filed with the city council.

H. Legal Nonconforming Uses:

1. Applications from persons who believe the use of their property constitutes a legal nonconforming use as it relates to the amendments in this section and sections [11-3-1](#), [11-3-9](#) and [11-3-10](#) of this title must be filed with the director of community development.
2. Upon submission of the application, the director of community development will review the facts and the application and conduct any investigation deemed necessary by the director of community development; upon completion of the review and investigation, the director of community development will submit a report and recommendation to the city council for action; all applications under this section must be made within ninety (90) days from the passage and publication of this section; applications submitted after the end of the ninety (90) days will not be considered.
3. Upon a review of the report and recommendation of the director of community development, the city council may find that a legal nonconforming use exists; upon such a finding by the city council, every legal nonconforming use must be so designated by resolution reciting the factual basis for the finding.
4. Upon the designation of a legal nonconforming use by the city council pursuant to subsection H3 of this section, the same must be subject to all of the terms and provisions of section [11-3-1](#) of this title. (Ord. 807, 10-18-2006)

11-6-11: TRAFFIC CONTROL:

The traffic generated by any use shall be channeled and controlled in a manner that will avoid congestion on the public streets, traffic hazards and excessive truck traffic through residential areas. Internal traffic shall be so regulated as to ensure 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. (1971 Code § 28-46)

This section has been affected by a recently passed ordinance, 941 - GRADING, FILLING OR EXCAVATION. [Go to new ordinance.](#)

11-6-12: GRADING, FILLING OR EXCAVATION:

A. General:

1. No person shall undertake, authorize, or permit any of the following actions without first having obtained a grading permit from the city:

- a. Any excavating, grading, filling, or other change in the earth's topography resulting in the movement of more than twenty (20) cubic yards of material, except in any wetlands, designated flood plain, or shoreland district. A permit is not required in conjunction with a council-approved mining permit;
 - b. Earthwork undertaken in accordance with grading plans approved in conjunction with a site and building plan review, rural subdivision or plat approval;
 - c. Any excavation, grading, or filling in a wetland, designated flood plain, or shoreland district.
2. No grading permit shall be required under subsections A1a and A1b of this section for any earthwork that will result in moving less than twenty (20) cubic yards of material but any grading activity must comply with subsection D of this section, grading standards.
 3. All grading permits which would result in the moving of more than one thousand (1,000) cubic yards of material per acre of site area shall be reviewed as a conditional use permit as specified in section [11-2-9](#) of this title when not in conjunction with a mining permit, preliminary plat, development plan or site plan review process.
 4. The plan must be approved, where required, by appropriate watershed districts, the United States army corps of engineers, the Minnesota department of natural resources, and any other governmental agency that has jurisdiction.
 5. In addition to all other plan requirements in this chapter, any applicant disturbing an amount of total land area equal to or exceeding the threshold amount described by current national pollution discharge elimination system (NPDES) requirements shall comply with the following additional requirements:
 - a. The property owner shall apply for and be issued an NPDES general storm water permit from the Minnesota pollution control agency (MPCA); and
 - b. The property owner or applicant shall submit to the city an approved copy of the erosion and sediment control plan as required for the NPDES by the MPCA.

- B. Grading Permit Application Requirements: Application for grading permit approval may be initiated by the owner, user or potential user of the subject property by making application in writing to the planning division, on such forms as may be designated.

The application shall include ten (10) copies of clearly legible blue or black lined copies of all drawings on bond paper. The maximum size of plans shall be thirty inches by forty inches (30" x 40"), and the minimum size shall be eleven inches by seventeen inches (11" x 17").

The grading plan shall contain the following minimum information and any other items that the planning division considers necessary for the proper consideration of the application:

1. General Information:
 - a. The legal description of the property and evidence of ownership or an interest in the property;
 - b. A signature by the permittee, or his authorized agent, and the property owner;
 - c. Names, addresses, and phone numbers of the record owner, any agent having control of the land, the land surveyor, the engineer, and the designer of the plan;
 - d. A location map, including area within one-half ($1/2$) mile of the site;
 - e. Property survey with boundary line of property and property dimensions; an arrow indicating the direction of north; a scale, using a graduated line, which represents the drawn dimensions in relation to actual size of the project site, usually in number of feet per inch;
 - f. Date of plan preparation; and
 - g. A signature by a registered engineer or land surveyor.
2. Site Information:
 - a. Existing and proposed final grades utilizing a minimum of two foot (2') contour interval (at least 100 feet beyond the property boundary);

- b. All hold down elevations;
 - c. The location of any existing or proposed buildings, structures, fences and retaining walls, walks, roads, drives, and parking areas on the property where the work is to be performed and those on land of adjacent owners which are within fifteen feet (15') of the property or which may be affected by the proposed grading operations;
 - d. A delineation of all streams, rivers, ponds, public waters, designated floodplain, shoreland, and wetlands located on and immediately adjacent to the site, including depth of water, a statement of general water quality and any classification given to the water body or wetland by the Minnesota department of natural resources (include MN DNR number and ordinary high water level), the Minnesota pollution control agency, the fish and wildlife service, and/or the U.S. corps of engineers; and
 - e. Utilities and utility right of way and easements, including electric, natural gas, telephone, water (domestic and fire), and sewer (sanitary and storm).
3. Plans Required: The following plans are also required and may either be included on the site plan or separately, meeting the general application requirements and information:
- a. A drainage plan that includes the directional flow for the different drainage areas, any engineering work for stormwater control and retention that may be necessary;
 - b. A tree preservation plan consistent with the application requirements of subsection [11-6-6C](#) of this chapter;
 - c. An erosion control plan indicating the type and location of temporary and permanent erosion control measures to be used and a progress schedule addressing the critical dates of completion for erosion control, grading, seeding and related site work; and
 - d. A landscaping and site restoration plan including species, sizes, descriptions, and locations. (Ord. 701, 7-18-2001)
4. Fees And Financial Guarantee:
- a. The fee required in the permit application as adopted by the annual city council ordinance establishing fees; and
 - b. A financial guarantee, in the form of a cash escrow or letter of credit, of one hundred fifty percent (150%) of grading costs, or an amount sufficient to ensure compliance with the approved permit and adequate site restoration, whichever is greater. The amount shall be based upon the size of the site, sensitivity of its surroundings, extent of grading, amount of material moved, necessary site restoration, and potential impacts upon public facilities, including damage to public roadways and property. (Ord. 783, 2-15-2006)
5. Additional Information: In addition to the items enumerated above, the city may require submission of the following:
- a. A development concept plan indicating how the recontoured parcel may be developed in a manner consistent with city ordinances and the city's comprehensive plan;
 - b. A description of traffic movements to and from the site to ensure grading activity does not have a significant adverse effect on roads, intersections, or development in the area; and
 - c. Such other information as may be required by the city.

C. Administrative Review:

1. Grading plans that would result in moving more than twenty (20) but less than one thousand (1,000) cubic yards of material per acre must be approved by the planning division. Grading plans within wetland, floodplain or shoreland districts will also be administratively reviewed unless city council review is required by ordinance or state regulations.
2. Individual items on the grading plans may be waived only with the approval of the director of community development.
3. Upon receipt of a completed application, the city shall review the application and notify the applicant by mail of the decision to approve or deny the application. Grading permits shall be issued only for grading plans providing for adequate drainage, storm water retention, and erosion and sediment control measures. The planning division may impose such modifications and conditions as may be necessary to protect the public interest.
4. Any applicant aggrieved by a decision of the planning division may appeal the determination to the planning commission in accordance with subsection [11-2-6](#) of this title.

5. The owner shall arrange for a premeeting with city planning staff to discuss the project schedule and to address other matters of concern before the grading permit is issued.
6. The city shall have the authority to revise a grading permit if on-site conditions or changing conditions make the original grading permit ineffective.
7. The city shall inspect the site for installation of appropriate erosion control, tree protection barriers, and other devices prior to issuance of the final grading permit.
8. The permittee shall notify the planning division when the grading operation is ready for final inspection. Final approval shall not be given until all work, including installation of all drainage facilities and their protective devices, and all erosion and sediment control measures have been completed in accordance with the final approved grading plan signed by the city.

D. Grading, Filling, And Excavating Standards:

1. Vegetation And Ground Cover: The plan shall maximize the preservation of trees and existing vegetation on the property according to sections [11-6-5](#) and [11-6-6](#) of this chapter and the following:
 - a. Prior to commencement of grading, all trees identified for preservation shall be field identified and grading limits cordoned with a suitable barrier such as snow fencing by the applicant and verified by the city staff. The barrier shall be located to coincide to the extent practicable with the drip line of trees to be preserved;
 - b. Finished grades shall have a minimum topsoil of at least four inches (4");
 - c. All areas altered because of grading activity shall be permanently seeded or sodded within ten (10) days of site grading completion. The city may approve an extension of this deadline, if appropriate, but in no case shall site restoration be delayed beyond October 1;
 - d. All exposed soil areas within one hundred feet (100') of a water of the state or storm drain inlet, or conveyance channel within one hundred feet (100') of a water of the state, shall have temporary or permanent cover, consistent with current NPDES permit guidelines; and
 - e. In instances where an existing natural or created buffer will be impacted by grading or filling operations, site restoration shall be completed by the permittee in a manner which resembles, to the extent possible, the original vegetative and topographic state of the property, when deemed appropriate by the city; and
 - f. Any activity which changes the land surface, including removing vegetative cover, excavating, filling, grading, construction of any structure, or alteration of the topographic state of the property, and creates erosion or sedimentation problems, flooding, ponding and/or negatively alters water drainage shall be corrected by the owner, or designee as determined by city staff.
 - g. Permanent sediment basins should be designed and constructed with a maintenance access route from an established public right of way. This route shall be a minimum of twenty five feet (25') in width and be at a maximum grade of five to one (5:1) at the point of access to the basin. Sediment basins and their maintenance shall be completed in accordance with accepted design criteria, standards and specifications found in the MPCA publication "Protecting Water Quality in Urban Areas".
 - h. Temporary basins may be required as part of erosion and sediment control during construction operations. The duration of the basins is dependent upon the time of excavation and revegetation of the site.
2. Grading Or Development Activities: The plan and grading activity must comply with the following:
 - a. Land shall be developed in phases of workable size such that adequate erosion and sediment control measures can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time;
 - b. For soil stockpiles greater than ten (10) cubic yards, the toe of the stockpile must be at least thirty feet (30') from any road, drainage channel, storm water inlet, or water of the state. Erosion from stockpiles shall be controlled by placing appropriate barriers around the pile as necessary to contain sediments. If these measures do not adequately control the erosion, the piles shall be stabilized by mulching, vegetative cover, tarps, or other means. In street utility repair or construction, soil stockpiles located closer than thirty feet (30') of a roadway, drainage channel, storm water inlet or water of the state must be covered with tarps or suitable alternative control.

Any stockpile that is intended to be left over winter, must have a temporary vegetative cover established, and shall have adequate sediment control measures surrounding its perimeter by October 31;

- c. All storm drain inlets shall be protected during construction, until permanent control measures are in place, with a temporary measure such as straw bales, silt fence or equivalent barrier meeting accepted design criteria, standards and specifications found in the MPCA publication "Protecting Water Quality in Urban Areas";
 - d. A temporary rock pad entrance must be installed at all points where vehicles exit a land alteration site and must be constructed prior to commencement of grading activity. The rock pad is to be maintained to accommodate continuous removal of mud from vehicles. The rock pad shall meet design criteria, standards and specifications found in the MPCA publication "Protecting Water Quality in Urban Areas";
 - e. Streets abutting the site shall be swept as needed to remove any sediment and/or debris that may accumulate due to land alteration activities. The city may require street sweeping within twenty four (24) hours of verbal or written notification. If the street is not swept, the city will clean the street and bill the owner or permittee, as determined by the public works director;
 - f. Corrective action and landscape restoration for erosion or sedimentation problems on neighboring properties, or any location other than the permitted site, shall commence within twenty four (24) hours of written or verbal notification. Sediment removal from wetlands should not commence without prior approval of the city;
 - g. Under no circumstances shall organic material or construction debris from the site be buried;
 - h. Water pumped from the site, or from any dewatering operation associated with the permitted activity, shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, swirl concentrators or other appropriate controls as appropriate, as determined by the city. Water may not be discharged in a manner that causes erosion, sedimentation or flooding of the site or receiving channels or a wetland;
 - i. The grading plan shall adhere to erosion and sediment control standards and specifications contained in the MPCA publication "Protecting Water Quality in Urban Areas" and the "Minnesota Construction Site Erosion and Sediment Control Planning Handbook";
 - j. All erosion and sediment control devices including silt fence, gravel, hay bales or other measures must be installed, consistent with the approved plan, and verified by the city prior to commencement of grading activity. All erosion and sediment control devices shall be removed from the construction site and properly disposed of or recycled within thirty (30) days of the establishment of permanent vegetative cover on the disturbed areas;
 - k. The grading plan must comply with the city's surface water management plan;
 - l. The plan shall not result in sites that are unsatisfactory for development of permitted uses. The development potential of a site may be adversely impacted by such matters as unsuitable finished grades, poor soil stability, unsatisfactory drainage or exposure to deleterious influences such as highway frontage for residential property;
 - m. The plan shall include dust control measures such as daily or more frequent watering if needed for dust suppression;
 - n. Drainage swales shall be constructed to divert storm water runoff towards a storm water conveyance system or infiltration area for property treatment. Minimum grades on drainage swales should be 1.5 percent; and
 - o. Site grading activity cannot occur between the time period of seven o'clock (7:00) P.M. and seven o'clock (7:00) A.M. except by special exception granted by the city council.
3. Residential Standards: In general, residential developments should be designed to reduce potential runoff to the extent practical. Specific design issues, in addition to those regulations found within this section, may be addressed by the city during review of a formal planning application. Residential development must comply with the following additional standards:
- a. Downspouts and drainage must be diverted away from impervious surfaces, steep slopes and ravines to the greatest extent possible;
 - b. Side slopes between adjacent houses should not be greater than three to one (3:1) slope unless the original soil and vegetation is left undisturbed or there is sufficient area to construct a drainage swale to convey water away from the houses;
 - c. Prior to approval of a certificate of occupancy by the city, the owner and permittee shall certify that lot grades meet the standards set in the original grading plan. Such certification shall be completed by a registered surveyor. Lots occupied after November 15 and before April 30 of each year shall come into compliance by May 31 of each year. Survey certification requirements shall be guaranteed as part of the subdivision agreement; and
 - d. For grades greater than four to one (4:1), a vegetative ground cover shall be established within thirty (30) days of certificate of occupancy or no later than June 1 for homes occupied between October 1 and May 1.

4. Slopes:

- a. No natural hillsides steeper than eighteen percent (18%) shall be graded;
- b. Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seeding of annual grasses. Mulch consists of hay, straw, wood chips, cornstalks, bark, or other protective material. Mulch shall be anchored to slopes with stakes and netting, or shall be worked into the soil to provide additional slope stability;
- c. At the foot of each slope, a channel and berm shall be constructed to control runoff. The channeled water shall be diverted to a sedimentation basin (debris basin, silt basin or silt trap) before being allowed to enter any natural drainage system; and
- d. Along the top of each slope, a berm shall be constructed to prevent runoff from flowing over the edge of the slope if determined necessary by the city. Where runoff collecting behind the berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. Such measures shall either consist of an asphalt paved flow apron or drop chute laid flow apron. A riprap energy dissipater shall be installed to prevent erosion at the discharge end.

5. Modification Of Plan: Control measures other than those specifically stated above, or contained in the erosion and sediment control plan approved by the city, may be used only upon expressed approval of the city, based on the determination that they will effectively protect against erosion.

6. Right Of Entry And Inspection: The permittee and property owner shall allow the city and their authorized representatives, upon presentation of credentials:

- a. To enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations or surveys.
- b. To bring such equipment upon the permitted site as is necessary to conduct such surveys and investigations.
- c. To examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permitted activity.
- d. To inspect the erosion and sediment control measures required by the permit.
- e. To sample and monitor any items or activities pertaining to permits issued by the city.
- f. To enter upon the permitted site for the purpose of correcting any grading condition that presents an imminent hazard to persons or property. Except in the case of emergencies, the city must notify the permittee of the condition to be corrected and provide the permittee a reasonable opportunity (not less than 24 hours) to correct the condition prior to entering the permitted site and performing the corrective work.
- g. To enter upon the permitted site after the suspension or revocation of the permit for the purpose of correcting violations or providing appropriate stabilization and ground cover to address any erosion concerns.

E. Suspension Or Revocation: The city may suspend or revoke a grading permit whenever the permit is issued in error or on the basis of incorrect information supplied, or is found to be in violation of any local, state, or federal ordinance or regulation or any of the provisions of this section. The city will provide written notice of the intent to suspend or revoke the permit based upon the above criteria. If within seven (7) days of notification to the permittee, the situation related to the revocation or suspension has not been brought into compliance the permit will be considered null and void. The permittee may request a hearing before the director of community development upon notice of the violation.

The city may suspend grading activity if it is found that the grading activity is in violation with this section or any conditions stated on the face of the approved grading permit. To assure that the grading activity is being conducted in accordance with the conditions stated on the permit and with the requirements of this section, the community development director may make, at the expense of the person or firm conducting the land alteration, those field measurements the community development director deems necessary to assure that such conditions and requirements are being followed, such work to be done at the direction of the community development director on an hourly basis at the time charge fixed by the community development director.

F. Violations: Any person, company or organization who violates, fails to comply with, or assists, directs, or permits the violation of the terms or conditions of an approved site and building plan, landscape plan, or grading plan shall be guilty of a misdemeanor.

Such violation shall be a violation of the approved site and building plan, landscape plan, or grading plan and shall render the approval or plan null and void. (Ord. 701, 7-18-2001)

11-6-13: ARCHITECTURE:

- A. Approval Required; General Requirements: In all districts, all principal buildings other than one- and two-family dwellings must be designed or approved by a registered architect or engineer. A building permit shall not be issued where the materials, scale, bulk or character of a structure, house or building is so similar or dissimilar to other structures, houses or buildings in the vicinity as to result in depreciation of property values or the degradation of the environment in the area. However, any denial of such a permit must be confirmed by the city council.
- B. Residential Districts: In districts R-1, R-2, R-2.5, R-3, R-4, R-5 and R-6, the following standards shall apply for single-family detached dwellings:
1. Minimum Width: The minimum width of the main portion of the structure shall be not less than twenty feet (20'), as measured across the narrowest portion.
 2. Minimum Roof Pitch: The pitch of the main roof shall be not less than two and one-half feet ($2\frac{1}{2}$ ') of rise for each twelve feet (12') of horizontal run. This requirement may be waived for earth sheltered structures.
 3. Placement: Every single-family dwelling shall be placed so that the apparent entrance or front of the home faces or parallels the principal street frontage, except where the lot size exceeds one acre.
 4. Foundations: Every dwelling shall be placed on a permanent foundation in compliance with the uniform building code as adopted by the city. (1971 Code § 28-48; amd. 2000 Code)
- C. Nonresidential Structures:
1. Purpose: The purpose of this subsection C is to establish minimum standards for exterior architecture of nonresidential structures. To ensure high quality development, redevelopment, and compatibility with evolving architectural or planning themes that contributes to the community's image of quality, visual aesthetics, permanence and stability are in the best interest of the citizens in the city. These standards are intended to prevent use of materials that are unsightly, rapidly deteriorate, contribute to depreciation of area property values, or cause urban blight.

These standards are further intended to ensure coordinated design of building exteriors, additions and accessory structure exteriors in order to prevent visual disharmony; minimize adverse impacts on adjacent properties from buildings which are or may become unsightly, and buildings that detract from the character and appearance of the area. It is not the intent of this chapter to unduly restrict design freedom when reviewing and approving project architecture in relationship to the proposed land use, site characteristics and interior building layout.
 2. Application Of Provisions: This subsection C applies to all nonresidential buildings, additions, exterior remodeling and accessory structures, unless different exterior materials are specifically approved as part of an overall planned unit development (PUD) or planned development overlay (PDO) that creates a theme or blends with other elements of approved plans.
 3. Minimum Submission Requirements: The applicant must submit the following:
 - a. Elevations and dimensions of all sides of existing and proposed buildings, including roof mechanical equipment, vents, chimneys, or other projecting items above the roofline.
 - b. Elevations and dimensions of all existing or proposed solid waste and recycling containment areas.
 - c. Detailed exterior descriptions, including type and color of all exterior building materials, awnings, exterior lighting, mechanical screening material, fencing, metal flashing and the like.
 - d. In order to aid in evaluating the exterior design, the applicant must submit schematic floor plans showing, if applicable,

window locations, doors, loading docks, projected interior layouts, seating, bar areas, waiting areas, vestibules, storage areas, food preparation areas, interior trash or recycling space and the like.

- e. Heating, air conditioning and ventilating and electrical equipment heights, locations and screening materials.
- f. Colored renderings, exterior building and finish material samples and color pallets.
- g. Schematic attached sign package that meets the sign ordinance.
- h. Other information as required. (Ord. 820, 6-20-2007)

4. Exterior Design Standards: Exterior surface materials of buildings are subject to the following:

- a. Classes Of Materials: For the purpose of this subsection, materials are divided into class 1, class 2, class 3 and class 4 categories as described below:

Class 1:	
<input type="checkbox"/>	Copper panels
<input type="checkbox"/>	Fired clay face brick
<input type="checkbox"/>	Natural stone, synthetic or cultured stone
<input type="checkbox"/>	Transparent glass, opaque or mirror window panels
<input type="checkbox"/>	Other comparable or superior materials
Class 2:	
<input type="checkbox"/>	Architecturally textured precast concrete panels
<input type="checkbox"/>	Concrete brick
<input type="checkbox"/>	Masonry stucco
<input type="checkbox"/>	Specialty concrete block such as textured, burnished block or rock faced block
<input type="checkbox"/>	Tile (masonry, stone or clay)
Class 3:	
<input type="checkbox"/>	Cementitious board
<input type="checkbox"/>	Exterior finish insulation system (EFIS), synthetic stucco or similar material
<input type="checkbox"/>	Ornamental metal
Class 4:	
<input type="checkbox"/>	Ceramic
<input type="checkbox"/>	Glass block
<input type="checkbox"/>	Industrial grade concrete precast panels
<input type="checkbox"/>	Smooth concrete block
<input type="checkbox"/>	Smooth scored concrete block
<input type="checkbox"/>	Steel or aluminum siding
<input type="checkbox"/>	Wood (Ord. 924, 12-18-2013)

- b. Incorporation Of Materials: Buildings must incorporate classes of materials in the following manner:

- (1) Office, commercial, and institutional buildings must use at least three (3) different class 1 materials and be composed of at least sixty five percent (65%) class 1 materials and not more than ten percent (10%) of class 4 materials.
 - (2) Industrial and warehouse buildings must use at least two (2) different class 1 or 2 materials and be composed of at least sixty five percent (65%) class 1 or class 2 materials and not more than ten percent (10%) of the building be class 4 materials.
 - (3) The exterior wall of any nonresidential structure visible from a highway, public street, park, or public view from adjacent properties, or a residential use or district must be composed of at least sixty five percent (65%) class 1 materials. Exterior walls with limited public exposure may use combinations of class 2, 3 or 4 materials.
 - (4) Buildings in nonresidential zoning districts that are not office, commercial, institutional, industrial or warehouse uses must conform to the exterior finish materials and proportions of office, commercial, or institutional buildings unless otherwise approved by the city council as meeting the purpose of this section.
 - (5) The use of class 2, 3 or 4 materials must be distributed throughout the exterior of a building unless the city agrees that materials consolidated on more visible locations provide the most positive architectural appeal to the general public. (Ord. 820, 6-20-2007)
 - (6) Expansions of less than fifty percent (50%) of the floor area of the existing building may use the same materials as the existing structure. Expansions greater than fifty percent (50%) of the existing building's floor area may use the same exterior materials as the existing building if the following criteria are all met:
 - (A) The building addition is a minimum of six hundred feet (600') from public right of way, public property and public waterways; and
 - (B) The property that the building addition is located on is a minimum of one hundred (100) acres. Adjoining land in the same ownership and zoning classification may be used in calculating the minimum acreage requirement. (Ord. 924, 12-18-2013)
 - (7) A distinctively different color of brick may be considered as a second class 1 material. However, minor blended color variations must not be considered as a separate material.
 - (8) To be counted as a primary material, the product must comprise at least five percent (5%) of the exterior wall.
- c. Use Of Primarily Class 1 Material: Buildings may be constructed primarily of one specific class 1 material provided the design is obviously superior to the general intent of this subsection, provides variation in detailing, footprint of the structure or deviations in long wall sections to provide visual interest.
 - d. Garage Doors, Etc.: Garage doors, window trim, flashing accent items and the like, do not constitute the required materials that make up the exterior of a building.
 - e. Exposed Roof Materials: Exposed roof materials must be similar to, or an architectural equivalent of a three hundred (300) pound or better asphalt or fiberglass shingle, wooden shingle, standing seam metal roof or better.
 - f. Bright Accent Colors: Bright accent colors (i.e., orange, bright yellow, or fluorescent colors) for cloth or metal awnings, trim, banding, entries or any portion of the building must not exceed five percent (5%) of each wall area.
 - g. Equipment Screening: Equipment used for mechanical, processing, bulk storage tanks, or equipment used for suppressing noise, odors and the like that protrudes from a side of a building or is located on the ground adjacent to a building must be screened from public view as much as practical with materials matching the design of the building. Where miscellaneous exterior equipment cannot be fully screened with matching building materials, landscaping may be used as additional screening.
 - h. Face Brick: Face brick must be a fired clay brick material of at least three and one-half inch ($3\frac{1}{2}$ ") width, two and one-fourth inch ($2\frac{1}{4}$ ") height, and eleven and one-half inches ($11\frac{1}{2}$ ") long.
 - i. Decorative Concrete Block Or Brick: Any decorative concrete block or brick material may be colored only by means of a pigment impregnated throughout the entire block or brick (not including natural gray).
5. General Requirements:
- a. Building construction and design may be used to create a structure with equally attractive sides, except for those instances specified in this subsection C.

- b. Primary building entrances may be clearly defined to promote visual interest and architectural presence.
- c. Large, uninterrupted expanses of a single material may not be permitted, unless the design is obviously superior to the intent of this chapter as determined by the city council.
- d. No wall that faces a public right of way, parks, the public view from adjacent properties or a residential use or district may have an uninterrupted length exceeding one hundred feet (100') without including at least two (2) of the following: change in plane, change in texture or masonry pattern, windows, or an equivalent element that subdivides the wall into human scale proportions. (Ord. 820, 6-20-2007)

D. Agricultural Districts: In districts AG-1 and AG-2, the standards for residential districts in subsection B of this section shall apply; except, that the requirements may be waived upon granting of a conditional use permit by the city council. (1971 Code § 28-48)

11-6-14: EXPLOSIVES:

- A. No activities involving the storage, utilization or manufacture of materials or products such as TNT or dynamite which could decompose by detonation shall be permitted, except such as are licensed by the city council.
- B. Business or industrial uses which manufacture or store large quantities or varieties of solvents and miscellaneous chemicals which are potentially explosive may be issued a single license to include all such activities; a license for each material stored or manufactured shall not be required. (1971 Code § 28-49)

11-6-15: RADIOACTIVITY AND ELECTRICAL DISTURBANCES:

No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas. There shall be no electrical disturbance, except from domestic household appliances, adversely affecting the operation at any point of any equipment, including, but not limited to, radio and television reception, other than that of the creator of the disturbance. (1971 Code § 28-50)

11-6-16: POLLUTION SOURCES:

Requirements as regulated by the environmental protection agency and the state pollution control agency shall be utilized as minimum standards for pollution sources such as smoke and particulate matter, toxic or noxious materials, odors, air pollution, vibration and noises. (1971 Code § 28-51)

11-6-17: RESERVED:

(Ord. 923, 12-18-2013)

11-6-18: AUGMENTATION OF STATE AND FEDERAL STANDARDS:

State and federal performance standards may be exceeded if the city council so deems it in the best interest of the public health, safety and welfare. (1971 Code § 28-52)

Chapter 7

ADEQUATE PUBLIC FACILITIES

11-7-1: PURPOSE; FACTS:

- A. The purpose of this Chapter is to stage the zoning, subdivision and development of land within the City's residential, commercial and industrial areas so that sewer and transportation capacity demands caused by new development are consistent with the Comprehensive Plan, do not have substantial impacts on metropolitan, County and City sewer and transportation facilities and plans, and the adequate facility and infrastructure capacity is available concurrently with demands generated by new development. In particular, this Chapter is intended to control the generation of peak period traffic on Highway 61/10 and the use of the Cottage Grove sewage treatment plant by imposing staged limits on the use of existing, planned and programmed capacity.

- B. The Cottage Grove wastewater treatment plant operated by the Metropolitan Council Environmental Services Division provides service to only Cottage Grove. The plant has a capacity to treat 2.54 million gallons per day. The plant is not projected to have an expansion for additional capacity prior to 2003.

- C. The City has three hundred three (303) acres of residential, fifty six (56) acres of commercial and five hundred thirty (530) acres of industrial land within the Metropolitan Urban Service Area (MUSA) which is not developed. Based on a market study, the industrial land is projected to develop at an average rate of three percent (3%) per year. Based on the development history of residential land use, the City does not have adequate land within the MUSA to accommodate additional residential growth.

- D. In order to accommodate development of land within the MUSA and obtain a reasonable amount of additional residential land, to be added to the MUSA without exceeding the current capacity of the plant, the City is enacting an ordinance to allow development, but only if there is adequate sewer plant capacity to serve new development. (Ord. 625, 3-20-1996)

11-7-2: APPLICATION OF PROVISIONS:

The provisions of this Chapter shall apply to land that is within the MUSA that has not received approval for development before February 21, 1996. Any development approved after February 21, 1996, must comply with the terms of this Chapter. (Ord. 625, 3-20-1996)

11-7-3: ADMINISTRATION:

- A. All applications, maps and documents relative to a new development shall be submitted to the Director of Community Development. All new developments shall be reviewed and processed in accordance with applicable procedures established elsewhere in this Code.

- B. The Planning Commission and Council may not approve a new development unless: 1) the public facilities to serve the new development exist or, in the case of transportation facilities, are planned for construction, or 2) the developer has executed an agreement to construct the necessary improvements to enable compliance with this Chapter. Nothing in this Chapter shall prevent the City from approving a portion of a new development if the approved portion complies with the provisions of this Chapter. (Ord. 625, 3-20-1996)

11-7-4: MINIMUM NEEDS ASSESSMENT:

A. Transportation Impact Analysis:

1. A traffic impact analysis shall be prepared and submitted to the Director of Community Development for each new development. An environmental assessment worksheet may, if it contains the following, be substituted for a traffic impact analysis. A traffic impact analysis must contain the following information:
 - a. Introduction and description of existing conditions and identification of the traffic study area. This should include maps of the existing roads and highways including intersections that will be impacted by vehicular traffic generated by the new development.
 - b. Analysis of existing traffic conditions within the traffic study area.
 - c. Analysis of future traffic conditions within the study area without the proposed development. Use various measures as appropriate (intersection capacity analysis; level of service; volume/capacity ratio).
 - d. Description of proposed site traffic characteristics within the traffic study area which shall include the number of A.M. and P.M. peak period trips that will be generated by the new development.
 - e. An analysis of future traffic conditions with proposed development within the traffic study area. This includes an assignment of the new trips to the roadway network (trips added to TH 61/10 must be shown).
2. A determination of the level of service resulting from the additional trips must be made. If the level of service causes the future traffic conditions outside of the proposed development to fall below "D", the improvements needed to mitigate the additional traffic must be described and proposed. These improvements may include both capacity improvements (e.g., signalization, turn lanes, new roads) and traffic demand management strategies (e.g., park and ride, flexible work hours, telecommuting). How the improvements will be phased along with the staging of development and a schedule and commitment to both capital improvements and TDM strategies must be shown.
3. A development that is projected to generate peak period trips (PPT) exceeding the "baseline peak period trip contribution (BPPTC)", as defined in Section [11-1-3](#) of this Title, may not be approved without implementation of traffic mitigation measures that reduce the PPT to or below the BPPTC.

- B. Sewer Impact Analysis: A sewer impact analysis shall be prepared and submitted to the Director of Community Development for each new development. A sewer impact analysis shall contain information necessary to determine whether existing public facilities which will be utilized by the new development will be adequate to serve the demand generated by the new development. An environmental assessment worksheet may, if it contains the following, be substituted for a sewer impact analysis. A sewer impact analysis shall contain the following: Analysis of the amount (average daily) of sewage flow to be generated from the new development within the study area and a breakdown by proposed use. (Ord. 625, 3-20-1996)

11-7-5: STANDARDS FOR DETERMINATION OF ADEQUATE PUBLIC FACILITIES:

A. Roads:

1. It shall be determined that there are adequate public facilities to serve a new development if, after taking into account traffic generated by all existing and approved new development which will utilize the impacted roads, one of the following conditions

will be satisfied:

- a. Existing City, County, State or regional roads and intersections which will be impacted will be adequate to accommodate the traffic that will be generated by the new development; or
 - b. Any road or intersection construction necessary to accommodate the additional traffic above BPPTC from the new development is planned for construction; or
 - c. The new development will not cause the vehicular trip generation from the City to exceed the baseline peak period trip contribution; or
 - d. That with offsetting improvements, or the implementation of transportation demand management strategies, the new development will not cause the vehicular trip generation from the City to exceed the baseline peak period trip contribution.
2. In determining compliance with the above factors, the following shall be considered, and related requirements may be imposed:
- a. Whether the developer agrees to construct necessary roads and road and intersection improvements, implement a traffic management plan or undertake other traffic mitigation measures that offset impacts from the new development.
 - b. The availability and likely use of existing or programmed public bus, rail, or other forms of mass transportation to serve the new development.
 - c. Other plans, programs or measures that would offset impacts from the new development.

B. Sewers:

1. Generally: It shall be determined that there are adequate public facilities to serve a new development if, after taking into account sewerage generated by all existing and approved new development which will impact the sewage treatment plant, the following conditions will be satisfied:
 - a. The expected annual average and maximum daily loadings from the new development, together with existing flows and flows from other approved development, will not exceed the maximum allocated sewer capacity.
 - b. The provisions of this subsection may not be amended without approval of the Metropolitan Council.
2. Sewers In Industrial Park MUSA: High capacity sanitary sewer discharge users shall be limited to fifty (50) acres within the industrial park MUSA. The fifty (50) acres may "float" within in the industrial park MUSA and are not assigned to a particular fifty (50) acres. Once fifty (50) acres of land within the industrial park MUSA has developed with high capacity sewer discharge users, any land remaining undeveloped within the industrial park MUSA must develop only with low capacity sanitary sewer discharge users. (Ord. 625, 3-20-1996)

11-7-6: PRIORITY LIST:

The City shall create and maintain a priority list which shall be a waiting list arranged by date of completion of the review for approved new developments which are prevented from developing due to the lack of adequate public facility capacity. Removal from priority list shall occur and construction of the new development may commence when condition(s) preventing construction of the new development have been satisfied, including the execution of necessary public facility improvement agreements. (Ord. 625, 3-20-1996)

11-7-7: ANNUAL DEVELOPMENT REPORT:

- A. The Department of Community Development shall prepare an annual development report describing new development and facility capacity for submission to the Planning Commission, City Council and Metropolitan Council by January 31 for each previous year.

The annual development report shall describe the development which has occurred in the preceding year. The report shall include, but not be limited to, the following information:

1. Number of building permits approved for new residential dwelling units by type.
 2. Number of building permits approved for nonresidential uses by type and total floor area.
 3. Estimated increase in population, household and employment.
 4. Presentation of the same information for the previous five (5) years.
- B. The annual report shall include an analysis of the current and future utilization and capacity of specific public facilities and services. For sewers, the report shall include the following:
1. Average sewage generation (in gallons per day and RECs) for each type of dwelling unit and commercial/industrial use;
 2. Inventory/tabulation of existing flows, including all allocations to the system and total system capacity;
 3. Sewage generation projection for the system including the basis for their computation; and
 4. A list of capital projects contained in the capital improvements program for the expansion of sewage facilities and the construction of improvements to reduce sewage flow including project status.
- C. The report shall contain the following information with regard to transportation:
1. Peak period trip generation on Highway 61/10 attributable to new development during the past year;
 2. A list of the existing average daily traffic (ADT) and level of service on major roadways within and which service the City; and
 3. A list of capital improvement projects contained in the City's capital improvements program for expanded transportation services and capital improvement projects contained in the County and State transportation improvement programs which will facilitate transportation in the City.
- D. The City shall submit the annual development report to the Metropolitan Council and shall meet with the Metropolitan Council staff to review and, as appropriate, supplement and/or modify the information contained in the report within one month following submission.
- E. Based on development, capacity improvements planned for construction, and traffic demand strategies, the Metropolitan Council will evaluate the base peak period trips on an annual basis. After completing the evaluation, the Metropolitan Council will determine if any revision to the BPPTC figures should be made. (Ord. 625, 3-20-1996)

11-7-8: PROVISIONS ARE SUPPLEMENTAL:

The provisions of this Chapter are supplementary to other laws, rules, regulations and ordinances applicable to development within the City. Compliance with the provisions in this Chapter shall not release an applicant from complying with the requirements of other Federal, State, County and City laws, rules, regulations and ordinances applicable to the zoning, subdivision, development and use of land within the City. (Ord. 625, 3-20-1996)

Chapter 8

AGRICULTURAL DISTRICTS

ARTICLE A. AG-1 AGRICULTURAL PRESERVATION DISTRICT

11-8A-1: PURPOSE:

This District is established for those areas where it is necessary and desirable because of the high quality of the soils, availability of water and/or highly productive agricultural capability to preserve, promote, maintain and enhance the use of the land for long-term agricultural purposes, and to protect such land from encroachment by the premature conversion to nonagricultural uses. This District represents areas where services required for urban development will not be available within at least ten (10) years. (Ord. 617, 8-2-1995)

11-8A-2: PERMITTED USES:

No structure or land shall be used except for one or more of the following uses:

1. Commercial agriculture and horticulture.
2. Farm buildings and pole barns.
3. Farm drainage and irrigation systems.
4. Feedlots and poultry facilities.
5. Forestry.
6. One single-family detached dwelling per each forty (40) acres, on a separately owned parcel. Any parcel of land that has thirty seven and one-half (37.5) acres or more, after deducting road right of way, and variations due to longitude and latitude deviations, complies with the forty (40) acre requirement.

A. Lot Dimensions And Setbacks:

Lot area	1 1/2 acres
Lot width	180 feet
Front yard	100 feet
Side yard	25 feet
Rear yard	50 feet

B. Lot Depth: A new parcel subdivided after August 19, 1981, must not have a lot depth more than three (3) times greater than the lot width.

- C. Sewage Disposal: The lot must have an acceptable on-site sewerage disposal area of at least one and one-half ($1\frac{1}{2}$) acres on a slope of less than thirteen percent (13%).
- D. Location Of Nonfarm Structures: No nonfarm structure may be located closer than three hundred feet (300') from the nearest accessory farm building or property regularly used as pasture for livestock.
- E. Location Of Driveways: The lot shall be located in such a manner that no driveways may be located within three hundred feet (300') of an intersection of a minor arterial with another road or within one hundred fifty feet of an intersection of two (2) collector streets. (Ord. 617, 8-2-1995)

11-8A-3: PERMITTED ACCESSORY USES:

Uses and structures which are customarily accessory and clearly subordinate to permitted uses and structures shall be permitted, including:

1. Accessory structures incidental to residential uses as provided in Section [11-3-3](#) of this Title for R-1 Rural Residential Districts.
2. Home occupations subject to standards and permit procedures contained in section [11-9A-3](#) of this title, "Home occupations".
3. Private swimming pools, intended for and used solely by the occupants of the property on which it is located and their guests.
4. Signs as regulated by the city in residential districts.
5. Structures incidental to farm operations such as garages, barns, storage buildings, poultry barns, etc.
6. Farmers' market on nonresidential property, subject to compliance of the following criteria:
 - A. No portion of this use shall take place within any public right of way or within any required setback area.
 - B. Parking and display areas associated with the sale shall not interfere with existing business operations or traffic circulation patterns.
 - C. The site must be kept in a neat and orderly condition and display of items must be as compact as possible so as to not interfere with existing business, parking or driveway operations.
 - D. Temporary signs must comply with [title 9, chapter 8](#) of this code. Off premises signage is prohibited.
 - E. The owner/operator of the outdoor temporary/seasonal sales or farmers' market must have the written permission of the current property owner to locate on a specific site.
 - F. All items for sale must be stored indoors or removed from the site at the close of each business day.
 - G. Processing or preparation (e.g., cooking, barbecuing, baking, etc.) of food products is prohibited.
 - H. Assembly or production (e.g., wood carving/engraving, craft materials, pottery, etc.) of merchandise is prohibited.

- I. Compliance is required with [title 4, chapter 9](#) of this code.
- J. Compliance with all department of health requirements and licenses.
- K. No pets or live animals within the display area, except for guide dogs.
- L. Outdoor public address systems or speakers are prohibited.
- M. The site must be kept in a neat and orderly fashion, free from litter, refuse, debris, junk, or other waste.
- N. Power generators are prohibited. (1971 Code § 28-68.1; amd. Ord. 841, 8-13-2008; Ord. 923, 12-18-2013)

11-8A-4: CONDITIONAL USES:

No structure or land shall be used for one or more of the following uses except by conditional use permit:

1. Religious institutions and columbariums.
2. Commercial horse stables, dog kennels, boarding stables and similar uses, which shall not be located within three hundred feet (300') of a dwelling other than the dwelling on the property in question.
3. Density transfers. Within the same zoning district, a property owner may transfer the development rights of undeveloped acreage upon compliance with the following conditions:
 - A. The parcel meets the minimum lot requirements of section [11-8A-2](#) of this article, "One single-family detached dwelling...".
 - B. The parcels that are either receiving or giving up the development rights are contiguous, or in the same section, or are in contiguous sections.
 - C. As a condition of approval of the density transfer, a deed restriction restricting the development rights of the parcel giving up the density shall be signed by the owner and recorded in the office of the county recorder. The restriction shall give up any rights of the owner, the owner's heirs or representatives or assigns to construct a residential dwelling on the parcel from which the development density right is transferred. The restriction shall expire upon the rezoning of the property from agricultural to another zoning classification.
 - D. Any property that is under a development restriction on a quarter/quarter basis that can comply with the terms of this section may amend the development restriction to conform to the terms of this title.
 - E. Any lot of record, prior to August 19, 1981, the date of the adoption of the one unit per quarter/quarter section restriction, shall be exempt from the maximum development density of this title.
4. Detached domesticated farm animal building on parcels between five (5) and ten (10) acres.
5. Detached rural storage buildings on parcels of less than ten (10) acres in size.

6. Electromagnetic communication facilities as regulated in section [11-4-7](#) of this title.

7. Limited commercial ventures conducted at "historic properties" as defined in section [11-9H-4](#) of this title, "Limited commercial ventures...".

8. Public utility and public service structures, including electrical transmission lines and substations, gas regulator stations, communications equipment buildings, pumping stations or reservoirs. (1971 Code § 28-68.1; amd. Ord. 617, 8-2-1995; Ord. 635, 9-18-1996; Ord. 653, 2-4-1998; 2000 Code; Ord. 841, 8-13-2008; Ord. 884, 10-20-2010)

11-8A-5: HEIGHT OF STRUCTURES:

No nonfarm structure or building shall exceed thirty feet (30') in height, except as provided in this title. (1971 Code § 28-68.1)

ARTICLE B. AG-2 AGRICULTURAL DISTRICT

11-8B-1: PURPOSE:

This District represents those areas which are suitable for agricultural uses, but because of the capability of the soils and/or because they may be needed for urban development within ten (10) years, are not considered to be prime lands suited to long-term agricultural preservation. It is the purpose of this District to preserve these lands in agricultural uses until such time as streets, sewers, water supply and other community facilities and services are provided or scheduled, so as to ensure orderly and beneficial conversion of such lands to nonagricultural use, and to prevent their premature conversion. (Ord. 617, 8-2-1995)

11-8B-2: PERMITTED USES:

No structure or use of land shall be used except for that permitted in Section [11-8A-2](#) of this Title and regulated therein; except, that up to four (4) dwelling units per forty (40) acres, as defined in Section [11-8A-2](#) of this Title, entry #6, "One single-family detached dwelling...", is allowed. (Ord. 617, 8-2-1995)

11-8B-3: PERMITTED ACCESSORY USES:

No accessory structure or use of land shall be permitted, except for any use permitted as accessory in Section [11-8A-3](#) of this Title and regulated therein. (1971 Code § 28-68.2)

11-8B-4: CONDITIONAL USES:

No structure or use of land shall be used for any use permitted in Section [11-8A-4](#) of this Title except by conditional use permit. (Ord. 617, 8-2-1995)

11-8B-5: HEIGHT OF STRUCTURES:

No nonfarm structure or building shall exceed thirty feet (30') in height, except as provided in this Title. (1971 Code § 28-68.2)

Chapter 9 RESIDENTIAL DISTRICTS

ARTICLE A. R-1 RURAL RESIDENTIAL DISTRICT

11-9A-1: PURPOSE:

The R-1 rural residential district represents those areas suitable for residential development that are without public utilities. These areas are designated as rural residential in the city's comprehensive plan. It is the intent that low densities be maintained in order to permit efficient resubdivision of lots to urban densities at such future time that public utilities become available. (Ord. 939, 2-4-2015)

11-9A-2: PERMITTED PRINCIPAL USES:

On any individual lot, the following uses can be conducted as a principal use:

1. One single-family detached dwelling.
2. Agriculture - rural.
3. Agriculture - urban.
4. Agricultural buildings.
5. Habitable or nonhabitable structures for local, county, state, or federal government purposes.
6. Public utility structures and stormwater ponds.
7. Public roads, bridges, trailways and sidewalks.
8. Public parks, scientific natural areas, and playgrounds.
9. Signs as regulated by [title 9, chapter 8](#) of this code.
10. A state licensed residential facility or housing established with services registered under Minnesota state statutes chapter 144D serving six (6) or fewer persons, a licensed daycare facility serving twelve (12) or fewer persons, and a group family daycare facility licensed under Minnesota rules, parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children. (Ord. 939, 2-4-

2015)

11-9A-3: PERMITTED ACCESSORY USES:

Uses and structures which are customarily accessory and clearly subordinate to permitted uses and structures shall be permitted, including:

1. Accessory apartments.

A. Purpose: The purpose of this entry is to permit the installation of no more than one accessory apartment in an existing single-family dwelling. Because this opportunity is allowed in neighborhoods with established recreation facilities, utility systems, parking, traffic patterns and architectural character, the installation and use of accessory apartments must be strictly controlled to avoid adverse physical, social, economic, environmental and aesthetic impacts. By allowing only those accessory apartments that are in compliance with all of the performance standards of this entry, the character and quality of existing neighborhoods will be protected.

B. Permit Procedures:

(1) Permit Required; Application; Fee: No one shall install an accessory apartment without first having obtained a permit from the director of community development. Application for the permit shall be made on such form(s) as may be designated by the director of community development and shall be accompanied by the required permit fee, established by city council ordinance.

(2) Issuance Or Denial Of Permit; Appeals: Within ten (10) working days after receiving the application, the director of community development shall review the application and inspect the property to determine whether or not the proposed accessory apartment meets the performance standards. He/she shall deny or approve the application based upon a statement of findings relative to the standards. The decision to issue or deny the permit may be appealed to the planning commission.

(3) Renewal Of Permit: The permit shall be renewed biennially, subject to an inspection and the permit renewal fee.

(4) Revocation Of Permit; Appeals: Violation of the performance standards shall be grounds for revocation of the permit. Notice of intent to revoke the permit shall be sent by the director of community development to the permit holder, stating the grounds for revocation. The holder of the permit shall have ten (10) days from the receipt of the notice to file an appeal to the planning commission. Failure to file an appeal within ten (10) days forfeits any challenge to the revocation. At the expiration of the ten (10) day appeal period, the permit shall be revoked. Operation of the accessory apartment shall cease within sixty (60) days from the date of revocation.

C. Performance Standards:

(1) All remodeling for the addition of the accessory apartment shall be on the inside of the structure. Exceptions to this condition will be made only if the applicant submits exterior elevation drawings determined by the director of community development to be architecturally compatible with adjacent structures.

(2) At least four (4) paved off street parking spaces shall be available on the site, in a location other than in a required front yard.

(3) Detached accessory structures shall not be converted to living space.

- (4) Both the principal and accessory unit must meet the applicable standards of the building code.
- (5) The owner(s) of the residence in which the accessory unit is created shall occupy at least one of the dwelling units on the premises, except for temporary absences.
- (6) No more than ten percent (10%) of the single-family dwellings in any one block may contain an accessory apartment. A "block" shall be interpreted to be an area enclosed on its perimeter by streets. In some cases, a block may also be bordered by a body of water or a municipal boundary line.
- (7) If the dwelling utilizes an on site sewage disposal system, additional capacity shall be added to the system if needed for the accessory unit. All systems shall be inspected by a licensed contractor or inspector prior to issuance or renewal of the accessory apartment permit. The system shall be pumped as necessary.
- (8) House numbers shall be placed on the principal structure to indicate that the structure contains an accessory apartment.

2. Excavation incidental to construction on the premises.

3. Home occupations.

A. Purpose: The purpose of this entry is to recognize that certain home occupations conducted for gainful employment involving the manufacture, provision, or sale of goods and/or services are compatible with the character of residential neighborhoods and to further establish regulations relating to permitted home occupations. In addition, this section is intended to provide a distinction between permitted and prohibited activities and uses concerning home occupations.

B. Home Occupations: Home occupations are permitted as an accessory use to the principal use of properties within all zoning districts within the city subject to meeting the performance standards established in this entry.

C. Performance Standards: A home occupation must conform to all of the following standards:

- (1) No more than one person, other than a member of the immediate family occupying the dwelling, shall be employed on the premises at any one time.
- (2) Identification signs shall conform to [title 9, chapter 8](#) of this code.
- (3) The appearance of the structure shall not be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting or advertising signs or the emission of sounds, odors, noise, vibrations, heat, glare or electrical disturbances.
- (4) No home occupation shall be conducted in any accessory building.
- (5) The use shall not create substantial traffic. The number of customer vehicular trips to the dwelling unit for the purpose of obtaining products or service shall not exceed ten (10) per day. Vehicular trips related to package pick ups and deliveries for home occupations shall be limited to four (4) per day and is restricted to straight axle vehicles only. Any need for parking shall be off the street and be located on approved parking surfaces.
- (6) No home occupation shall cause an increase in sewer or water usage so that the combined total use for dwelling and home occupation purposes exceeds the normal range for residences in the city.
- (7) Exterior storage or display of materials or equipment of any kind is prohibited.

- (8) Any construction, or alteration of the principal structure, electrical, or mechanical equipment requires a building permit. The use and/or storage of chemicals or materials shall not change the fire rating of the principal dwelling.
- (9) The operation of the home occupation shall begin no earlier than seven o'clock (7:00) A.M. and end no later than ten o'clock (10:00) P.M.
- (10) No more than twenty five percent (25%) of the principal structure may be devoted to home occupation use.

D. Permitted Home Occupations: All uses that are not prohibited in this section and are conducted as a home occupation are required to meet the purpose statement and performance standards of this entry in addition to any applicable state or federal requirements, codes, or statutes. The city zoning administrator is designated with the authority to determine if a specific use is allowed as a permitted home occupation.

E. Prohibited Home Occupations: The following uses shall not be permitted as home occupations:

- (1) Adult uses.
- (2) Animal hospitals, pet shops, pet daycare.
- (3) Check cashing.
- (4) Clinics or hospitals.
- (5) Contractor yard including the storage of equipment, materials, and other accessories for the construction and service trades.
- (6) Equipment and supply rental.
- (7) High intensity arc and oxyacetylene welding.
- (8) Limousine services.
- (9) Machining.
- (10) Medical marijuana dispensary.
- (11) Medical and dental offices, clinics and laboratories.
- (12) Microbreweries open to the public.
- (13) Mortuaries and crematoriums.
- (14) Pawnbroker.

- (15) Precious metal dealer.
- (16) Private clubs.
- (17) Repair shops or service establishments, except the repair of computers, cameras, phones or similar small devices and equipment.
- (18) Restaurants or any catering or food preparation business.
- (19) Smoking lounges.
- (20) Stables or kennels, except as provided under section [11-9A-4](#) of this article, "Commercial horse stables...".
- (21) Retail shopping stores.
- (22) Uses utilizing gunpowder or explosives.
- (23) Vehicle sales requiring a Minnesota dealers or wholesale license.
- (24) Vehicle, trailer, or boat rental.
- (25) Vehicle, trailer or boat painting or detailing.
- (26) Vehicle, trailer or boat repair or service.
- (27) Other uses determined by the zoning administrator to not be a permitted home occupation.

4. Identification signs, in accordance with performance standards governing signs.

5. Accessory structure as regulated in section [11-3-3](#) of this title.

6. Private swimming pools intended for and used solely by the occupants of the property on which they are located and their guests.

7. Real estate sales by a subdivider in model homes within his/her own subdivision.

8. Signs, as regulated by the city.

9. Farmers' market, subject to compliance of the criteria established in section [11-8A-3](#) of this title, "Farmers' market on nonresidential property...". (Ord. 939, 2-4-2015)

11-9A-4: CONDITIONAL USES:

No structure or land shall be used for one or more of the following uses except by conditional use permit:

1. Accessory buildings and structures requiring a conditional use permit as provided in section [11-3-3](#) of this title.
2. Cemeteries.
3. Religious institutions and columbariums, including those related structures located on the same site which are an integral part of the church proper; convents or homes related to a religious function on the same site; provided, that no more than ten (10) persons shall reside on the site, and no building shall be located within fifty feet (50') of any lot line.
4. Commercial greenhouses; provided, that all outside storage is fenced in such a manner so as to screen the stored material from view when observed from the public street or an adjoining lot.
5. Commercial horse stables, kennels for domesticated animals, dog kennels, boarding stables and similar uses shall not be located within three hundred feet (300') of a dwelling unit other than the dwelling unit of the property in question.
6. Electromagnetic communication facilities as regulated in section [11-4-7](#) of this title.
7. Essential service structures; provided, that no building shall be located within fifty feet (50') of any lot line of an abutting lot in an R district.
8. Golf courses and country clubs, which may include a restaurant, on-sale liquor license, assembly, and accessory retailing; tennis clubs, and swimming pools serving more than one family. The principal structure for any of the above listed uses shall be one hundred feet (100') or more from any abutting lot in an R district, and accessory structures shall be a minimum of fifty feet (50') from any lot line.
9. Home occupations not meeting the performance standards of section [11-9A-3](#) of this article, "Home occupations", subsection C, "Performance Standards"; provided, that the building in which the home occupation is conducted shall be set back at least one hundred feet (100') from any lot line and at least two hundred feet (200') from a residence of a person other than the home occupation permit holder; provided, further, that the lot on which the home occupation is located shall be at least five (5) acres in size. In no case shall a conditional use permit issued pursuant to this entry permit a home occupation that employs more than seven (7) persons, other than members of the immediate family occupying the dwelling, on the premises at one time; nor shall such a permit allow deviations from the requirements for the appearance of the structure as required by section [11-9A-3](#) of this article, "Home occupations", subsection C(3), or from the limitations on excessive traffic (section [11-9A-3](#) of this article, "Home occupations", subsection C(5)), or from the limitations on storage and display (section [11-9A-3](#) of this article, "Home occupations", subsection C(7)), or from the normal hours of operation of home occupations (section [11-9A-3](#) of this article, "Home occupations", subsection C(9)), nor shall any such permit allow a use prohibited by section [11-9A-3](#) of this article, "Home occupations", subsection E, "Prohibited Home Occupations".
10. Limited commercial ventures conducted at "historic properties" as defined in section [11-9H-4](#) of this chapter, "Limited commercial ventures...".
11. Tax exempt clubs and lodges.
12. Public, private and parochial schools of all educational levels; provided, that no building shall be located within fifty feet (50') of any lot line.
13. Limited use dog training facilities, subject to the following performance standards:
 - A. Parcels ten (10) acres or greater.

- B. No overnight boarding.
- C. Minimum setback of fifty feet (50') from all property lines for all training facility arenas and buildings.
- D. Limited hours of operation.
- E. Limited number of vehicular trips equivalent to the number of trips that could be generated if the property was developed at its maximum allowed density.
- F. Noise control as regulated by local and state standards.
- G. Nuisance control as regulated by local and state standards.
- H. Any other reasonable standards or conditions deemed applicable by the planning commission or city council. (Ord. 939, 2-4-2015)

11-9A-5: DEVELOPMENT STANDARDS:

A. Minimum Requirements: The following minimum requirements shall be observed, subject to the additional requirements, exceptions and modifications set forth in this title:

Lot area	3 acres
Lot width	180 feet
Front yard	30 feet
Rear yard	50 feet
Side yard	25 feet
Side yard, attached garage	20 feet
Maximum structure height	30 feet
Maximum impervious lot coverage	10 percent

B. Cluster Developments: In order to encourage the preservation of environmentally sensitive areas, encourage more efficient allocation and maintenance of privately controlled open space and more efficiently utilize investment in and maintenance of public streets, cluster developments in the R-1 district shall be encouraged under the following conditions:

1. No individual lot shall be less than one and one-half (1^{1/2}) acres in size, with a minimum of one and one-half (1^{1/2}) acres of land suitable for on site sewage disposal systems. Exceptions to the minimum lot width requirement may be granted.
2. The overall density of the parcel shall not exceed one dwelling unit per three (3) acres.
3. The remaining area shall be permanently preserved as open space. This area may be accepted by the city as fulfillment of the park dedication requirement of the subdivision regulations, if consistent with the parks and open space element of the

comprehensive plan. If not so dedicated, the open space shall be placed under control of a homeowners' association or other appropriate jurisdiction. Deed restrictions requiring the permanent preservation of these areas as open space shall be recorded before building permits for lots in a cluster development may be issued. (Ord. 939, 2-4-2015)

ARTICLE B. R-2 RESIDENTIAL ESTATE DISTRICT

11-9B-1: PURPOSE:

The R-2 residential estate district is intended to represent areas which, because of rugged, wooded terrain, are well suited to high value housing of very low densities. These areas will provide a permanent, semirural lifestyle on land for which this is considered the highest and best use. Since these areas will be planned to exist without public sewer and water systems, only areas with soils and topography suitable for on site utilities will be considered for this district. Areas designated on the comprehensive plan as rural residential may be considered for inclusion in this district only if they are programmed for public utilities before the year 2000, as shown on the utility staging plan. Before land is placed in the R-2 district, the effect on future extension of public utilities will be considered. (1971 Code § 28-54)

11-9B-2: PERMITTED USES:

No structure or land shall be used except for any use permitted in section [11-9A-2](#) of this chapter and regulated therein. (1971 Code § 28-54)

11-9B-3: PERMITTED ACCESSORY USES:

No accessory structure shall be permitted except for any use permitted as accessory in section [11-9A-3](#) of this chapter and regulated therein. (1971 Code § 28-54)

11-9B-4: CONDITIONAL USES:

No structure or land shall be used for one or more of the following uses, except by conditional use permit:

1. Accessory buildings and structures requiring a conditional use permit as provided in section [11-3-3](#) of this title.
2. Religious institutions and columbariums, including those related structures located on the same site which are an integral part of the church proper; convents or homes related to a religious function on the same site; provided, that no more than ten (10) persons shall reside on the site, and no building shall be located within fifty feet (50') of any lot line.
3. Electromagnetic communication facilities as regulated in section [11-4-7](#) of this title.
4. Essential service structures; provided, that no building shall be located within fifty feet (50') of any lot line of an abutting lot in an R district.
5. Golf courses and country clubs, which may include a restaurant, on-sale liquor license, assembly, and accessory retailing; tennis

clubs, and swimming pools serving more than one family. The principal structure for any of the above listed uses shall be one hundred feet (100') or more from any abutting lot in an R district, and accessory structures shall be a minimum of fifty feet (50') from any lot line.

6.Home occupations not meeting the performance standards of section [11-9A-3](#) of this chapter, "Home occupations", subsection C, "Performance Standards", as provided by section [11-9A-4](#) of this chapter.

7.Limited commercial ventures conducted at "historic properties" as defined in section [11-9H-4](#) of this chapter, "Limited commercial ventures...".

8.Public, private and parochial schools of all educational levels; provided, that no building shall be located within fifty feet (50') of any lot line.

9.Signs, as regulated by the city.

10.Limited use dog training facilities, subject to the following performance standards:

A. Parcels ten (10) acres or greater.

B. No overnight boarding.

C. Minimum setback of fifty feet (50') from all property lines for all training facility arenas and buildings.

D. Limited hours of operation.

E. Limited number of vehicular trips equivalent to the number of trips that could be generated if the property was developed at its maximum allowed density.

F. Noise control as regulated by local and state standards.

G. Nuisance control as regulated by local and state standards.

H. Any other reasonable standards or conditions deemed applicable by the planning commission or city council. (1971 Code § 28-54; amd. Ord. 635, 9-18-1996; Ord. 653, 2-4-1998; Ord. 663, 4-21-1999; Ord. 884, 10-20-2010; Ord. 887, 2-16-2011)

11-9B-5: DEVELOPMENT STANDARDS:

The following minimum requirements shall be observed, subject to the additional requirements, exceptions and modifications set forth in this title:

Lot area	1 1/2 acres
Lot width	180 feet
Front yard	30 feet
Rear yard	50 feet

Side yard	25 feet
Side yard, garage	20 feet
Maximum structure height	30 feet

(1971 Code § 28-54)

ARTICLE C. R-2.5 RESIDENTIAL DISTRICT

11-9C-1: PURPOSE:

The R-2.5 residential district is to provide appropriate areas for unattached single-family living at reasonable population densities consistent with sound standards of public health and provide institutional and community services such as parks, schools, religious facilities, and community centers supportive to a residential area while safeguarding the residential character. This district is located within the metropolitan urban service area (MUSA), and each dwelling unit is intended to be connected to the public sewer and water systems. (Ord. 640, 12-4-1996)

11-9C-2: PERMITTED USES:

The following uses are permitted in the R-2.5 residential district:

1. Agriculture.
2. Essential services.
3. Public and private parks, playgrounds, and open space.
4. Public utility and public park buildings and structures.
5. Single-family detached dwellings.
6. State licensed residential facility serving six (6) or fewer persons, a licensed daycare facility serving twelve (12) or fewer persons, and a group family daycare facility licensed under Minnesota rules, parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children. (Ord. 640, 12-4-1996)

11-9C-3: PERMITTED ACCESSORY USES:

The following uses shall be permitted accessory uses in the R-2.5 residential district:

1. Accessory apartments as regulated in section [11-9A-3](#) of this chapter, entry #1, "Accessory apartments".
2. Buildings or trailers temporarily located for purposes of construction or sales on the premises for a period of not to exceed the time

necessary for such construction.

3. Decorative landscape features including, but not limited to, arbors, fences, retaining walls and terraces.
4. Detached accessory structures as regulated in section [11-3-3](#) of this title.
5. Garage sales, not to exceed two (2) per calendar year.
6. Gardening and other horticultural uses where materials or products are grown but not sold on the premises, unless in accordance with state statutes.
7. Home occupations as regulated in section [11-9A-3](#) of this chapter, entry #3, "Home occupations", and section [11-9A-4](#) of this chapter, entry #9, "Home occupations not meeting the performance standards...".
8. Off street parking as regulated in section [11-3-9](#) of this title.
9. Private swimming pools, recreational courts and play apparatus intended for and used by the occupants of the property on which they are located.
10. Real estate sales in model homes.
11. Repair and maintenance of motor vehicles owned by the occupant.
12. Signs, as regulated by [title 9, chapter 8](#) of this code.
13. Farmers' market, subject to compliance of the criteria established in section [11-8A-3](#) of this title, "Farmers' market on nonresidential property...". (Ord. 640, 12-4-1996; amd. Ord. 841, 8-13-2008)

11-9C-4: CONDITIONAL USES:

No structure or land shall be used for one or more of the following uses, except by conditional use permit:

1. Religious institutions and columbariums, including those related structures located on the same site which are an integral part of the church proper; convents or homes related to a religious function on the same site; provided, that no building shall be located within fifty feet (50') of any lot line.
2. Electromagnetic communication facilities as regulated in section [11-4-7](#) of this title.
3. Essential service structures; provided, that no building shall be located within fifty feet (50') of any lot line.
4. Golf courses (except miniature courses and driving ranges operated for commercial purposes); and country clubs, which may include a restaurant, on-sale liquor license, assembly, and accessory retailing; tennis clubs, and swimming pools serving more than one family. The principal structure for any of the above listed uses shall be one hundred feet (100') or more from any abutting lot in an R district, and accessory structures shall be a minimum of fifty feet (50') from any lot line.

- 5. Group daycare/nursery school in a religious institution, community center, or academic educational institution.
- 6. Hospitals for human care, sanatoriums, rest homes and nursing homes; provided, that all structures except fences shall be located one hundred feet (100') or more from the lot line.
- 7. Limited commercial ventures conducted at "historic properties" as defined in section [11-9H-4](#) of this chapter, "Limited commercial ventures...".
- 8. Municipal buildings and utility structures.
- 9. Public, private and parochial schools of all educational levels; provided, that no building shall be located within fifty feet (50') of any lot line.
- 10. Limited use dog training facilities, subject to the following performance standards:
 - A. Parcels ten (10) acres or greater.
 - B. No overnight boarding.
 - C. Minimum setback of fifty feet (50') from all property lines for all training facility arenas and buildings.
 - D. Limited hours of operation.
 - E. Limited number of vehicular trips equivalent to the number of trips that could be generated if the property was developed at its maximum allowed density.
 - F. Noise control as regulated by local and state standards.
 - G. Nuisance control as regulated by local and state standards.
 - H. Any other reasonable standards or conditions deemed applicable by the planning commission or city council. (Ord. 653, 2-4-1998; amd. Ord. 663, 4-21-1999; Ord. 884, 10-20-2010; Ord. 887, 2-16-2011)

11-9C-5: DEVELOPMENT STANDARDS:

The following minimum requirements shall be observed, subject to the additional requirements, exceptions and modifications set forth in this title:

Lot area	11,000 square feet
Lot width	85 feet
Front yard	30 feet
Rear yard	35 feet
Side yard (living area of dwelling)	10 feet

Side yard (attached garage)	10 feet
Maximum principal structure height	35 feet
Maximum lot coverage of impervious surfaces	50 percent
Minimum lot width at right of way line for cul-de-sac lots	65 feet
Minimum lot width at setback line for cul-de-sac lots	90 feet

(Ord. 640, 12-4-1996)

ARTICLE D. R-3 SINGLE-FAMILY RESIDENTIAL DISTRICT

11-9D-1: PURPOSE:

The R-3 single-family residential district is intended to preserve the character of existing neighborhoods, and to provide for development of those areas designated single-family residential in the comprehensive plan at densities and standards consistent with existing single-family developments. (1971 Code § 28-55)

11-9D-2: PERMITTED USES:

No structure or land shall be used except for one or more of the following uses:

1. Agriculture.
2. Municipal buildings and structures.
3. One-family detached dwellings.
4. Public parks and playgrounds.
5. Public utilities.
6. Zero lot line single-family dwellings. (1971 Code § 28-55)

11-9D-3: PERMITTED ACCESSORY USES:

No accessory structure or use of land shall be permitted, except for any use permitted as accessory in section [11-9A-3](#) of this chapter and regulated therein. (1971 Code § 28-55)

11-9D-4: CONDITIONAL USES:

No structure or land shall be used for one or more of the following uses except by conditional use permit:

1. Boarding homes, lodging houses and tourist homes.
2. Cemeteries.
3. Religious institutions and columbariums, including those related structures located on the same site which are an integral part of the church proper; convents or homes related to a religious function on the same site; provided, that no more than ten (10) persons shall reside on the site, and no building shall be located within fifty feet (50') of any lot line.
4. Dormitories as accessory uses to schools with accommodations for up to seventy five (75) persons residing on the site provided that no buildings shall be located within fifty feet (50') of any lot line.
5. Electromagnetic communication facilities as regulated in section [11-4-7](#) of this title.
6. Essential service structures; provided, that no building shall be located within fifty feet (50') of any lot line of an abutting lot in an R district.
7. Golf courses and country clubs, which may include a restaurant, on-sale liquor license, assembly, and accessory retailing; tennis clubs, and public swimming pools serving more than one family. The principal structure for any of the above listed uses shall be one hundred feet (100') or more from any abutting lot in an R district, and accessory structures shall be a minimum of fifty feet (50') from any lot line.
8. Home occupations not meeting the performance standards of section [11-9A-3](#), "Home occupations", subsection C, "Performance Standards", as provided by section [11-9A-4](#) of this chapter.
9. Hospitals for human care, sanatoriums, rest homes and nursing homes; provided, that all structures except fences shall be located one hundred feet (100') or more from the lot line of any abutting lot in an R district.
10. Limited commercial ventures conducted at "historic properties" as defined in section [11-9H-4](#) of this chapter, "Limited commercial ventures...".
11. Nonprofit clubs and lodges.
12. Public, private and parochial schools of all educational levels; provided, that no building shall be located within fifty feet (50') of any lot line.
13. Real estate sales in a structure not permanently on a subdivided lot.
14. Signs as regulated by the city.
15. Limited use dog training facilities, subject to the following performance standards:
 - A. Parcels ten (10) acres or greater.
 - B. No overnight boarding.

- C. Minimum setback of fifty feet (50') from all property lines for all training facility arenas and buildings.
- D. Limited hours of operation.
- E. Limited number of vehicular trips equivalent to the number of trips that could be generated if the property was developed at its maximum allowed density.
- F. Noise control as regulated by local and state standards.
- G. Nuisance control as regulated by local and state standards.
- H. Any other reasonable standards or conditions deemed applicable by the planning commission or city council. (1971 Code § 28-55; amd. Ord. 635, 9-18-1996; Ord. 653, 2-4-1998; Ord. 663, 4-21-1999; Ord. 797, 7-19-2006; Ord. 884, 10-20-2010; Ord. 887, 2-16-2011)

11-9D-5: DEVELOPMENT STANDARDS:

- A. Minimum Requirements: The following minimum requirements shall be observed, subject to the additional requirements, exceptions and modifications set forth in this title:

Lot area	10,000 square feet
Lot width	75 feet
Front yard	30 feet
Rear yard	35 feet
Side yard	10 feet
Side yard, garage	5 feet
Maximum structure height	30 feet

- B. Cluster And Zero Lot Line Development: Variances from the strict lot size, width and setback requirements may be granted for developments utilizing a cluster platting or zero lot line concept, with the following general requirements:

1. All variances requested shall be noted on the preliminary plat at the time of application.
2. The number of dwellings proposed for the entire site shall not exceed the maximum permitted if cluster or zero lot line development is not used. The maximum number of dwelling units shall be determined by dividing the gross acreage of the project area by ten thousand (10,000) square feet.
3. Any one lot shall not be reduced to less than sixty six percent (66%) of the required lot area nor less than sixty six percent (66%) of the required lot footage.
4. Land which is to be set aside as permanent open space shall be clearly indicated on the plan. If this area is not to be dedicated as public park land, it shall be placed under the control of a homeowners' association, and provisions for its continual maintenance shall be made. Deed restrictions requiring the permanent reservation of these areas as open space shall be recorded with the final plat. (1971 Code § 28-55)

ARTICLE E. R-4 LOW DENSITY RESIDENTIAL DISTRICT

11-9E-1: PURPOSE:

The R-4 Low Density Residential District represents those areas designated on the City's Comprehensive Plan as low density residential where all public services, utilities and amenities needed for urban residential development are available. Development densities shall not exceed five (5) dwelling units per gross acre, except as modified in this Title. The purpose of the District is to allow flexibility in attaching and clustering single-family units in order to promote the availability of affordable housing and to decrease energy costs and costs of public improvements and utilities. (1971 Code § 28-56)

11-9E-2: PERMITTED USES:

1. Agriculture.
2. Municipal buildings and structures.
3. One-family detached dwellings.
4. Public parks and playgrounds.
5. Public utilities.
6. Single-family attached dwellings, including duplexes, twin homes, quad homes and town houses up to a maximum of eight (8) units attached. (1971 Code § 28-56)

11-9E-3: PERMITTED ACCESSORY USES:

No accessory structure or use of land shall be permitted except for any use permitted as accessory in Section [11-9A-3](#) of this Title and regulated therein. (1971 Code § 28-56)

11-9E-4: CONDITIONAL USES:

No structure or land shall be used except for any use permitted as conditional in Section [11-9D-4](#) of this Title and regulated therein. (1971 Code § 28-56)

11-9E-5: DEVELOPMENT STANDARDS:

A. Single-Family Detached Dwellings:

1. The following minimum requirements shall be observed, subject to the additional requirements, exceptions and modifications as set forth in this Title:

Lot area	7,500 square feet
Lot width	60 feet
Front yard	30 feet
Rear yard	35 feet
Side yard	7.5 feet
Side yard, garage	5 feet
Maximum structure height	35 feet

2. In no case shall more than thirty percent (30%) of a single-family lot be covered with structures.
3. Garages are not required by this Title. In the case of single-family dwellings constructed without garages, however, the site shall be planned with a garage location consistent with all setback requirements.

B. Cluster Developments And Attached Dwellings: Exceptions to rigid lot area, width and depth requirements shall be granted for cluster developments and attached units subject to approval of a site plan pursuant to Section [11-2-4](#) of this Title in compliance with the development standards of this District.

1. Setbacks:

- a. There shall be a minimum separation of fifteen feet (15') between detached dwelling units and/or structures containing two (2) or more dwellings. This separation may be decreased to ten feet (10') in the case of residential garages or underground structures. All setbacks and structure separations shall provide reasonable visible and acoustical privacy, light and air for all dwelling units.
- b. There shall be a minimum setback of twenty five feet (25') from all district boundaries abutting the R-1, R-2, R-2.5 and R-3 Zoning Districts for all structures and parking. This area shall be adequately landscaped with trees and shrubbery, so as to provide a pleasing transition between the two (2) districts.

2. Parking: A minimum of two (2) paved off-street parking spaces shall be provided for each dwelling unit. Sidewalks shall be provided from parking areas to the dwellings that they serve.

3. Site Coverage: A maximum of forty percent (40%) of the total area of the project shall be covered with structures, driveways, streets or other impervious surfaces. Site coverage may be further restricted if necessitated by capacities of the City's storm sewer system.

4. Open Space:

- a. A minimum of four hundred (400) square feet of usable open space per dwelling unit shall be provided. "Usable open space" is defined as an area which is graded, developed, landscaped, equipped, intended and maintained for either active or passive recreation, or both. Such areas shall contain improvements containing benches, pedestrian paths and trails, play equipment, fixtures or features. The least dimension of the space so provided shall be thirty feet (30') or greater.
- b. Wherever possible, usable open space shall be contiguous. It shall be easily accessible to all residents of the development by means of an internal circulation system of paths or walkways. The area shall be landscaped according to an approved plan at a density of at least twenty (20) trees per acre. A mixture of deciduous and evergreen trees and shrubs will be used.
- c. The area shall be permanently reserved as open space. It may be accepted by the City as partial fulfillment of the park dedication requirements if consistent with the parks and open space element of the Comprehensive Plan. If not so dedicated, the open space shall be placed under the control of a homeowners' association or other appropriate jurisdiction. Deed restrictions requiring the permanent reservation of these areas as open space shall be recorded prior to the issuance of any building permit for residential structures.

5. Landscaping:

- a. At least one shade tree, a minimum of two inches (2") caliper size shall be planted per dwelling unit. This shall be in addition to any plantings required in the usable open space area.
- b. All signs, mailboxes and accessory lighting shall be uniform in materials and design and be approved as a part of the landscape plan.
- c. The completion of the landscape plan shall be assured and included in any bond required as a part of the development process. (1971 Code § 28-56; amd. 2000 Code)

11-9E-6: DENSITY BONUSES:

Density bonuses in excess of those allowed by right in this District may be granted by the City Council if the plan provides one or more of the following features which enhance the design of the project, display innovative site planning techniques, or contribute to the availability of affordable housing. The allowable total density increase under this provision shall be no more than twenty percent (20%). Density bonuses shall not be granted in any case where the increased density would overload public utility systems, roadways, parks or schools:

Design Feature	Density Bonus
Preservation of significant natural site features, such as vegetation, and minimizing grading of natural slopes	0-10%
Provision of affordable housing; provided, that:	0-10%
A. Units reserved for low and moderate income persons (subsidized housing) do not exceed more than 20% of the development total.	
B. Units for sale or rental at a price less than or equal to the modest cost housing level determined by the Metropolitan Council do not exceed more than 33% of the development total.	
C. The City shall require from the developer a guarantee that all units for which such bonuses will be awarded for sale or rent are within these guidelines.	
D. All of the affordable units shall be integrated into the overall design of the development and scattered throughout the project to the maximum extent possible.	
Provision of common recreation facilities and/or open space beyond that which is required by the provisions of this Section, including playground equipment, swimming pools and tennis courts	0-5%
A site planning concept demonstrating innovative energy conservation efforts, including features such as orientation of lots and/or units for maximum use of passive solar energy, earth sheltering, alternative energy sources and preservation of solar access for active solar energy systems	0-5%

(1971 Code § 28-56)

ARTICLE F. R-5 MEDIUM DENSITY RESIDENTIAL DISTRICT

11-9F-1: PURPOSE:

The R-5 medium density residential district represents those areas designated on the city's comprehensive plan as medium density residential, where all public services, utilities and amenities needed for urban residential development are available. Development densities shall not exceed ten (10) dwelling units per gross acre, except as modified in this title. The purpose of the district is to allow for higher densities for attached single-family units in order to promote the availability of affordable housing and to decrease energy costs of public improvements and utilities. (1971 Code § 28-57)

11-9F-2: PERMITTED USES:

No structure or land shall be used except for any use permitted in section [11-9E-2](#) of this chapter. (1971 Code § 28-57)

11-9F-3: PERMITTED ACCESSORY USES:

No accessory structure or use of land shall be permitted except for any use permitted as accessory in section [11-9A-3](#) of this chapter and regulated therein. (Ord. 841, 8-13-2008)

11-9F-4: CONDITIONAL USES:

No structure or land shall be used except for any use permitted as conditional in section [11-9E-4](#) of this chapter and regulated therein. (1971 Code § 28-57)

11-9F-5: DEVELOPMENT STANDARDS:

- A. Development standards shall be the same as those for the R-4 district, contained in section [11-9E-5](#) of this chapter, except as hereby modified.
- B. There shall be a minimum setback of fifty feet (50') from district boundaries abutting the R-1, R-2, R-2.5, R-3 and R-4 zoning districts for all aboveground structures and parking. In case of a boundary abutting a street, the street right of way may be included in this setback. This area shall be landscaped with a dense combination of deciduous and evergreen trees, shrubs and bushes and berms, so as to form a screen to the adjoining districts as appropriate. (1971 Code § 28-57; amd. 2000 Code)

11-9F-6: DENSITY BONUSES:

Density bonuses in excess of those allowed by right in this district may be granted by the city council according to the provisions of section [11-9E-6](#) of this chapter. The allowable total density increase shall be no more than twenty percent (20%). Density bonuses may be granted for the following design features, in addition to those listed in section [11-9E-6](#) of this chapter:

Design Feature	Density Bonus
1/3 or more of the required parking spaces in covered or underground parking structures	0_10 percent

(1971 Code § 28-57)

ARTICLE G. R-6 HIGH DENSITY RESIDENTIAL DISTRICT

11-9G-1: PURPOSE:

The R-6 High Density Residential District represents those areas designated on the City's Comprehensive Plan as multiple-family residential, where all public services, utilities and amenities needed for urban residential development are available. Development densities shall not exceed sixteen (16) dwelling units per gross acre, except as modified in this Title. The purpose of this District is to allow a mix of housing types, including apartments, in attractive developments with adequate amounts of open space and recreational facilities. (1971 Code § 28-57.1)

11-9G-2: PERMITTED USES:

No structure or land shall be used except for one or more of the following uses:

1. Any use permitted in Section [11-9E-2](#) of this Title.
2. Apartments. (1971 Code § 28-57.1)

11-9G-3: PERMITTED ACCESSORY USES:

No accessory structure or use of land shall be permitted except for any use of land permitted as accessory in Section [11-9A-3](#) of this Title and regulated therein. (1971 Code § 28-57.1)

11-9G-4: CONDITIONAL USES:

No structure or land shall be used except for any use permitted as conditional in Section [11-9E-4](#) of this Title and regulated therein. (1971 Code § 28-57.1)

11-9G-5: DEVELOPMENT STANDARDS:

Development standards for the R-6 District shall be the same as those for the R-4 District contained in Section [11-9E-5](#) of this Title, except as hereby modified:

A. Setbacks:

1. In the case of residential structures greater than two (2) stories in height, the minimum separation between structures shall be fifty feet (50'). This separation may be reduced to twenty five feet (25') if the horizontal extension of the lines created by the nearest vertical surfaces would create an angle of not less than forty five degrees (45°).
2. There shall be a minimum setback of one hundred feet (100') from District boundaries abutting any R-1, R-2, R-2.5, R-3, and R-4 Zoning District for all aboveground structures and parking. If the boundary abuts a street, right of way may be included in the setback area. This area shall be suitably landscaped with a dense combination of deciduous and evergreen trees, shrubs and bushes so as to form a screen to the adjoining districts as appropriate.

B. Site Coverage: A maximum of fifty percent (50%) of the total area of the project shall be covered with structures, driveways, streets or other impervious surfaces. Site coverage may be restricted further if necessitated by the capabilities of the City's storm sewer system.

C. Landscaping: All yard areas and usable open space shall be landscaped according to an approved landscape plan. All signs, mailboxes and accessory lighting shall be uniform in materials and design and be approved as part of the plan. Completion of the landscape plan shall be assured and included in any bond required as a part of the development process. (1971 Code § 28-57.1; amd. 2000 Code)

ARTICLE H. UR URBAN RESERVE RESIDENTIAL DISTRICT

11-9H-1: PURPOSE:

The UR urban reserve residential district represents transition areas of the city that have been identified in the city's comprehensive land use plan as being physically eligible, fiscally practical, and generally suitable for future staging of urbanized development. The identified areas are located contiguous to and outside of the metropolitan urban service area, and require installation of private well and septic systems until urban services are available. Development densities shall not exceed one dwelling unit per twenty (20) acres. The intent of the district criteria is to promote the preservation of large blocks of undeveloped land that is unencumbered by inefficient building and road layouts, and to give notice to landowners about the likelihood for the future extension of a full range of urban services into the area. The expected future land uses could be residential, commercial and parks and open spaces. (Ord. 639, 12-4-1996)

11-9H-2: PERMITTED USES:

No structure or land shall be used except for one or more of the following uses:

1. Agriculture.
2. Essential services.
3. Public and private parks, playgrounds, and open space.
4. Public utility and public park buildings and structures.
5. Single-family detached dwellings, private garages and accessory structures.

- 6.State licensed residential facility serving six (6) or fewer persons, a licensed daycare facility serving twelve (12) or fewer persons and a group family daycare facility licensed under Minnesota rules, parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children. (Ord. 639, 12-4-1996)

11-9H-3: PERMITTED ACCESSORY USES:

The following accessory uses shall be permitted:

- 1.Accessory apartments as regulated in section [11-9A-3](#) of this chapter, entry #1, "Accessory apartments".
- 2.Accessory structures as regulated in section [11-3-3](#) of this title.
- 3.Home occupations as regulated in section [11-9A-3](#) of this chapter, entry #3, "Home occupations".
- 4.Private swimming pools intended for and used solely by the occupants of the property on which they are located and their guests.
- 5.Real estate sales in model homes.
- 6.Renting of rooms by a resident family for lodging purposes only and for the accommodation of not more than two (2) roomers in a single-family dwelling.
- 7.Signs, as regulated by [title 9, chapter 8](#) of this code.
- 8.Farmers' market, subject to compliance of the criteria established in section [11-8A-3](#) of this title, entry #6, "Farmers' market on nonresidential property...". (Ord. 639, 12-4-1996; amd. Ord. 841, 8-13-2008)

11-9H-4: CONDITIONAL USES:

No structure or land shall be used for one or more of the following uses except by conditional use permit:

- 1.Religious institutions and columbariums, including those related structures located on the same site which are an integral part of the church proper; convents or homes related to a religious function on the same site; provided, that no building shall be located within fifty feet (50') of any lot line.
- 2.Essential service structures; provided, that no building shall be located within fifty feet (50') of any lot line.
- 3.Limited commercial ventures conducted at historic properties meeting established performance standards of subsection A of this entry; and containing one or more of the following uses: class 1 restaurant, catering centers, bed and breakfasts, overnight rooms, reception facilities, meeting or conference facilities, professional office uses, museums, art galleries, antique shops, craft boutiques, site tours, limited retail activities, or other uses deemed similar by the director of community development.

A. Historic Property Performance Standards: In order to be considered eligible for a historic properties conditional use permit,

properties must be in conformance with the following:

- (1) The applicant demonstrates that the historic characteristics of the property cannot be maintained reasonably and economically unless the conditional use permit is granted.
- (2) Listed on the city register of historic sites and landmarks or the national register of historic places.
- (3) The property is adequately sized to meet the proposed use.
- (4) Adequately served by municipal services or a septic system with adequate capacity for the proposed use.
- (5) In conformance with all applicable building and fire codes, and ADA requirements.
- (6) In conformance with all state and county health regulations.
- (7) In conformance with the city's off street parking requirements pursuant to subsection [11-3-9F](#) of this title, or proof of parking, if deemed reasonable by the city.
- (8) Adequately situated and designed so as to not create a significant traffic impact on adjoining public roadways, and includes safe ingress and egress to the site.
- (9) The development meets all applicable setback requirements.
- (10) Activity areas are appropriately screened from adjoining properties.
- (11) The property and land use are adequately designed so as not to create an adverse impact on the residential character of the surrounding area.
- (12) The development meets all applicable commercial site development performance standards.
- (13) The development does not create any increase in the level of noise, air, or other pollution which would have an adverse effect on other properties.
- (14) One advertising sign not to exceed twenty (20) square feet.
- (15) Site improvements meet the city's historic preservation standards and guidelines.
- (16) All applications for city permits are reviewed by the advisory committee on historic preservation, and a certificate of appropriateness is obtained for site work to preserve, rehabilitate, restore or reconstruct historic buildings, structures, landscapes or objects.

4. Public, private and parochial schools of all educational levels; provided, that no building shall be located within fifty feet (50') of any lot line.

5. Limited use dog training facilities, subject to the following performance standards:

- A. Parcels ten (10) acres or greater.
- B. No overnight boarding.
- C. Minimum setback of fifty feet (50') from all property lines for all training facility arenas and buildings.
- D. Limited hours of operation.
- E. Limited number of vehicular trips equivalent to the number of trips that could be generated if the property was developed at its maximum allowed density.
- F. Noise control as regulated by local and state standards.
- G. Nuisance control as regulated by local and state standards.
- H. Any other reasonable standards or conditions deemed applicable by the planning commission or city council. (Ord. 653, 2-4-1998; amd. Ord. 884, 10-20-2010; Ord. 887, 2-16-2011)

11-9H-5: DEVELOPMENT STANDARDS:

The following minimum requirements shall be observed, subject to the additional requirements, exceptions and modifications as set forth in this title:

Lot area	20 acres
Lot width	320 feet
Front yard	30 feet
Rear yard	50 feet
Side yard	25 feet
Side yard, garage	20 feet
Maximum structure height	35 feet

(Ord. 639, 12-4-1996)

ARTICLE I. R-2A THROUGH R-2F RESIDENTIAL DISTRICTS

11-9I-1: PURPOSE STATEMENTS:

- A. R-2A, Residential Single-Family District: The purpose of the R-2A, residential single-family district is to provide for low density detached single-family dwellings and directly related complementary uses on lots ensuring adequate light, air, privacy and open space for each dwelling; protect residents from the impacts of high levels of traffic; minimize traffic congestion; and avoid the overloading of utilities by preventing the construction of buildings of excessive size when compared with surrounding structures.

This district is intended for areas that are designated for "low density" in the comprehensive plan.

- B. R-2B, Detached Single-Family District: The purpose of the R-2B, detached single-family district is to provide appropriately located areas for a single-family unit on a larger lot to ensure adequate light, air, privacy and open space for each dwelling; protect residents from the impacts of high levels of traffic; minimize traffic congestion; avoid the overloading of utilities by preventing the construction of buildings of excessive size when compared with surrounding structures; and provide institutional and community services such as parks, schools, religious institutions, and community facilities supportive of a residential area. This district is intended for areas that are designated for "low density" in the comprehensive plan.

- C. R-2C, Detached Single-Family District: The purpose of the R-2C, detached single-family district is intended to recognize areas which, because of topography, level of services, or other natural or development factors, are best served by a large lot designation. Development should not exceed an overall average of two (2) dwelling units per acre.

- D. R-2D, Twin Home Single-Family District: The R-2D district is designed to permit twin home residential units in or near detached single-family and attached family unit residential neighborhoods. This district does not provide for the sale of individual dwelling units. Development of R-2D property will be allowed in the low density and medium density residential land use designations in the comprehensive plan.

- E. R-2E, Residential Townhouse District: The R-2E, residential townhouse district is intended for areas that are designated for "medium density" in the comprehensive plan, where a moderate density of townhouse or apartment dwelling units is expected. Development of the R-2E district will be in proximity to either neighborhood or community collector roads or to arterial roads.

- F. R-2F, Residential Multi-Family District: The purpose of the R-2F, residential multi-family district is to expand life cycle housing options by allowing a variety of attached dwelling unit types and directly related complementary uses. Lot sizes are intended to reflect the city's objective of promoting efficient use of land and public utilities. A full range of public services and facilities will be available to this district. R-2F districts are areas designated for "high density" in the comprehensive plan. Property within this district is in close proximity to community collector roads and arterial roads. (Ord. 796, 6-21-2006)

11-9I-2: PERMITTED, ACCESSORY, AND CONDITIONAL USES:

Except as provided in this title or otherwise as provided by law, a principal building, structure or land use is permitted only in the zones indicated in the following table 1. A use listed in table 1 of this section in any zone denoted by the letter "P" is permitted, by the letter "A" is accessory use, and by the letter "C" is a conditional use. (Ord. 796, 6-21-2006)

TABLE 1
 PRINCIPAL, ACCESSORY, AND CONDITIONAL
 USES PERMITTED IN ZONES

Uses	R-2A	R-2B	R-2C	R-2D	R-2E	R-2F
A state licensed residential facility or a housing with services establishment registered under Minnesota state statutes chapter 144D serving from 7 through 16 persons or a licensed daycare facility serving from 13 through 16 persons	n/a	n/a	n/a	n/a	C	C
A state licensed residential facility or a housing with services establishment registered under Minnesota state statutes chapter 144D serving 6 or fewer persons, a licensed daycare facility serving 12 or fewer persons, and a group family daycare facility licensed under Minnesota rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children	P	P	P	P	P	P

Accessory apartments	A	A	A	A	A	A
Accessory buildings and structures requiring a conditional use permit as provided in section 11-3-3 of this title	C	C	C	C	C	C
Accessory structures	A	A	A	A	A	A
Agriculture	P	P	P	P	P	P
Antennas and towers	A	A	A	A	A	A
Apartments	n/a	n/a	n/a	n/a	C	C
Boarding homes, lodging houses, and tourist homes	C	C	C	C	C	C
Building and trailers temporarily located for purposes of construction or sales on the premises for a period of not to exceed the time necessary for such construction	A	A	A	A	A	A
Cemeteries and columbariums	C	C	C	C	C	C
Commercial horse stables, kennels, boarding stables and similar uses	C	C	C	C	C	C
Decorative landscape features, including, but not limited to, arbors, fences, retaining walls, and terraces	A	A	A	A	A	A
Electromagnetic communication facilities as regulated in section 11-4-7 of this title	C	C	C	C	C	C
Essential service structures	C	C	C	C	C	C
Excavation incidental to construction on the premises	A	A	A	A	A	A
Farmers' market, subject to compliance of the criteria established in section 11-8A-3 of this title, "Farmers' market on nonresidential property..."	A	A	A	A	A	A
Fences	A	A	A	A	A	A
Garage sales	A	A	A	A	A	A
Gardening and other horticultural uses where materials or products are grown but not sold on the premises, unless in accordance with state statutes	A	A	A	A	A	A
Golf courses and country clubs, which may include a restaurant, on-sale liquor license, assembly, and accessory retail; tennis clubs, and swimming pools serving more than 1 family	C	C	C	C	C	C
Group daycare/nursery school in a religious institution, community center, or academic education institution	n/a	n/a	n/a	n/a	C	C
Home occupations	A	A	A	A	A	A
Hospitals for human care, sanatoriums, rest homes and nursing homes	n/a	n/a	n/a	n/a	C	C
Limited commercial ventures conducted at historic properties as defined in section 11-9H-4 of this chapter	C	C	C	C	C	C
Municipal buildings and structures	P	P	P	P	P	P
Nonprofit clubs, lodges, social halls, fraternal organizations, and clubs	n/a	n/a	n/a	n/a	C	C
Parking lots and parking areas	A	A	A	A	A	A
Parks and playgrounds	P	P	P	P	P	P
Private swimming pools, recreation courts, and play apparatus intended for and used by the owners of the property	A	A	A	A	A	A

Public, private, and parochial schools, and quasi-public buildings and uses of a recreational, educational, religious, cultural, or public service types	C	C	C	C	C	C
Public utilities	P	P	P	P	P	P
Real estate sales in model homes	A	A	A	A	A	A
Religious institutions, including those related structures on the same site which are an integral part of the facility	C	C	C	C	C	C
Repair and maintenance of motor vehicles owned by the property owner	A	A	A	A	A	A
Signs, complying with the applicable regulations set forth in title 9, chapter 8 of this code	A	A	A	A	A	A
Single-family detached dwelling; 1 dwelling per lot	P	P	P	n/a	n/a	n/a
Townhouses, row homes, or multi-family apartments having 3 or more residential units attached	n/a	n/a	n/a	n/a	C	C
Twin home	n/a	n/a	n/a	P	P	n/a

(Ord. 796, 6-21-2006; amd. Ord. 841, 8-13-2008; Ord. 884, 10-20-2010)

11-9I-3: DEVELOPMENT STANDARDS:

The following table 2 of minimum lot area, yard, and bulk requirements must be observed:

TABLE 2
MINIMUM LOT AREA, YARD, AND BULK REQUIREMENTS

	R-2A	R-2B	R-2C	R-2D	R-2E	R-2F
Minimum lot area for detached single-family dwellings	11,000 sq. ft.	13,000 sq. ft.	21,500 sq. ft.	n/a	n/a	n/a
Minimum lot area for 2 single-family units attached	n/a	n/a	n/a	20,000 sq. ft.	20,000 sq. ft.	n/a
Minimum lot width for detached single-family dwellings	85 ft.	100 ft.	100 ft.	n/a	n/a	n/a
Minimum lot width for 2 single-family units attached	n/a	n/a	n/a	135 ft.	135 ft.	n/a
Minimum lot width at the right of way line for cul-de-sac lots	65 ft.	65 ft.	85 ft.	90 ft.	n/a	n/a
Minimum lot width that the minimum front yard setback line for cul-de-sac lots	90 ft.	90 ft.	90 ft.	90 ft.	n/a	n/a
Minimum front yard setback for attached garage if there is no porch on the front of the home	35 ft.	35 ft.	35 ft.	35 ft.	50 ft.	50 ft.
Minimum front yard setback for attached garage if there is a porch on the front yard	30 ft.	30 ft.	30 ft.	30 ft.	50 ft.	50 ft.
Minimum front yard setback for all principal structures	30 ft.	30 ft.	30 ft.	30 ft.	50 ft.	50 ft.
Maximum projection of an attached garage in front of the dwelling	6 ft.	6 ft.	6 ft.	6 ft.	n/a	n/a

Minimum front yard setback for an attached garage with the garage door facing a side property line	30 ft.	30 ft.	30 ft.	30 ft.	50 ft.	50 ft.
Minimum rear yard setback for all principal structures	35 ft.	35 ft.	35 ft.	35 ft.	50 ft.	50 ft.
Minimum interior side yard setback for a principal structure with less than 30 feet in height	10 ft.	10 ft.	10 ft.	15 ft.	50 ft.	50 ft.
Minimum interior side yard setback for principal structures that are greater than 30 feet to 35 feet in height	15 ft.	15 ft.	15 ft.	20 ft.	50 ft.	50 ft.
Minimum interior side yard setback for nonliving area of the principal structure	10 ft.	10 ft.	10 ft.	15 ft.	50 ft.	50 ft.
Minimum corner side yard setback for a principal structure adjacent to a collector or arterial street	25 ft.	30 ft.	30 ft.	30 ft.	30 ft.	50 ft.
Minimum corner side yard setback for a principal structure adjacent to a local street	20 ft.	25 ft.	25 ft.	25 ft.	25 ft.	35 ft.
Maximum lot coverage of all impervious surfaces	50%	50%	50%	50%	40%	40%
Maximum principal structure height	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	45 ft.

(Ord. 796, 6-21-2006)

11-9I-4: SINGLE-FAMILY PERFORMANCE STANDARDS:

The following performance standards for all new single-family residential development zoned R-2A, R-2B, and R-2C must be observed:

A. The minimum finished floor area for the following dwelling types are as follows:

Single-family rambler	1,500 square feet
All other single-family designs	2,000 square feet

(Ord. 796, 6-21-2006)

11-9I-5: MULTI-FAMILY AND TOWNHOUSE PERFORMANCE STANDARDS:

The following performance standards for all new multi-family and townhouse residential development must be observed:

A. A minimum of thirty percent (30%) of all townhouse structures' and sixty percent (60%) of all multiple-family structures' exterior elevations, exclusive of doors, windows, and garage doors must be covered by brick or artificial stone. (Ord. 827, 10-17-2007)

B. The minimum finished floor area for the following dwelling types zoned R-2D, R-2E, and R-2F are as follows:

Detached townhomes without basements	1,700 square feet
Detached townhomes with basements	1,500 square feet
Attached townhomes without basements	1,400 square feet
Attached townhomes with basements	1,200 square feet

C. Site and architectural plans will be reviewed by a licensed design professional selected by the city. The cost for this review will be paid by the developer as part of the planning application escrow fee.

D. Structures must incorporate varied and articulated facades. Buildings must include prominent entry features, pitched roofs, and transitional architectural features such as porches and covered stoops. (Ord. 796, 6-21-2006)

Chapter 10 BUSINESS DISTRICTS

ARTICLE A. PURPOSE

11-10A-1: LIMITED BUSINESS DISTRICT, B-1:

The limited business district (B-1) is intended to provide a district which is related to and may reasonably adjoin residential districts for the location and development of administrative office buildings and related office uses which are subject to more restrictive controls. (Ord. 904, 5-16-2012)

11-10A-2: RETAIL BUSINESS DISTRICT, B-2:

The retail business district (B-2) is to encourage retail sales and services by grouping businesses in patterns of workable relationships to minimize the influence on surrounding residential neighborhoods by limitation and control of permitted uses. (Ord. 904, 5-16-2012)

11-10A-3: GENERAL BUSINESS DISTRICT, B-3:

The purpose of the general business district is to provide centralized areas for retail business areas, for highway or automobile oriented businesses, and for quasi-industrial and wholesale enterprises that do not need an industrial setting but have considerable customer contact. (Ord. 904, 5-16-2012)

11-10A-4: PLANNED BUSINESS DISTRICT, P-B:

The planned business district (P-B) is intended to provide for the mix of suitable retail, commercial and industrial uses which are complementary and ancillary to the Cottage Grove industrial park. The district allows for a blend of manufacturing and retail uses which have significant customer interaction. (Ord. 904, 5-16-2012)

11-10A-5: NEIGHBORHOOD BUSINESS DISTRICT, N-B:

The neighborhood business district (N-B) is a commercial district intended to provide a mix of convenience oriented retail sales and services. The district is related to and may reasonably adjoin residential districts for the location and development of retail and office uses that are subject to more restrictive controls than in other business districts. Neighborhood business districts are intended to be compact districts that serve local rather than regional commercial needs. Developments in such districts are intended to function as a neighborhood center with internal traffic and pedestrian systems that facilitate access to all properties within the district. Because of their proximity to residential areas, developments in such districts are intended to be aesthetically consistent within the district and to complement adjacent residential development through the use of landscaping in and around the district to provide appropriate screening. (Ord. 904, 5-16-2012)

ARTICLE B. COMMERCIAL DISTRICT USES

11-10B-1: PERMITTED, CONDITIONAL, ACCESSORY, AND INTERIM USES:

A. Purpose: The use table as provided in this section depicts the classification of land uses within zoning districts.

B. Table Key: The following labeling applies to the table in this section:

1. Uses Defined: Uses are often defined in section [11-1-3](#) of this title. Uses not defined are subject to standard dictionary definitions.
2. Permitted Uses: Uses identified in the zoning district column with the letter "P" are allowed as permitted uses, primary or accessory, in the respective zoning district.
3. Conditional Uses: Uses identified in the zoning district column with the letter "C" are allowed as conditional uses, primary or accessory, in the respective zoning district. Conditional uses must obtain a conditional use permit prior to commencing.
4. Interim Uses: Uses identified in the zoning district column with the letter "I" are allowed as interim uses, primary or accessory, in the respective zoning district. Interim uses must obtain an interim conditional use permit prior to commencement.
5. Accessory Uses: Uses identified in the zoning district column with the letter "A" are allowed as accessory uses in the respective zoning district. Accessory uses must not occupy more than twenty five percent (25%) of the total floor area on a site.
6. Prohibited Uses: Uses not associated with a letter in the zoning district column are prohibited uses in the respective zoning district.
7. Standards: For ease of reference, uses for which specific standards apply include a reference to the applicable code section.

C. Use Table:

	Zoning District					References
	B-	B-	B-	P-	N-	

Use Type	1	2	3	B	B	
Accessory structures or uses other than those listed as permitted	C	C	C	C	C	
Accessory uses or retail sales which are customarily incidental and clearly subordinate to the primary use	A	A	A	A	A	
Adult uses			P			Title 11, chapter 5
Agricultural uses	P	P	P	P		
Air conditioning and heating sales and repair establishments			P	P		
Amusement center		P	P	P		
Any incidental repair or processing necessary to conduct a permitted use; provided, that such accessory use shall not exceed 30 percent of the floor space of the principal building			A	A		
Any incidental repair, processing or storage necessary to conduct a permitted principal use; provided, that such accessory use shall not occupy more than 20 percent of the gross floor area of the principal building		A			A	11-10D-2
Appliance and electronics sales and service		P	P	P	P	11-10D-1, 11-10D-2
Armories, convention halls, sports arenas and stadiums			C	C		
Assembly and packaging (inside a building)				P		11-10D-1
Auction establishments, indoor only (including storage), and not for livestock, motorized vehicles, or farm implement equipment		C	C			
Auto body repair			C	C		11-10D-7
Automated banking machines	A	A	A	A	A	11-10D-2
Automated car wash in conjunction with principal use		A	A	A	A	11-10D-1, 11-10D-2, 11-10D-3
Automobile car wash (drive-through, mechanical and self-service)		C	C	C	C	11-10D-3
Automobile fluid maintenance station		P	P	P	P	11-10D-1, 11-10D-2
Automobile, motorcycle, trailer, recreational vehicles, boats/marine, and farm implement establishments for display, hire, service, rental and/or sales conducted entirely within a building, including, as incidental to these major uses, all repair work in connection with their own and customers' vehicles			P	P		11-4-1, 11-4-9
Automotive, motorcycle, trailer, recreation vehicles, boats/marine and farm implement establishments for display, hire, service, rental and/or sales conducted outside a building			C			11-4-1, 11-4-9
Automotive towing				C		11-10D-1

Banks and other financial institutions with a drive-up window	C	C	C	C	C	11-10D-1 , 11-10D-2
Banks and other financial institutions without drive-up window facilities	P	P	P	P	P	11-10D-1 , 11-10D-2
Barbershops or beauty shops	P	P	P	P	P	11-10D-1 , 11-10D-2
Bicycle racks and transit shelters	A	A	A	A	A	11-10D-1 , 11-10D-2
Bingo games and gambling		P	P	P		Title 3 , chapter 2
Blacktop or crushing materials for roadway materials	I	I	I	I		
Body art establishments provided the use complies with all licensing requirements and is separated by a minimum of 500 feet from the property line from other body art establishments, adult uses, and educational institutions		P	P			
Branch post office or shipping supply	P	P	P	P	P	11-10D-1 , 11-10D-2
Building materials; provided, that they are conducted entirely within an enclosed structure			P	P		11-10D-1
Buildings temporarily located for purposes of construction on the premises, for a period not to exceed the time necessary to complete such construction	A	A	A	A	A	11-10D-1 , 11-10D-2
Bus passenger depots/terminals			C	C		11-10D-2
Business or vocational schools			C	C		11-10D-1
Business services and offices, including accounting, advertising, auditing, commercial art, computer services, mailing, photocopying, and public relations	P	P	P	P	P	11-10D-1 , 11-10D-2
Business signs	A	A	A	A	A	
Cabinetmaking				P		11-10D-1
Cafeterias not open to the general public		A	A	A	A	11-10D-1 , 11-10D-2
Carnivals, circuses or festivals	I	I	I			
Casket supplies and monument sales			P	P		11-10D-1
Catering establishments		P	P	P		11-10D-1
Christmas tree sales lots		P	P	P	P	
Clinics for human care including medical and dental clinics	P	P	P	P	P	11-10D-1 , 11-10D-2
Collection offices or public utilities	P	P	P			
Commercial kennels with outdoor runs		C	C	C		11-10D-1

Commercial overnight delivery drop box	A	A	A	A	A	11-10D-1 , 11-10D-2
Commercial parking for passenger vehicles		P	P	P		11-10D-1 , 11-3-9
Commercial recreation uses as listed below:		C	C	C		
Amusement centers where mechanical, electrical and electronic games are played						
Arcade parlors						
Archery and shooting ranges						
Billiards						
Bowling alley						
Driving ranges						
Miniature golf						
Pool halls						
Skating						
Swimming pools						
Tennis courts and handball courts, including racquetball and other racket games. Tennis or racquetball club						
3 or more mechanical, electrical or electronic games						
Community rooms or centers	P	P	P	P	P	11-10D-1 , 11-10D-2
Convention, banquet and exhibition halls			C	C		
Credit card/bank processing			P	P		
Currency exchanges			C			11-10D-4
Dance and/or music studios	P	P	P	P	P	11-10D-2
Data processing	P	P	P	P		
Decorative landscape features	A	A	A	A	A	11-10D-2
Dinner and/or live theater		P	P			
Dry goods and fabrics		P	P	P	P	11-10D-2
Educational/training centers; excluding elementary, secondary, and private schools	P	P	P	P	P	11-10D-2
Electrical generators (backup units)	A	A	A	A	A	11-10D-2

Electrical service, heating, plumbing, appliances, upholstery or air conditioning service shops; provided, that they do not employ more than 6 persons in repair or processing			C	C		
Electromagnetic communication facilities	C	C	C			11-4-7
Employment agencies	P	P	P	P	P	
Equipment rental, inside a building		P	P	P		
Equipment rental with outside storage			C	C		
Essential service structures, including, but not limited to, buildings such as telephone stations, booster or pressure stations, elevated tanks, lift stations and electric power substations	C	C	C	C		
Exterior employee break areas	A	A	A	A	A	11-10D-2 , 11-10D-8
Exterior storage yards for rental services, lumberyards, and similar uses		C	C	C		
Farmers' market	A	A	A	A	A	11-8A-3(6)
Fencing and other screening techniques	A	A	A	A	A	11-10D-2
Funeral homes and mortuaries	P					
Furniture, upholstering, picture framing, interior decorating studios and furniture repair, refinish shops and sales		P	P	P	P	11-10D-2
Greenhouses and nurseries			C	C		
Hardware		P	P	P	P	11-10D-2
Health and physical exercise clubs greater than 3,500 square feet of gross floor area		C	C	P		
Health and physical exercise clubs, having less than 3,500 square feet of gross floor area and with no locker room facilities	P	P	P	P	P	
Historical buildings, museums, art galleries and theaters for the performing arts	C	C	C			
Home improvement retail inside a building		P	P	P		
Hospitals for human care; provided, that all buildings be located not less than 75 feet from the lot line of any lot in a residential zoning district	C	C	C	C		
Hotel, motel and/or conference center - permitted ancillary uses within a hotel and/or conference center with limited exterior signage approved as part of a conditional use permit such as: health and fitness center, class I or II restaurants, retail or personal services, car rental without vehicles occupying off street parking otherwise required by city ordinance, not to exceed inventory of 10 vehicles per rental agency, banquet facilities, theater or dinner theater		C	C	C		
Indoor self-storage units		P	P	P		11-10D-1 , 11-10D-2

Institutional uses: adult daycare, charitable or philanthropic institution, childcare center, housing for senior adults and persons with disabilities	P	P	P	P	P	11-10D-2
Landscape nursery, landscape material sales with enclosed outdoor display and storage		P	P	P	P	11-10D-2
Lawn and garden centers having exterior storage and display, when in conjunction with principal use		C	C	C		
Lawn and garden centers with no exterior storage and display		P	P	P		
Manufacture of electronic instruments				P		
Manufacturing, compounding, assembly, packaging, or indoor storage of products and materials as an accessory use provided that such activity does not occupy more than 20 percent of the gross floor area of the building				A		
Medical, optical and dental offices and laboratories	P	P	P	P	P	
Motor fuel stations (minor and major) without mechanical service/repair		C	C	C	C	11-4-1
Movie theater		C	C	C		
Municipal buildings and structures, including police, fire, library, museum, art gallery or studio and community buildings, but not public works garages	P	P	P	P	P	11-10D-2
Nursery schools and daycare centers for all ages - adults and kids	P	P	P	P	P	11-10D-2
Nursing homes, congregate care, rest homes or retirement homes; provided, that the site shall contain not less than 600 square feet of lot area for each person to be accommodated	C	C	C			
Off-sale liquor of 3,000 square feet or less		P	P		P	Title 3, chapter 3
Off-sale liquor with 3,001 square feet or greater		P	P			Title 3, chapter 3
Off street parking, parking decks, parking ramps and off street loading	A	A	A	A	A	11-10D-2
Off street parking, storage garage and buildings and loading areas when incidental and subordinate to any permitted use	A	A	A	A	A	11-3-9, 11-10D-2
Off street parking when the principal site of the off street parking abuts on a lot which is another B or I district and is in the same ownership as the land in the B or I district and subject to those conditions as set forth in this title and such other conditions as are found necessary by the council to carry out the intent of this title	C	C	C	C	C	
Offices for administrative, executive, professional, research or similar organizations, and laboratories having only limited contact with the general public; where these uses are permitted, no merchandise is permitted to be sold on the premises	P	P	P	P	P	11-10D-2
On-sale liquor stores and restaurants with an on-sale liquor license		C	C	C	C	Title 3, chapter 3
Open sales lots or open storage when incidental to a principal use		C	C			
Opticians and optometrists	P	P	P	P	P	

Orthopedic and medical appliances		P	P	P	P	11-10D-2
Outdoor seating or dining		A	A	A	A	11-10D-8
Outdoor storage tanks and equipment for products that are used in conjunction with the primary use		A	A	A	A	11-10D-2
Outdoor temporary/seasonal sales		A	A	A	A	11-10D-5
Park and ride facilities		P	P	P		
Pawnbrokers and secondhand goods dealers		C	C	C		Title 3, chapter 5
Pawnshop		C	C	C		Title 3, chapter 5
Pet shops, including grooming		P	P	P	P	11-10D-2
Pharmaceutical sales		P	P	P	P	
Plumbing, heating, and electrical service shops				P		
Postal substations and post offices		P	P	P	P	11-10D-2
Print shops/photographic copying		P	P	P	P	11-10D-2
Printing and silk screening		P	P	P	P	
Private garages, off street parking and loading spaces	A	A	A	A	A	
Professional and scientific instrument sales and repair		P	P	P	P	11-10D-2
Professional services, including architect, attorney, dental and medical, financial services, insurance, and real estate businesses	P	P	P	P	P	11-10D-2
Public infrastructure and utility uses	P	P	P	P	P	11-10D-2
Public or governmental services, including libraries, city offices, auditoriums, public administration buildings, civic centers, school administration offices	P	P	P	P	P	11-10D-2
Public parks	P	P	P	P	P	11-10D-2
Public, parochial and private schools, colleges and universities	C	C	C	P		
Public, quasi-public, and essential service structures that are not permitted uses, including, but not limited to, buildings such as telephone exchange stations, booster or pressure stations, lift stations, electric power substations and public utility uses	P	P	P	P	P	11-10D-2
Radio and television studios	P	P	P	P		

Radio and television towers, satellite dishes, microwave dishes	C	C	C	C		
Recording studios	P	P	P	P		
Recycling collection points, exterior storage		C	C	C		
Rental services, including the leasing of automobiles, utility trailers, household equipment and similar rental equipment when conducted entirely inside a building			P	P		
Research and development of items including, but not limited to: software, pharmaceuticals, communications, medical devices and the like		P	P	P		
Restaurants, classes 1, 2, and 3, excluding drive-up window		P	P	P	P	
Restaurants, classes 1, 2 and 3 (with drive-up window)		C	C	C		
Retail uses: Stores and shops selling household goods over a counter or selling personal services. Included are stores selling such items as: antique, art and school supplies, appliance and electronics sales and service, automobile parts (excluding auto salvage parts) accessories, bakery goods, delicatessens, bagel shops, ice cream and other specialty stores, bicycles, books, magazines, cards, stationery and newsstands, candy, camera and photographic supplies, carpets, rugs and floor coverings, china and glassware, clothing, apparel and costumes, dry goods, floral shops, foods, electric and household appliances, furniture, fur goods, garden supplies (year round operation only), groceries, hardware, hobby supplies, jewelry, leather goods and luggage, boat sales that are within a completely enclosed building, medical supplies, musical instruments, office supplies, paint and wallpaper, professional and scientific instrument sales and repair, electronics, audio and visual equipment and accessories, shoes, sign shops (inside a building), sporting goods, tobacco goods, toys, laundromat and dry cleaning, photography studios, picture framing, locksmith shops, movie and electronic game sales and rental, and repair incidental to sale of goods listed above		P	P	P	P	11-10D-2
Satellite or microwave dishes and the like	A	A	A	A	A	11-4-8
Saunas and massage parlors	P	P	P	P	P	Title 3, chapter 8
Self-storage facility		C	C	C		11-10D-7
Sewing centers, machine sales, and sewing classes		P	P		P	11-10D-2
Showroom warehouse		P	P	P		
Sidewalks and trails	A	A	A	A	A	11-10D-2
Sign shops, limited to over the counter retail sales of signs, banners or other related graphic imagery		P	P	P	P	11-10D-2
Signs	A	A	A	A	A	Title 9, chapter 8, 11-10D-2
Solar energy incidental to the principal structure	A	A	A	A	A	
Stockpiling of material	I	I	I	I		

Tanning salons	P	P	P	P	P	11-10D-2
Tattoo and body piercing		P	P	P		Title 3, chapter 12
Tax exempt lodges and clubs; provided, that they are not less than 75 feet from a residential district		C	C			
Teen center	P	P	P	P		
Telecommuting center	P	P	P	P		
Temporary buildings for construction purposes for a period not to exceed the completion date of such construction	A	A	A	A	A	11-10D-2
Temporary outdoor promotional and merchandising activities (e.g., craft sales, food stands, car washes, flea markets, and other activities/events deemed similar by the community development director and not meeting title 5, chapter 5 of this code) lasting 4 or more consecutive days and directed at the general public may be allowed as an accessory use on the premises of permitted and conditional uses		C	C			11-10D-9
Theaters, drive-in			C			
Theaters, indoor		C	C	C		
Travel bureaus/agencies	P	P	P	P	P	11-10D-2
Underground parking	C	C	C	C	C	11-10D-2
Vehicle repair - conditional use		C	C	C		11-10D-6
Vehicle repair - permitted use		P	P	P		11-10D-6
Veterinary clinic with outdoor kennels			C	C		
Veterinary offices and clinics; provided, no kennels or treatment areas are located outside of the building	P	P	P	P		
Wholesale businesses		P	P	P		
Wind energy conversion systems	C	C	C	C	C	11-4-6, 11-10D-2
Wireless communication facility entirely within an existing building or on the roof or side of a building, or attached to an existing structure	A	A	A	A	A	11-10D-2
Wireless communications freestanding ground mounted antenna support structure			C	C		

(Ord. 904, 5-16-2012)

ARTICLE C. DEVELOPMENT STANDARDS

11-10C-1: MINIMUM AND MAXIMUM DISTRICT REQUIREMENTS:

A. Standards To Be Observed: The minimum and maximum development standards for each zoning district shown in the development standards table shall be observed.

B. Development Standards Table:

Development Standards	B-1	B-2	B-3	P-B	N-B
Lot area	Minimum of 10,000 sq. ft., unless the land is adjacent to an existing commercial area	Minimum of 10,000 sq. ft., unless the land is adjacent to an existing commercial area	Minimum of 2 acres, unless the land is adjacent to an existing commercial area	Minimum of 1 acre	Maximum of 5 acres
Minimum lot width	100 ft.	100 ft.	100 ft.	100 ft.	
Screening	Whenever a B-1 limited business district abuts or is across the street, but not on the side considered to be the front, from an R district, a screen not less than 50% opaque nor less than 6 ft. in height shall be erected and maintained in the front portion of the lot or along the side or rear property line that abuts the R district, except adjacent to a street, where it shall be not less than 3 nor more than 4 ft. in height	Whenever a B-2 retail business district abuts an R district, a screen not less than 50% opaque nor less than 6 ft. in height shall be erected and maintained along the side or rear property line that abuts the residential district, except adjacent to a street, where it shall be not less than 3 nor more than 4 ft. in height	Whenever a B-3 district abuts a residential district, a screen not less than 50% opaque nor less than 6 ft. in height; except adjacent to a street, where it shall be not less than 3 ft. nor more than 4 ft. in height; shall be erected and maintained along the side or rear property line that abuts the residential district		Section 11-10D-2 of this chapter
Maximum building height	35 ft.	35 ft., except buildings over 35 ft. shall be subject to receiving a conditional use permit	35 ft., except buildings over 35 ft. shall be subject to receiving a conditional use permit	45 ft.	Section 11-10D-2 of this chapter
Minimum front yard	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.
Minimum side yard, interior lot line	10 ft.	10 ft.	10 ft.	10 ft.	30 ft.
Minimum side yard interior lot line adjacent to a residential district	30 ft.	30 ft.	75 ft.	75 ft.	75 ft.
Minimum side yard line adjacent to a street	30 ft.	30 ft.	30 ft.	30 ft.	Section 11-10D-2 of this chapter
Minimum rear yard	35 ft.	35 ft.	35 ft.	10 ft.	30 ft.

Minimum rear yard, abutting a residential district	75 ft.	75 ft.	75 ft.	75 ft.	75 ft.
Minimum rear yard, abutting a railroad track right of way		10 ft.	10 ft.	10 ft.	10 ft.
Maximum building coverage				35%	
Lot requirements	Any area zoned B-1 shall include at least 2 acres, unless the land is adjacent to an existing commercial area	Any area zoned B-2 shall include at least 2 acres, unless the land is adjacent to an existing commercial area			Section 11-10D-2 of this chapter

(Ord. 904, 5-16-2012)

ARTICLE D. PERFORMANCE STANDARDS

11-10D-1: PLANNED BUSINESS DISTRICT PERFORMANCE STANDARDS:

- A. Purpose: The purpose of this section is to establish regulations and standards for the installation and operation of uses, based upon consideration of the potential objectionable characteristics of such uses. Further, this section prescribes procedures and methods of measurement of industrial characteristics with which permitted uses must comply.
- B. Permit Procedures And Requirements: Any use permitted in the P-B district, whether such use is permitted as a principal, conditional or accessory use, shall be subject to these standards:
1. Permit Procedure: Before the city issues a building permit for a use in the planned business district, the applicant shall furnish the director of community development sufficient information to ensure that all performance standards and site development standards set forth in this title will be complied with. In order to determine whether or not the applicant will meet such standards, the director of community development may require the applicant to submit the following information:
 - a. A site plan showing the location of all present and proposed structures, drives, parking lots, waste disposal areas, bulk storage areas, streets, on site stormwater detention ponds, or other significant features on or within two hundred feet (200') of the proposed site.
 - b. Other data and certification as may reasonably be required by the director of community development to reach a determination.
 2. Performance Standards Enumerated: No structure or premises within the P-B district shall be used for one or more of the following uses unless its use complies with the following regulations:
 - a. Businesses To Be Conducted Within A Building: Except for off street vehicular parking, off street loading, or as specifically permitted in other sections of this title, all business, service, storage, merchandise, display, repair, waste disposal, and processing shall be conducted wholly within a building.
 - b. Waste Material:
 - (1) All liquid and solid wastes shall be identified in all processes and operations and approved disposal methods identified.

All waste discharged to the sanitary sewer shall meet the requirements of the city and the rules and regulations of the Metropolitan Council Wastewater Services. No waste will be permitted to be discharged into the storm sewer system; provided, that this does not exclude storm drainage, cooling water, and other water not prohibited by any law, rule, regulation, or ordinance. Storm drainage shall meet the requirements of all state laws, rules, regulations, watershed district and city requirements as may be amended. Stormwater drainage shall be protected from pollution and contaminants.

(2) All solid waste material, debris, rubbish, junk, refuse or garbage shall be kept within a completely enclosed building or properly contained within a closed container specifically designed for such purpose. In no case shall noxious or odorous refuse or garbage be kept outside of a completely enclosed building for a period of time exceeding the interval of refuse collection by commercial rubbish haulers.

(3) Hazardous wastes generated from any activity or operation shall be properly contained, labeled and stored for transfer to an authorized processing, storage or burial facility, according to the laws of federal, state, and local requirements.

c. Landscaping: Open landscaped and green areas left in a natural state shall be kept free of litter, debris, and noxious weeds.

d. Vehicles:

(1) No storage, display or parking of vehicles shall be permitted in any required yard or landscaped areas.

(2) No commercial vehicle, class I or class II, shall park in front of the principal structure.

e. Utility Lines: All utility service lines including electric, gas, water, sanitary sewer, telephone, and cable shall be placed underground at the owner's expense for all new structures or new additions which expand the gross square footage by more than fifty percent (50%), and in those instances in which any new service is provided to an existing building.

f. Loading Docks: Loading docks shall not be permitted along the side of a building which faces a public street.

3. Compliance; Investigations And Tests: In order to ensure compliance with the performance standards set forth above, the city council may require the owner or operator of any use to have made such investigations and/or tests as may be required to show adherence to the performance standards. Such investigations and/or tests as are required to be made shall be carried out by an independent testing organization as may be selected or approved by the city. The cost incurred in such investigation or testing shall be shared equally by the owner or operator and the city unless the investigations and tests disclose noncompliance with the performance standards; in which case, the investigation or testing shall be paid by the owner or operator. (Ord. 904, 5-16-2012)

11-10D-2: NEIGHBORHOOD BUSINESS DISTRICT PERFORMANCE STANDARDS:

A. Drive-Through Banks:

1. Each drive-through must have stacking for six (6) vehicles.
2. The drive-through must have a separated designated drive aisle.
3. The drive-through is limited to two (2) drive aisles in total.

B. Motor Fuel Stations:

1. Only one gas station/convenience center is permitted per N-B district.
2. The total square footage for the gas station/convenience center and any accessory structures, including a car wash is limited to four thousand (4,000) square feet.
3. The station is limited to four (4) pumps, eight (8) pumping stations, unless, after consideration of a traffic study, the city council finds that additional pumps are necessary to reduce negative traffic impacts.
4. The canopy must be located away from adjoining residential neighborhoods.

5. Canopy lighting must be recessed flush mounted.
6. The canopy face shall be unlit except for the amount allocated to signage.
7. The hours of operation for the gas station/convenience store shall not exceed five o'clock (5:00) A.M. to eleven o'clock (11:00) P.M. The hours of operation for the car wash, if applicable, shall not exceed six o'clock (6:00) A.M. to ten o'clock (10:00) P.M.
8. The canopy must meet the same setbacks as the motor fuel station listed in section [11-4-1](#) of this title.
9. The canopy size cannot exceed the aggregate square footage of the other buildings on the site.

C. Structure Height: No structure or building shall exceed twenty five feet (25') in height except as provided in this title. Height greater than twenty five feet (25'), but not exceeding thirty five feet (35'), would be considered if it is deemed that the expanded height improves the visual aesthetics of the building. Special consideration will be given for buildings with hip, gabled, or mansard roofs that would mimic surrounding residential development.

D. Screening And Landscaping:

1. Berms: Wherever a neighborhood business district abuts or is across the street from a residential district, earthen berms at least four feet (4') in height with landscaping must be erected and maintained along the property lines that face the residential district. The city council may waive compliance with this paragraph if it finds that site topography and tree preservation provide equivalent natural screening without berming.
2. Landscape Screening: Landscaping shall consist of compact evergreen or deciduous hedge and over and under story trees in a buffer strip at least twelve feet (12') in width. At planting, hedge material must be two and one-half feet (2¹/₂') in height and deciduous trees must be at least five feet (5') in height and with a minimum of two and one-half inch (2¹/₂") caliper. Coniferous trees must be at least six feet (6') in height.
3. Parking Screening: Where any off street parking area contains more than four (4) parking spaces, screening shall be placed on each side adjoining a residential use or a public street.
4. Loading Area And Loading Dock Screening: All loading docks shall be screened from view on the property's street frontage(s), or from the neighborhood business district boundary by a wall, earth berms or plant material or combination of these at least ten feet (10') in height. Such wall shall be designed to be harmonious with the structure having the loading dock.

E. Lot Requirements: The following minimum requirements shall be observed, subject to additional requirements, exceptions and modifications as set forth in this title:

Building setback: front, side and rear yard from exterior district boundaries	30 feet
Parking area setback: front, side and rear yards from exterior district boundaries	25 feet
Minimum separation between buildings	30 feet
Minimum building setback from any public or private road within the district	25 feet
Minimum parking setback from any public or private road within the district	20 feet

F. District Requirements:

1. Size Limitation: A neighborhood business district, N-B may not exceed five (5) acres in size.
2. Location Limitation: Neighborhood business district, N-B must abut upon a designated arterial or collector street.

G. General Performance Standards: Uses within the neighborhood business district, N-B must comply with the requirements in [chapter 6](#) of this title or the requirements of this section, whichever is more restrictive.

H. Signs:

1. Monument signs must be installed to denote the overall development project within the district.
2. Covenants must be recorded to ensure consistency of signage for all properties in the district. The covenants must identify permitted sizes, locations, and types of signage.
3. Each tenant within the district is permitted one temporary sign for a period not to exceed thirty (30) days in a calendar year.

I. Parking And Traffic Circulation:

1. The number of parking spaces may not exceed twenty percent (20%) of the minimum requirements set forth in section [11-3-9](#) of this title.
2. The district may be designed to have shared parking and shared private access, provided that traffic safety and circulation are not compromised, in the judgment of the city council. A traffic study may be required by the city, assessing the ability of shared parking opportunities.
3. The district must include an internal street system that connects properties within the district.
4. Pedestrian walkways must be provided that connect properties within the district and provide connection to adjoining residential neighborhoods.

J. Additional Use Restrictions:

1. Area Limitation On Uses: No single use may occupy more than seven thousand (7,000) square feet in a building.

K. Site Design Elements:

1. Entry points to the district must be designed with a common theme. The entrances shall be enhanced with a combination of landscaping and built material to denote the entrance to the site.
2. Benches, trash receptacles, and outdoor ashtrays must be of a color and style compatible with the project architecture.
3. Sidewalks in front of retail shops must incorporate planting beds or planters against any wall area that exceeds four feet (4') in length.
4. Building architecture must be complementary to existing residential development in the area, and all buildings within the district must maintain a single architectural theme with consistent use of colors and exterior materials.
5. Exterior materials must be predominately, at least seventy percent (70%), brick, stone and glass on the front elevation. Brick, stone, integrally colored rock face concrete block, glass, or equivalent products or better on the remaining sides and rear of structures. Structures must have a facade articulation of base, middle and top. Transparent doors and windows must not exceed thirty percent (30%) of the total front facade.
6. Three hundred sixty degree (360°) architecture is required. All sides of all buildings are to be treated with the same architectural style, use of materials, and details as the front elevation of the building, as determined by the city. (Ord. 904, 5-16-2012)

11-10D-3: AUTOMOBILE CAR WASH:

Automobile car wash is subject to the following:

- A. The site and building(s) shall be designed to limit the effects of the washing operation on adjacent properties and public rights of way. No car wash use shall be located abutting any residential use or district, unless a public street separates the two (2) uses.
- B. The principal building shall be the primary source for screening the stacking and exiting areas from adjacent properties and/or public rights of way. Landscaping and berming shall be a secondary source for screening the stacking and exiting areas. Should landscaping and berming be found ineffective by the city, the city may approve screening walls and/or decorative fencing as an alternative. Screening walls shall be constructed of the same materials as the principal building and shall not extend more than twenty five feet (25') without a change in architecture to reduce their mass and appearance. Stacking areas shall have a minimum of ninety percent (90%) opacity screen to a height of six feet (6') while exiting areas shall have a minimum of fifty percent (50%) opacity screen to a height of at least four feet (4').
- C. All overhead vehicle doors on the building shall remain closed except when a vehicle is entering or exiting the building.
- D. Commercial car washes shall have a minimum of six (6) stacking spaces per wash stall. Each space shall be a minimum of nine feet (9') wide by eighteen feet (18') long.
- E. Stacking lanes shall not interfere with circulation in any required parking, loading, maneuvering or pedestrian area.
- F. Untreated water from the car wash shall not be discharged into the storm sewer. (Ord. 904, 5-16-2012)

11-10D-4: CURRENCY EXCHANGE PERFORMANCE STANDARDS:

In addition to other requirements of this chapter, currency exchanges are subject to the following performance standards:

- A. Shall be a minimum of one mile away from another licensed currency exchange business. The distance is measured by a straight line from the closest points of the property boundary lines involved.
- B. Comply with chapter 53A of the Minnesota statutes.
- C. Any person, firm, partnership or corporation wishing to operate a currency exchange establishment must obtain annual approval by the city by December 31 of each year.
- D. Shall be a minimum of eight hundred feet (800') away from secondhand goods stores, pawnshops, residential zoning districts and/or five hundred feet (500') from daycare facilities. The distance is a straight line measured from the closest points of the property boundary lines involved. (Ord. 904, 5-16-2012)

11-10D-5: OUTDOOR TEMPORARY/SEASONAL SALES:

Outside merchandise display and storage or equipment may be displayed and offered for sale, rental or lease outside the building providing that:

- A. The merchandise or equipment are adjacent to and project no farther than five feet (5') from the primary building.
- B. Where sidewalks are present, a minimum access width of four feet (4') must be provided.
- C. Outside display area is limited to a maximum of thirty percent (30%) of the building frontage and not to exceed a total of one hundred fifty (150) square feet of area. For purposes of this section, a frontage must contain a public or customer entrance or exit and no space allowed more than two (2) building frontages.
- D. Vending machines or cabinets for items such as beverage, ice, DVD rental and propane are limited to a maximum of two (2) machines or cabinets per building frontage.
- E. Outside display to be maintained in an orderly and attractive manner that does not detract from the image of the community or adjacent businesses.
- F. Outside display should be a general representation of the products sold or rented on site, not a storage area for inventory on pallets. (Ord. 904, 5-16-2012)

11-10D-6: VEHICLE REPAIR AS PERMITTED OR CONDITIONAL USES:

- A. Vehicle repair as a permitted use is subject to the following:
 - 1. Vehicle repair uses within one hundred feet (100') from a residential use or residential zoning district are prohibited.
 - 2. All repair, assembly, disassembly or maintenance of vehicles shall occur within a closed building, except minor maintenance, including tire inflation, adding oil, wiper replacement and the like.
 - 3. Outdoor storage of tires, parts, materials and equipment is prohibited.
 - 4. Vehicle repair uses shall designate on a site plan separate areas for customer parking and parked vehicles awaiting repair or pick up.
 - 5. Public address system outside a building is prohibited.
 - 6. The hours of operation for a vehicle repair use shall be between seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M., seven (7) days per week.
 - 7. A vehicle repair use not meeting these conditions must obtain a conditional use permit from the city; except that vehicle repair uses in existence as of January 1, 2011, as an accessory or principal use are permitted if they comply with subsections A2, A3, A4, A5, A6, A8, A9, A10, B3 and B12 of this section; such uses will be deemed legally nonconforming with respect to any noncompliance with subsections A1 and A11 of this section.
 - 8. Auto body repair is prohibited.
 - 9. Test driving vehicles on local residential streets as described in the transportation element of the adopted future vision 2030 comprehensive plan is prohibited.

10. Repair of commercial vehicle class I and class II is prohibited.
11. Landscaping must be in compliance with section [11-6-5](#) of this title.

B. Vehicle repair as a conditional use is subject to the following:

1. The site and building(s) shall be designed to limit the effects of this use on adjacent properties and public right of way.
2. All repair, assembly, disassembly or maintenance of vehicles shall occur within a closed building, except minor maintenance, including tire inflation, adding oil, wiper replacement and the like.
3. All overhead vehicle doors facing a residential use or residential zoning district shall remain closed except when a vehicle is entering or exiting the building.
4. Outdoor storage of tire, parts, materials and equipment is prohibited.
5. Vehicle repair uses shall designate on a site plan separate areas for customer parking and parked vehicles awaiting repair or pick up. Storage of inoperable vehicles awaiting repair that are within one hundred feet (100') from a residential use or residential zoning district must be enclosed from public view with a solid fence that is six feet (6') in height. A chainlink fence with slats is not acceptable.
6. Public address system outside a building is prohibited.
7. The hours of operation may be restricted to limit impacts to adjacent uses.
8. Auto body repair is prohibited.
9. Additional landscaping and screening on the site may be required to limit sight and noise impacts on adjacent uses.
10. Test driving vehicles on local residential streets as described in the transportation element of the adopted future vision 2030 comprehensive plan is prohibited.
11. Repair of commercial vehicles class I and class II is prohibited.
12. Advertising signage facing residential uses is prohibited.
13. Landscaping must be in compliance with section [11-6-5](#) of this title. (Ord. 904, 5-16-2012)

11-10D-7: SELF-STORAGE FACILITIES:

Self-storage facilities are subject to the following conditions:

- A. Shall not allow maintenance of any vehicles on site, except for minor maintenance such as tire inflation, adding oil, wiper replacement, and battery replacement.
- B. Shall have a security system adequate to limit access to persons renting a storage site.
- C. Shall screen all storage, consistent with the requirements of this code.
- D. Shall be screened from all public right of way and residential use and/or zone, with an opaque fence, wall or berm not to exceed eight feet (8') in height, constructed of new materials (chainlink with slats is not an acceptable screening material), and maintained in good condition.

- E. Exterior storage is prohibited.
- F. Shall not be located closer than three hundred feet (300') to any residential use and/or zone.
- G. All drive aisles and parking surfaces are surfaced with asphalt or concrete.
- H. All storage space openings shall be oriented internally to the facility and shall not directly face a public street or adjoining property.
- I. An accessory caretaker residence may be permitted with a storage facility, provided it is only used for resident security and management purposes and the exterior building materials match those of the principal and accessory storage facility structures.
- J. The hours of operation of the self-service storage facility shall be restricted to between the hours of six o'clock (6:00) A.M. and eleven o'clock (11:00) P.M.
- K. Access to the interior of the fenced area shall be available to emergency responders in a manner acceptable to the fire marshal.
- L. Common parking space available to all storage units shall be provided at a rate no less than one space per six thousand (6,000) square feet of storage area. (Ord. 904, 5-16-2012)

11-10D-8: OUTDOOR SEATING OR DINING:

Outdoor seating or dining is subject to the following:

- A. The site and enclosure(s) shall be designed to limit the effects of outdoor seating or dining areas on contiguous properties and/or public right of way.
- B. The seating area shall be located on private property along the front, side or rear of the principal building, but shall not be located within a required setback or on the side abutting any residential use or district.
- C. The seating area shall not interfere with circulation in any required parking, loading, maneuvering or pedestrian area.
- D. The seating area shall be located in a controlled or cordoned area acceptable to the city with at least one opening to an acceptable pedestrian walk.
- E. The seating area shall not be permitted within one hundred fifty feet (150') of any residential use or district as measured at the property line and shall be separated from residential use or district by the principal structure or other method of screening

acceptable to the city. The minimum distance from a residential use or district may be reduced should the city determine the applicant has added sufficient elements to reduce the impact of this use.

- F. No public address system or external music, live or recorded shall be audible from a noncommercial or nonindustrial use or district.
- G. The seating and tables shall consist of good quality patio or cafe type furniture that enhances the appearance of the business.
- H. No beverages or food shall be served to persons outside of the designated outdoor seating area.
- I. The seating area, if not slab on grade, shall be subject to applicable setback requirements.
- J. The seating area shall have a permanent surface of concrete, asphalt, wood or other fabricated construction material.
- K. The seating shall be located so as not to compromise safety. Seating shall not obstruct the entrance or any required exits or be located on landscaping or parking areas. If located on private sidewalks or walkways, it shall be located so as to leave a minimum of a four foot (4') wide passage for pedestrians. Applicable building and fire codes for ingress and egress shall be met.
- L. Additional parking for thirty (30) outdoor seats or less is not required. Any additional seating over thirty (30) seats shall provide required parking based on one space per three (3) seats and must apply for a conditional use permit.
- M. The outdoor seating area shall be subordinate to the principal use and shall not exceed twenty five percent (25%) of the square footage of the principal use building space.
- N. Lighting shall be permitted to the extent that it only illuminates the designated area.
- O. The business owner or designated person shall inspect the premises on a daily basis including all adjacent streets, sidewalks, alleys, parking areas and sidewalks within one hundred feet (100') and remove all litter. Appropriate receptacles for rubbish, garbage, litter, etc., must be provided in close proximity to the outdoor seating area.
- P. Additional conditions may be imposed by the city, including, but not limited to, hours of outdoor seating area use and additional screening or buffering to residential zoned or used areas.
- Q. For establishments with liquor licenses, the following regulations apply in addition to those listed above:
 - 1. The seating shall be located in a compact and contiguous location to the principal structure. No alcoholic beverages shall be served or consumed in an outdoor seating area unless the liquor license approved by the city specifies the compact and contiguous location.
 - 2. The outdoor seating area shall be defined with the use of landscaping and permanent attractive fencing which is a minimum of four feet (4') in height with at least fifty percent (50%) opacity that contains the tables and chairs for the use as demonstrated on a site plan.

3. No alcoholic beverages shall be served to persons outside of the designated outdoor seating area or those not seated at tables. Signage shall be posted that restricts consumption of alcohol outside of the designated outdoor seating area.
4. Bars are prohibited in outdoor seating areas (with the exception of a service bar for the exclusive use of the establishment's employees).
5. Patrons shall only access the outdoor seating area through the interior of the main building and be seated by the establishment's staff at full service restaurants. No other ingress or egress shall be allowed other than required emergency exits. (Ord. 904, 5-16-2012)

11-10D-9: TEMPORARY OUTDOOR PROMOTIONAL AND MERCHANDISING ACTIVITIES:

Temporary outdoor promotional and merchandising activities (e.g., craft sales, food stands, car washes, flea markets, and other activities/events deemed similar by the community development director and not meeting [title 5, chapter 5](#) of this code) lasting four (4) or more consecutive days and directed at the general public may be allowed as an accessory use on the premises of permitted and conditional uses, subject to the following performance standards:

- A. The outdoor event activity shall not be more than once per week.
- B. Tents, stands, and other similar temporary structures and temporary vehicles and mobile equipment may be utilized, provided they are clearly identified on the submitted plan, and provided that it is determined by the director of community development that they will not impair parking capacity, emergency access, or the safe and efficient movement of pedestrian and vehicle traffic on or off the site.
- C. The submitted plan clearly demonstrates that adequate off street parking for the proposed event can and will be provided for the duration of the event. Determination of compliance with this requirement shall be made by the director of community development who shall consider the nature of the event and the applicable parking requirements of this title.
- D. Parking on public rights of way and streets is prohibited.
- E. The activity or event shall not interrupt vehicular circulation on the site or obstruct parking spaces needed by permanent businesses established on the site.
- F. Shall have written authorization from property owner.
- G. The business operator shall secure all applicable licenses and approvals from the city, Washington County, or other appropriate jurisdictions.
- H. Signage related to the event shall be in compliance with the city's sign ordinance.
- I. All sales must be conducted at least thirty feet (30') from the right of way line of any street and one hundred feet (100') from any developed property zoned for residential use.

- J. Hours of operation shall be limited by permit based upon location and proposed activity.
- K. Adequate sanitary facilities are provided on site.
- L. No permanent or temporary lighting shall be installed without an electrical permit and inspection.
- M. The site shall be cleared of all debris and all temporary structures at the end of the event.
- N. The display of items shall be limited to representative samples and arranged in a compact manner as reasonably practicable.
- O. The conditional use permit shall be valid for a period not to exceed three (3) years from the date of approval. (Ord. 904, 5-16-2012)

Chapter 11 INDUSTRIAL DISTRICTS

11-11-1: PURPOSE STATEMENTS:

- A. I-1 Limited Industry District: The I-1 limited industry district is intended to provide for industrial uses that may be suitably located in areas of relatively close proximity to nonindustrial development. The uses in this district include service industries and industries which manufacture, fabricate, assemble or store products where the process is not likely to create offensive noise, vibrations, dust, heat, smoke, odor, glare, or other objectionable influences to other property in close proximity. Generally, these uses include wholesale, service and light industries which are dependent upon raw materials refined elsewhere. Properties zoned I-1 will be located within the metropolitan urban service area (MUSA) and served by public utility systems.
- B. I-2 General Industrial District: The I-2 general industrial district is intended to provide a district which is appropriate for manufacturing, compounding, processing, packaging or treatment of products which are of a more intense use than the I-1 district. Property zoned I-2 will be located within the metropolitan urban service area (MUSA) and served by public utility systems.
- C. I-3 Heavy Industrial District: The I-3 heavy industrial district is to provide areas suitable for industrial uses which are more intense than the I-2 district and may have greater impact to noncommercial land uses. Property zoned I-3 will be located outside the metropolitan urban service area (MUSA).
- D. I-4 Commercial Excavation District: The I-4 commercial excavation district is to provide for the availability of sand, gravel and other mineral deposits or materials. This district seeks to permit other land uses as long as it will not conflict with adjacent land uses. (Ord. 621, 12-20-1995)
- E. I-5 Railroad Access Industrial District: The I-5 railroad access industrial district provides areas with direct access to railroad lines

which are suitable for uses that rely on railroad shipments. The types of uses allowed in the I-5 district include manufacturing, processing, and distribution of products. (Ord. 782, 12-21-2005)

11-11-2: PERMITTED AND CONDITIONAL USES:

- A. Except as provided in this title or otherwise as provided by law, a principal building, structure or land use shall be permitted only in the zones indicated in the following table. A principal use listed in the table in any zone denoted by the letter "P" is permitted, the letter "C" is a conditional use and the letter "A" is an accessory use. The uses in table 1 of this section are permitted in the zones designated. However, the director of community development shall have the right to allow any other use which is similar to and compatible with those uses permitted in the district. Such a determination by the director of community development shall be in writing. (Ord. 914, 5-15-2013)

TABLE 1
PRINCIPAL USES PERMITTED IN ZONES

	I-1	I-2	I-3	I-4	I-5
1. High capacity sanitary sewer discharge:					
Bottling works		P	P		P
Bus maintenance shops and bus parking lots		C	C		C
Cans and other container manufacturing		C	C		C
Carpet and rug cleaning plants		P	P		P
Clinics	P	P			
Hotels and motels	P				
Laundry and dry cleaning		P	P		P
Motor fuel stations/truck stops	C	C	C		C
Offices	P	P	P		P
Pharmaceutical manufacturing		C	P		P
Plastics manufacturing and fabrication		C	P		P
Private vocation/technical schools	P	P	P		P
Processing and packaging food products		C	C		C
Restaurants	P	P	P		P
Wastewater treatment facilities			C	C	C
2. Low capacity sanitary sewer discharge:					
Agricultural, excluding greenhouses	P	P	P	P	P
Agricultural implement sales, service, and storage (inside the principal structure)		C	C		C
Appliance repair	P	P	P		P
Archery ranges (inside the principal structure)	P	P	P	P	P
Armories and convention halls		C	C		C
Assembly and packaging (inside the principal structure)	C	P	P		P

Auction halls	C	C	C		C
Auto body and painting (inside the principal structure)		P	P		P
Automobile distribution facilities					C
Automobile repair (inside the principal structure)		P	P		P
Bakeries		P	P		P
Boat, trailer, marine sales (inside the principal structure)	P	P			
Broadcasting studios (television and radio)	P	P	P		P
Builder's supply yards and lumberyards (having outdoor storage)					C
Bulk materials storage (inside the principal structure)			C		C
Ceramic products			P		P
Credit card/bank processing	P	P			
Electromagnetic communications facilities	C	C	C	C	C
Essential services (public utilities)	P	P	P	P	P
Furniture repair, refinishing shops and sales	P	P	P		P
Glue manufacturing			P		P
Greenhouses (commercial production)			P	P	P
Greenhouses (inside the principal structure)		C		P	
Gun clubs (inside the principal structure)		P	P	P	P
Ice, cold storage		P	P		P
Limited automotive sales (inside the principal structure)		A			
Machine shops		P	P		P
Manufacture of electronic instruments	P	P	P		P
Metal polishing and plating		P	P		P
Millworking		P	P		P
Mining and excavation				P	
Municipal buildings (office/public safety buildings)	P	P	P	P	P
Municipal buildings (storage buildings)		P	P	P	P
Nature centers (private or public)				P	
Nursery and garden supplies (exterior or enclosed sales)		C	C		C
Parcel delivery services		P	P		P
Plumbing, electrical and carpenter shops		P	P		P
Primarily gas fired power plants/cogeneration power plants			C		C
Public enclosed rental storages or garages	C	C	P		P
Public utility installations	P	P	P	P	P
Publishing plants (printing)		P	P		P

Recycling operations other than reduction or processing of refuse, trash, and garbage		C	C		C
Research, testing and scientific laboratories		P	P		P
Sign shops			C		C
Sign shops (inside the principal structure)	P	P	P		P
Stonecutting (inside the principal structure)		P	P		P
Storage of crude oil, refined oil, alcohol and other liquids (inside the principal structure)			C		C
Truck, service and maintenance stations (inside the principal structure)		C	C		C
Utility stations and substations	P	P	P	P	P
Veterinarian hospitals/clinics (inside the principal structure)	P	P			
Warehouses and enclosed storages	P	P	P		P
Welding shops		P	P		P
Well drilling services			P		P

(Ord. 873, 2-3-2010; amd. Ord. 914, 5-15-2013)

B. Prohibited uses:

1. Commercial waste incineration facilities. (Ord. 873, 2-3-2010)

11-11-3: PERMITTED ACCESSORY USES:

The following accessory uses shall be permitted within any industrial district:

1. Buildings temporarily located for purposes of construction for the construction period only.
2. Essential security and safety facilities as approved by the city council.
3. Off street parking, storage garages and buildings and loading areas when incidental and subordinate to any permitted use and as regulated in this title.
4. Outdoor parking of trucks and vehicles incidental to the principal use.
5. Outside, aboveground storage facilities for gaseous, nonliquid fuels used for heating purposes, or for purposes incidental to the approved principal uses and not for sale.
6. Railroad spurs.
7. Residential structures and related residential uses necessary for security and safety.
8. Signs as regulated in [title 9, chapter 8](#) of this code.
9. Within the I-2 district, outdoor testing of window and door products when conducted within an area screened by a minimum of a six foot (6') high fence or landscaped earth berm.
10. Farmers' market, subject to compliance of the criteria established in section [11-8A-3](#) of this title, "Farmers' market on nonresidential property...". (Ord. 621, 12-20-1995; amd. Ord. 673, 12-15-1999; Ord. 840, 6-18-2008; Ord. 841, 8-13-2008)

11-11-4: DEVELOPMENT STANDARDS:

The following table of minimum lot area, yard and bulk requirements shall be observed:

TABLE 2
MINIMUM LOT AREA, YARD, AND BULK REQUIREMENTS IN ALL ZONES

	I-1	I-2	I-3	I-4	I-5
Lot area ²	1 acre	1 acre	2 acres	20 acres	1 acre
Lot width ³	125 feet	175 feet	200 feet	200 feet	175 feet
Front yard setback	40 feet	40 feet	100 feet	100 feet	40 feet
Side yard setback:					
Interior	15 feet	40 feet ¹	50 feet	100 feet	40 feet ¹
Abutting an R district	100 feet	125 feet	150 feet	200 feet	125 feet
Adjacent to a street	40 feet	80 feet	50 feet	125 feet	80 feet
Rear yard setback:	30 feet	60 feet	60 feet	100 feet	60 feet
Abutting an R district	100 feet	100 feet	150 feet	200 feet	100 feet
Building height	35 feet	45 feet	60 feet	60 feet	45 feet
Maximum building coverage	35 percent	45 percent	50 percent	20 percent	45 percent

Notes:

1. 40 feet, plus 1 foot for each foot of building height over 30 feet.
2. No minimum lot area is required for essential public services.
3. No minimum lot width is required for essential public services.

(Ord. 787, 3-15-2006)

11-11-5: PERFORMANCE STANDARDS:

A. Purpose: The purpose of this section is to establish regulations and standards for the installation and operation of industrial uses, based upon consideration of the objectionable characteristics of such uses and the zones in which they are permitted. Further, this section is intended to prescribe procedures and methods of measurement of industrial characteristics subject to such standards. (Ord. 621, 12-20-1995; amd. 2000 Code)

B. Permit Procedures And Requirements: Any use permitted in the I-1, I-2, I-3, I-4, or I-5 district, whether such use is permitted as a principal, conditional or accessory use, shall be subject to: (Ord. 782, 12-21-2005)

1. Permit Procedure: Before the city issues a building permit for a use in any industrial district, the applicant shall furnish the director of community development sufficient information to ensure that all performance standards and site development standards set forth in this title will be met. In order to determine whether or not the applicant will meet such standards, the director of community development may require the applicant to submit the following information:
 - a. A site plan showing the location of all present and proposed structures, drives, parking lots, waste disposal areas, bulk storage areas, streets, on site storm water detention ponds, or other significant features on or within two hundred feet (200') of the proposed site.

- b. A description of the activity to be conducted regarding waste products, external effects or other conditions which are regulated herein; provided, however, that if there is any trade secret information that would be disclosed in the application, the applicant must state if the necessary information demonstrating compliance with the building code and fire code can be provided without disclosing the trade secret.
 - c. The type and location of abatement devices to control, or recording instruments to measure, conformance with required standards, not including devices and instruments which are inherent in the manufacturing process.
 - d. Other data and certification as may reasonably be required by the director of community development to reach a determination. (Ord. 621, 12-20-1995; amd. 2000 Code)
2. Performance Standards Enumerated: No structure or premises within any industrial district shall be used for one or more of the following uses unless its use complies with the following regulations:
- a. Outdoor Storage Within The I-1, I-2, And I-3 Districts: All business, service, storage, merchandise, display, repair, waste disposal, and processing must be conducted wholly within a building, except for off street vehicular parking, and off street loading and uses specifically listed as including outdoor storage. Within the I-5 district, outdoor storage is allowed, with a conditional use permit, when the following standards are met:
 - (1) All outdoor storage areas must be completely screened from all public streets and adjacent properties not in the I-5 district. Such screening must include a combination of earth berms and landscaping. Fences and walls will be considered as screening devices only when the city finds that berming and landscaping are not practical.
 - (2) All lighting of open storage areas must comply with the provisions of section [11-6-8](#), "Glare", of this title. (Ord. 782, 12-21-2005)
 - b. Vibration: Ground transmitted steady state or impact vibration caused by any use or activity is not permitted at any point on or beyond the boundary line of any lot. "Steady state vibrations", for the purpose of this title, are vibrations which are continuous or vibrations in discrete pulses more frequent than one hundred (100) per minute.
 - c. Glare And Heat: Any operation producing intense glare or heat shall be performed within an enclosure so as not to be perceptible at the property line.
 - d. Waste Material:
 - (1) All liquid and solid wastes shall be identified in all processes and operations and approved disposal methods identified. All waste discharged to the sanitary sewer shall meet the requirements of the city and the rules and regulations of the metropolitan council wastewater services. All proposed discharges to the storm sewer shall be identified. No waste will be permitted to be discharged into the storm sewer system; provided, that this does not exclude storm drainage, cooling water, and other water not prohibited by any law, rule, regulation, or ordinance. Storm drainage shall meet the requirements of all state laws, rules, regulations, watershed district requirements, and city requirements. Storm water drainage shall be protected from pollution and contaminants.
 - (2) All solid waste material, debris, rubbish, junk, refuse or garbage shall be kept within a completely enclosed building or properly contained within a closed container specifically designed for such purpose. In no case shall noxious or odorous refuse or garbage be kept outside of a completely enclosed building for a period of time exceeding the average interval of refuse collection by commercial rubbish haulers.
 - (3) Hazardous wastes generated from any activity or operation shall be properly contained, labeled and stored for transfer to an authorized processing, storage or burial facility, according to the laws of federal, state, and local requirements.
 - e. Noise:
 - (1) Noise levels inside and outside of all buildings must meet federal, state, and local requirements.
 - (2) No outdoor public address systems shall be permitted.
 - f. Dust, Dirt, Smoke, Odor, Gases: All solid and liquid particulate, smoke, gases, toxic or noxious materials and other materials emitting odors shall be regulated by the standards of the MPCA.
 - g. Landscaping: Open landscaped and green areas left in a natural state shall be kept free of litter, debris, and noxious weeds.
 - h. Manufacture Of Certain Products Prohibited: Manufacture of a product which decomposes by detonation is prohibited.
 - i. Access Drives: Access drives must not be closer than seventy five feet (75') to the intersection of the nearest curb of any

public street unless it can be demonstrated that adherence to this standard will cause undue hardship to the property owner.

j. Vehicle Parking, Storage And Display:

- (1) No storage, display or parking of vehicles shall be permitted in any required yard or landscaped areas.
- (2) Commercial vehicles, classes I and II, are prohibited from parking in front of the principal structure.

k. Utility Lines: All utility service lines including electric, gas, water, sanitary sewer, telephone, and cable shall be placed underground at the owner's expense for all new structures or new additions which expand the gross square footage by more than fifty percent (50%), and in those instances in which any new service is provided to an existing building.

l. Loading Docks: Loading docks shall not be permitted along the side of a building which faces a public street.

3. Compliance; Investigations And Tests: In order to ensure compliance with the performance standards set forth above, the city council may require the owner or operator of any use to have made such investigations and/or tests as may be required to show adherence to the performance standards. Such investigations and/or tests as are required to be made shall be carried out by an independent testing organization as may be selected or approved by the city. The cost incurred in such investigation or testing shall be shared equally by the owner or operator and the city unless the investigations and tests disclose noncompliance with the performance standards; in which case, the investigation or testing shall be paid by the owner or operator. (Ord. 621, 12-20-1995; amd. 2000 Code)

Chapter 12 FLOODPLAIN MANAGEMENT

11-12-1: AUTHORITY; FINDINGS OF FACT; PURPOSE:

A. Statutory Authority: The legislature of the state of Minnesota, in Minnesota statutes chapters 103F and 462, has delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

B. Findings Of Fact: The city council of the city of Cottage Grove makes the following findings:

1. The flood hazard areas of the city of Cottage Grove, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. This chapter is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota department of natural resources.
3. This chapter is adopted to comply with the rules and regulations of the national flood insurance program codified as 44 code of federal regulations parts 59-78, as amended, so as to maintain eligibility of the Cottage Grove community in the national flood insurance program.

C. Statement Of Purpose: It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize those losses described in this section. (Ord. 872, 2-3-2010)

11-12-2: GENERAL PROVISIONS:

- A. **Lands To Which Chapter Applies:** This chapter applies to all lands within the jurisdiction of the city as shown on the city's official zoning map and the attachments thereto as being located within the boundaries of the floodway, flood fringe, or general floodplain districts.
- B. **Establishment Of Official Zoning Map:** The official zoning map together with all attachments thereto is hereby adopted by reference. The attachments to the official zoning map include the flood insurance study for Washington County, Minnesota, and incorporated areas and flood insurance rate map panels therein numbered 27163C0392E, 27163C0394E, 27163C0403E, 27163C0405E, 27163C0410E, 27163C0411E, 27163C0412E, 27163C0413E, 27163C0414E, 27163C0416E, 27163C0417E, 27163C0418E, 27163C0419E, 27163C0430E and 27163C0438E, all dated February 3, 2010, and prepared by the federal emergency management agency. The official zoning map shall be on file in the office of the city clerk.
- C. **Regulatory Flood Protection Elevation:** The regulatory flood protection elevation shall be seven hundred feet (700') above mean sea level or an elevation no lower than one foot (1') 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, whichever is greater.
- D. **Interpretation:**
1. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the city and shall not be deemed a limitation or repeal of any other powers granted by state statutes.
 2. The boundaries of the zoning districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the zoning administrator, the board of zoning appeals shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the city adopted its initial floodplain ordinance or on the date of the first national flood insurance program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the board of zoning appeals and to submit technical evidence.
- E. **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. The regulations in this chapter are in addition to rather than in substitution of regulations imposed by any other zoning classification for designated floodplains. In the event of any inconsistency between the provisions of this chapter and other city code provision, the more restrictive provision shall prevail.
- F. **Warning And Disclaimer Of Liability:** This chapter does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This chapter shall not create liability on the part of the city or any officer or employee thereof for any flood damages that may result from reliance on this chapter or any administrative decision lawfully made thereunder.
- G. **Severability:** If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.
- H. **Annexations:** The flood insurance rate map panels adopted by reference in this section may include floodplain areas that lie outside of the corporate boundaries of the city at the time of adoption of this chapter. If any of these floodplain land areas are annexed into the city after the date of adoption of this chapter, the newly annexed floodplain lands shall be subject to the provisions of this chapter immediately upon the date of annexation into the city. (Ord. 872, 2-3-2010)

11-12-3: ESTABLISHMENT OF ZONING DISTRICT OVERLAY:

A. Flood Management Overlay Districts:

1. Floodway District: The floodway district shall include those areas designated as floodway on the flood insurance rate map adopted in section [11-12-2](#) of this chapter.
2. Flood Fringe District: The flood fringe district shall include those areas designated as floodway fringe. The flood fringe district shall include those areas shown on the flood insurance rate map as adopted in section [11-12-2](#) of this chapter as being within zone AE but being located outside of the floodway.
3. General Floodplain District: The general floodplain district shall include those areas designated as zone A and zone AE without a floodway on the flood insurance rate map adopted in section [11-12-2](#) of this chapter.

B. Compliance: No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter. Within the floodway, flood fringe and general floodplain districts, all uses not listed as permitted uses or conditional uses in sections [11-12-4](#), 11-12-5 and 11-12-6 of this chapter that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

1. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this chapter and specifically section [11-12-9](#) of this chapter.
2. Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this chapter and specifically section [11-12-11](#) of this chapter.
3. As built elevations for elevated or floodproofed structures must be certified by ground surveys and floodproofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this chapter and specifically as stated in section [11-12-10](#) of this chapter. (Ord. 872, 2-3-2010)

11-12-4: FLOODWAY DISTRICT (FW):

A. Permitted Uses:

1. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Industrial-commercial loading areas, parking areas, and airport landing strips.
3. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
4. Residential lawns, gardens, accessory parking areas, and play areas.

B. Standards For Floodway Permitted Uses:

1. The use shall have a low flood damage potential.
2. The use shall be permissible in the underlying zoning district.
3. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

C. Conditional Uses:

1. Structures accessory to permitted uses listed above.
2. Extraction and storage of sand, gravel, and other materials.
3. Marinas, boat rentals, docks, piers, wharves, and water control structures.
4. Railroads, streets, bridges, utility transmission lines, and pipelines.
5. Storage yards for equipment, machinery, or materials, other than fuel storage tanks.
6. Placement of fill or construction of fences.
7. Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of subsection [11-12-9C](#) of this chapter.
8. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

D. Standards For Floodway Conditional Uses:

1. All Uses: No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
2. Conditional Uses: All floodway conditional uses are subject to the procedures and standards contained in subsection [11-12-10D](#) of this chapter.
3. Conditional Use Permissible: The conditional use shall be permissible in the underlying zoning district.
4. Fill:
 - a. Fill, dredge spoil, and all other similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
 - b. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
 - c. As an alternative, and consistent with subsection D4b of this section, dredge spoil disposal and sand and gravel operations may allow temporary, on site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the city has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be recorded in the office of the county recorder or county registrar of titles, as appropriate.
5. Accessory Structures:
 - a. Accessory structures shall not be designed for human habitation.
 - b. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters:
 - (1) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
 - (2) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
 - c. Accessory structures shall be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the state building code. As an alternative, an accessory structure may be floodproofed to the FP-3 or FP-4 floodproofing classification in the state building code provided the accessory structure constitutes a minimal

investment, does not exceed five hundred (500) square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All floodproofed accessory structures must meet the following additional standards:

- (1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;
- (2) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed; and
- (3) To allow for the equalization of hydrostatic pressure, there must be a minimum of two (2) "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two (2) sides of the structure and the bottom of all openings must be no higher than one foot (1') above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

6. Storage Of Materials And Equipment:

- a. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the city council.

7. Structural Works: 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 Minnesota statutes, chapter 103G. Community wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.

8. Levee, Dike Or Floodwall In Floodway: A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream. (Ord. 872, 2-3-2010)

11-12-5: FLOOD FRINGE DISTRICT (FF):

A. Permitted Uses: Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). All permitted uses shall comply with the standards for flood fringe district "permitted uses" listed in subsection B of this section and subsection E, "Standards For All Flood Fringe Uses", of this section.

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 (1') below the regulatory flood protection elevation and the fill shall extend at such elevation at least fifteen feet (15') beyond the outside limits of the structure erected thereon.
2. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed five hundred (500) square feet at its largest projection may be internally floodproofed in accordance with subsection [11-12-4D5c](#) of this chapter.
3. The cumulative placement of fill where at any one time in excess of one thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with subsection B1 of this section.
4. The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
5. The provisions of subsection E of this section shall apply.

C. Conditional Uses: Any structure that is not elevated on fill or floodproofed in accordance with subsections B1 through B2 of this section or any use of land that does not comply with the standards in subsections B3 through B4 of this section shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in subsections D and E of this section and subsection [11-12-10D](#) of this chapter.

D. Standards For Flood Fringe Conditional Uses:

1. Alternative Methods: Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above grade and not a structure's basement or lowest floor if: a) the enclosed area is above grade on at least one side of the structure; b) it is designed to internally flood and is constructed with flood resistant materials; and c) it is used solely for parking of vehicles, building access or storage. The above noted alternative elevation methods are subject to the following additional standards:
 - a. Design And Certification: The structure's design and as built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the state building code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent floodwater from entering or accumulating within these components during times of flooding.
 - b. Specific Standards For Above Grade, Enclosed Areas: Above grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
 - (1) A minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two (2) openings on at least two (2) sides of the structure and the bottom of all openings shall be no higher than one foot (1') above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters without any form of human intervention; and
 - (2) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the state building code and shall be used solely for building access, parking of vehicles or storage.
2. Basements: Basements, as defined by section [11-1-3](#) of this title, shall be subject to the following:
 - a. Residential basement construction shall not be allowed below the regulatory flood protection elevation.
 - b. Nonresidential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with subsection D3 of this section.
3. Floodproofing Structures Below Regulatory Flood Protection Elevation: All areas of nonresidential structures including basements to be placed below the regulatory flood protection elevation shall be floodproofed in accordance with the structurally dry floodproofing classifications in the state building code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing classification in the state building code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures floodproofed to the FP-3 or FP-4 classification shall not be permitted.
4. Erosion/Sedimentation Control Plan: When at any one time more than one thousand (1,000) cubic yards of fill or other similar material is located on a parcel for such activities as on site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the city is enforcing a state approved shore land management ordinance. In the absence of a state approved shore land ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the city council. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
5. Storage Of Materials And Equipment:
 - a. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human,

animal, or plant life is prohibited.

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

6. Other Provisions That Apply: The provisions of subsection E of this section shall also apply.

E. Standards For All Flood Fringe Uses:

1. All new principal structures must have vehicular access at or above an elevation not more than two feet (2') below the regulatory flood protection elevation. If a variance to this requirement is granted, the board of zoning appeals must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.
2. Commercial uses: Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.
3. Manufacturing and industrial uses: Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in subsection E2 of this section. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.
4. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The federal emergency management agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation; FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
5. Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the official zoning map.
6. Standards for recreational vehicles are contained in subsection [11-12-9C](#) of this chapter.
7. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over the top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces. (Ord. 872, 2-3-2010)

11-12-6: GENERAL FLOODPLAIN DISTRICT:

A. Permissible Uses:

1. The uses listed in subsection [11-12-4A](#) of this chapter shall be permitted uses.
2. All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to subsection B of this section. Section [11-12-4](#) of this chapter shall apply if the proposed use is in the floodway district and section [11-12-5](#) of this chapter shall apply if the proposed use is in the flood fringe district.

B. Procedures For Floodway And Flood Fringe Determinations Within The General Floodplain District:

1. Upon receipt of an application for a permit or other approval within the general floodplain district, the applicant shall be required

to furnish such of the following information as is deemed necessary by the zoning administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the floodway or flood fringe district.

- a. A typical valley cross section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development, and high water information.
 - b. A surface view plan showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.
 - c. Photographs showing existing land uses, vegetation upstream and downstream, and soil types.
 - d. A profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred feet (500') in either direction from the proposed development.
2. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe district and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota rules, parts 6120.5000 - 6120.6200 and 44 code of federal regulations part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective department of natural resources area hydrologist prior to commencing the analysis. The designated engineer or expert shall:
- a. Estimate the peak discharge of the regional flood.
 - b. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - c. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
3. The zoning administrator shall present the technical evaluation and findings of the designated engineer or expert to the city council. The city council must formally accept the technical evaluation and the recommended floodway and/or flood fringe district boundary or deny the permit application. The city council, prior to official action, may submit the application and all supporting data and analyses to the federal emergency management agency, the department of natural resources or the planning commission for review and comment. Once the floodway and flood fringe district boundaries have been determined, the city council shall refer the matter back to the zoning administrator who shall process the permit application consistent with the applicable provisions of sections [11-12-4](#) and [11-12-5](#) of this chapter. (Ord. 872, 2-3-2010)

11-12-7: SUBDIVISIONS:

- A. Review Criteria: No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the floodplain districts shall be able to contain a building site outside of the floodway district at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this chapter and have road access both to the subdivision and to the individual building sites no lower than two feet (2') below the regulatory flood protection elevation. For all subdivisions in the floodplain, the floodway and flood fringe district boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.
- B. Floodway/Flood Fringe Determinations In The General Floodplain District: In the general floodplain district, applicants shall provide the information required in subsection [11-12-6B](#) of this chapter to determine the 100-year flood elevation, the floodway and flood fringe district boundaries and the regulatory flood protection elevation for the subdivision site.
- C. Removal Of Special Flood Hazard Area Designation: The federal emergency management agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year

flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested. (Ord. 872, 2-3-2010)

11-12-8: PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES:

- A. Public Utilities: All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain shall be floodproofed in accordance with the state building code or elevated to above the regulatory flood protection elevation.
- B. Public Transportation Facilities: Railroad tracks, roads, and bridges to be located within the floodplain shall comply with sections [11-12-4](#) and [11-12-5](#) of this chapter. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
- C. On Site Sewage Treatment And Water Supply Systems: Where public utilities are not provided:
1. On site water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the systems; and
 2. New or replacement on site sewage treatment systems must be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters 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. 872, 2-3-2010)

11-12-9: MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF RECREATIONAL VEHICLES:

- A. New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by section [11-12-7](#) of this chapter.
- B. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with section [11-12-5](#) of this chapter. If vehicular road access for preexisting manufactured home parks is not provided in accordance with subsection [11-12-5E1](#) of this chapter, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the city council.
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 to be limited to, use of over the top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
- C. Recreational vehicles that do not meet the exemption criteria specified in subsection C1 of this section shall be subject to the provisions of this chapter and as specifically spelled out in subsections C3 through C4 of this section.
1. Exemption: Recreational vehicles are exempt from the provisions of this chapter if they are placed in any of the areas listed in

subsection C2 of this section and meet the following criteria:

- a. Have current licenses required for highway use.
 - b. Are highway ready meaning that they are on wheels or an internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks, and the recreational vehicle has no permanent structural type additions attached to it.
 - c. The recreational vehicle and associated use must be permissible in the underlying zoning district.
2. Areas Exempted For Placement Of Recreational Vehicles: Recreational vehicles that meet the criteria in subsection C1 of this section are exempt from the provisions of this chapter only if they are placed in one of the following locations:
- a. Individual lots or parcels of record.
 - b. Existing commercial recreational vehicle parks or campgrounds.
 - c. As part of an existing condominium type association.
3. Recreational Vehicles Exempted: Recreational vehicles exempted in subsection C1 of this section lose the exemption when development occurs on the parcel exceeding five hundred dollars (\$500.00) for a structural addition to the recreational vehicle or exceeding five hundred dollars (\$500.00) for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/floodproofing requirements and the use of land restrictions specified in sections [11-12-4](#) and [11-12-5](#) of this chapter. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.
4. New Recreational Vehicle Parks Or Campgrounds: New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:
- a. Any new or replacement recreational vehicle will be allowed in the floodway or flood fringe districts provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with subsection [11-12-5E1](#) of this chapter. No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100-year or regional flood.
 - b. All new or replacement recreational vehicles not meeting the criteria of subsection C4a of this section may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of subsection [11-12-10D](#) of this chapter. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of subsections C1a and C1b of this section will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with subsection [11-12-8C](#) of this chapter. (Ord. 872, 2-3-2010)

11-12-10: ADMINISTRATION:

A. Zoning Administrator: The zoning administrator 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 such violation in accordance with the procedures stated in section [11-12-12](#) of this chapter.

B. Permit Requirements:

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

materials, or the storage of materials or equipment within the floodplain.

2. **Application For Permit:** Application for a permit shall be made in duplicate to the zoning administrator on forms furnished by the zoning administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.
3. **State And Federal Permits:** Prior to granting a permit or processing an application for a conditional use permit or variance, the zoning administrator shall determine that the applicant has obtained all necessary state and federal permits.
4. **Certificate Of Zoning Compliance For A New, Altered, Or Nonconforming Use:** It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the zoning administrator stating that the use of the building or land conforms to the requirements of this chapter.
5. **Construction And Use To Be As Provided On Applications, Plans, Permits, Variances And Certificates Of Zoning Compliance:** Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter, and punishable as provided by section [11-12-12](#) of this chapter.
6. **Certification:** The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this chapter. Floodproofing measures shall be certified by a registered professional engineer or registered architect.
7. **Record Of First Floor Elevation:** The zoning administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The zoning administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are floodproofed.
8. **Notifications For Watercourse Alterations:** The zoning administrator shall notify, in riverine situations, adjacent communities and the commissioner of the department of natural resources prior to the city authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota statutes, chapter 103G, this shall suffice as adequate notice to the commissioner of natural resources. A copy of said notification shall also be submitted to the Chicago regional office of the federal emergency management agency (FEMA).
9. **Notification To FEMA When Physical Changes Increase Or Decrease The 100-Year Flood Elevation:** As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the zoning administrator shall notify the Chicago regional office of FEMA of the changes by submitting a copy of said technical or scientific data.

C. Board Of Zoning Appeals:

1. **Rules:** The board of zoning appeals shall adopt rules for the conduct of business and may exercise all of the powers conferred on such boards by state law.
2. **Administrative Review:** The board of zoning appeals shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this chapter.
3. **Variances:** The board of zoning appeals may authorize upon appeal in specific cases such relief or variance from the terms of this chapter as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration. In the granting of such variance, the board of zoning appeals shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this chapter, other zoning regulations in the city, and applicable state law, that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the federal emergency management agency must be satisfied:
 - a. 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.
 - b. Variances shall only be issued by a community upon: 1) a showing of good and sufficient cause, 2) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and 3) a determination that the granting of a

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

- c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 4. Hearings: Upon filing with the board of zoning appeals of an appeal from a decision of the zoning administrator, or an application for a variance, the board of zoning appeals shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The board of adjustment shall submit by mail to the commissioner of natural resources a copy of the application for proposed variances sufficiently in advance so that the commissioner will receive at least ten (10) days' notice of the hearing.
 5. Decisions: The board of zoning appeals shall arrive at a decision on such appeal or variance within the time required by law. In passing upon an appeal, the board of zoning appeals may, so long as such action is in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the zoning administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the board of zoning appeals may prescribe appropriate conditions and safeguards such as those specified in subsection D7 of this section, which are in conformity with the purposes of this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter punishable under section [11-12-12](#) of this chapter. A copy of all decisions granting variances shall be forwarded by mail to the commissioner of the department of natural resources within ten (10) days of such action.
 6. Appeals: Appeals from any decision of the board of zoning appeals may be made, and as specified in the city zoning code.
 7. Flood Insurance Notice And Recordkeeping: The zoning administrator shall notify the applicant for a variance that: a) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage and b) such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. The city shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the administrator of the national flood insurance program.
- D. Conditional Uses: The procedures in section [11-2-9](#) of this title shall apply to all applications for conditional use permits under this chapter. The following additional provisions shall apply to such applications:
1. Copy Of Application: The zoning administrator shall mail to the commissioner of department of natural resources a copy of the conditional use permit application sufficiently in advance so that the commissioner will receive at least ten (10) days' advance notice of the public hearing on the application.
 2. Copy Of Decisions Granted: The zoning administrator shall mail to the commissioner of the department of natural resources a copy of all decisions granting conditional use permits within ten (10) days of such action.
 3. Information Required For Applications: Applications for conditional use permits must include the following information:
 - a. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures, and the relationship of the above to the location of the stream channel; and
 - b. Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
 4. Copy Of Information To Designated Engineer: The zoning administrator will transmit one copy of the information described in subsection D3 of this section to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters. Based upon the technical evaluation of the designated engineer or expert, the city council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
 5. Factors Upon Which Decision Shall Be Based: In passing upon conditional use applications, the city council shall consider all relevant factors specified in other sections of this chapter, and:
 - a. The danger to life and property due to increased flood heights or velocities caused by encroachments.

- b. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
 - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - e. The importance of the services provided by the proposed facility to the community.
 - f. The requirements of the facility for a waterfront location.
 - g. The availability of alternative locations not subject to flooding for the proposed use.
 - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 - j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - k. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
 - l. Such other factors which are relevant to the purposes of this chapter.
6. Time For Acting On Application: The city council shall act on an application in the manner described above within the time required by law. The city council shall render a written decision on the application.
7. Conditions Attached To Conditional Use Permits: Upon consideration of the factors listed above and the purpose of this chapter, the city council shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:
- a. Modification of waste treatment and water supply facilities.
 - b. Limitations on period of use, occupancy, and operation.
 - c. Imposition of operational controls, sureties, and deed restrictions.
 - d. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
 - e. Floodproofing measures, in accordance with the state building code and this chapter. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area. (Ord. 872, 2-3-2010)

11-12-11: NONCONFORMING USES:

- A. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions. Historic structures, as defined in section [11-1-3](#) of this title, shall be subject to the provisions of subsections A1 through A5 of this section.
1. No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.
 2. Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 through FP-4 floodproofing classifications) allowable in the state building code, except as further restricted in subsections A3 and A6 of this section. A structural addition to a nonconforming structure must be located outside of the floodway and must be elevated on fill to the regulatory flood protection elevation in accordance with subsection [11-12-2C](#) of this chapter.

3. The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed fifty percent (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 fifty percent (50%) of the market value of the structure, then the structure must meet the standards of section [11-12-4](#) or [11-12-5](#) of this chapter for new structures depending upon whether the structure is in the floodway or flood fringe district, respectively.
4. If any nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this chapter. The assessor shall notify the zoning administrator in writing of instances of nonconforming uses that have been discontinued for a period of twelve (12) months.
5. If any nonconforming use or structure is substantially damaged, as defined in section [11-1-3](#) of this title, 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 section [11-12-4](#), [11-12-5](#) or [11-12-6](#) of this chapter will apply depending upon whether the use or structure is in the floodway, flood fringe or general floodplain district, respectively.
6. If a substantial improvement occurs, as defined in section [11-1-3](#) of this title, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming structure, then the structural addition and the existing nonconforming structure must meet the requirements of section [11-12-4](#) or [11-12-5](#) of this chapter for new structures, depending upon whether the structure is in the floodway or flood fringe district, respectively. A nonconforming structure shall not be substantially improved if said structure is located in the floodway. (Ord. 872, 2-3-2010)

11-12-12: PENALTIES FOR VIOLATION:

- A. Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.
- B. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include, but are not limited to:
 1. In responding to a suspected ordinance violation, the city 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 will act in good faith to enforce this chapter and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the national flood insurance program.
 2. When an ordinance violation is either discovered by or brought to the attention of the zoning administrator, the zoning administrator shall immediately investigate the situation and document the nature and extent of the violation. As soon as is reasonably possible, this information will be submitted to the appropriate department of natural resources and federal emergency management agency regional office along with the city's plan of action to correct the violation to the degree possible.
 3. The zoning administrator shall notify the suspected party of the requirements of this chapter and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the zoning administrator may order the construction or development immediately halted until a proper permit or approval is granted by the city. If the construction or development is already completed, then the zoning administrator may either: a) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or b) notify the responsible party to apply for an after the fact permit/development approval within a specified period of time not to exceed thirty (30) days.
 4. 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. The zoning administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this chapter. (Ord. 872, 2-3-2010)

11-12-13: AMENDMENTS:

- A. The floodplain designation on the official zoning map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the commissioner of natural resources if he or she determines that, through other measures, lands are adequately protected for the intended use.
- B. All amendments to this chapter, including amendments to the official zoning map, must be submitted to and approved by the commissioner of natural resources prior to adoption. Changes in the official zoning map must meet the federal emergency management agency's (FEMA) technical conditions and criteria and must receive prior FEMA approval before adoption. The commissioner of natural resources must be given ten (10) days' written notice of all hearings to consider an amendment to this chapter and said notice shall include a draft of the ordinance amendment or technical study under consideration. (Ord. 872, 2-3-2010)

Chapter 13

CD CONSERVANCY DISTRICT

11-13-1: PURPOSE:

The purpose of this District is to establish provisions for areas containing valuable environmental qualities which, in order to conserve the City's natural resources, preserve the amenities of its environment, prevent the overcrowding of land, avoid undue concentration of population and alleviate severe flooding problems, have been determined to best be retained in substantially an undeveloped state. (1971 Code § 28-68)

11-13-2: LANDS DESIGNATED:

- A. Public Property: All public properties designated as parks or open space shall be placed in the Conservancy District.
- B. Private Property: Property in private ownership, consisting of ten (10) acres or more, that meets the requirements, may also be designated for the Conservancy District, but only upon acceptance of a petition from the property owner. (1971 Code § 28-68)

11-13-3: INTERPRETATION OF DISTRICT BOUNDARIES:

When uncertainty exists as to the Conservancy District boundaries, the following rules shall apply:

- A. District boundaries along a stream are intended to represent the high water line of a regional flood; provided, however, that along a stream, such line shall not be less than fifty feet (50') from the center of such stream.
- B. District boundaries in a wetland area are intended to represent the edge of a swamp, marsh or other wetland area. The edge shall be defined as the mark delineating the highest water level which has been maintained for a sufficient period of time to leave

evidence upon the landscape. The edge is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

- C. District boundaries in a public park or common open space are intended to represent the property lines of such area. (1971 Code § 28-68)

11-13-4: PETITION REQUIREMENTS:

Before any property in private ownership shall be accepted for inclusion in the Conservancy District, the petitioner shall provide the following:

- A. A survey of the property and a legal description of the property. Such survey shall be prepared by a registered land surveyor.
- B. A topographic map with contour lines designated at an interval of five feet (5') or less.
- C. A site plan indicating the location of all trees of fifteen inches (15") in diameter or more, as well as other environmentally significant features.
- D. An agreement, acceptable to the City Council, which specifies the length of time such petitioner wishes to have his/her property remain in the Conservancy District. Under no circumstances shall the time period be less than five (5) years. (1971 Code § 28-68; amd. 2000 Code)

11-13-5: PERMITTED USES:

The following uses are permitted as a right in the Conservancy District:

1. Agricultural uses.
2. Conservation uses, including drainage control, forestry, wildlife sanctuaries and facilities for making such uses available and useful to the public.
3. Nature study areas and arboretums.
4. Open space areas connected with residential, commercial and industrial planned unit developments.
5. Outdoor recreational uses operated by a governmental agency or conservation group, homeowners' or private associations and facilities for making such uses useful to the public or to associations. (1971 Code § 28-68)

11-13-6: SPECIAL USES:

If, through good site and engineering designs, a development can be created which is compatible and harmonious with the natural amenities of the Conservancy District area and with surrounding land uses, a request for a special use permit for such development may be submitted. Such requests shall be accompanied by an overall plan of the entire area showing roads, parking areas, lot lines, easements, the location of tree cover, including the designation of individual trees of fifteen inches (15") in diameter or more, the location of other natural and biological features, such as wetlands and areas of valuable wildlife habitat, the locations of proposed structures, existing contours and proposed grading, drainage, utilities and landscaping in such detail as the Director of Community Development and City Engineer shall require before they may be reviewed by the Planning Commission. The approval of such a request by the City Council shall require a finding that:

- A. The development will not detrimentally affect or destroy natural features, such as ponds, streams, wetlands and forested areas, but will preserve and incorporate such features into the development's site design.
- B. The location of natural features and the site's topography have been considered in the designing and siting of all physical improvements.
- C. Adequate assurances have been received that the clearing of the site topsoil, trees and other natural features before the commencement of building operations will not occur. Only those areas approved for placement of physical improvements may be cleared.
- D. The development will not substantially reduce the natural retention storage capacity of any watercourse, thereby increasing the magnitude and column of flood at other locations.
- E. The soil and subsoil conditions are suitable for excavation and site preparation, and the drainage is designed to prevent erosion and environmentally deleterious surface runoff.
- F. The development will be free from offensive noise, vibration, smoke, dust and other particulate matter, odorous matter, fumes, water pollution and other objectionable influences.
- G. The petitioner will be substantially damaged by being required to place the intended development outside the CD District. (1971 Code § 28-68; amd. 2000 Code)

11-13-7: DEVELOPMENT STANDARDS:

The following standards for development of land located within the Conservancy District are required. They are not meant to abridge or otherwise alter any regulations promulgated by the State Department of Natural Resources or watershed district authority:

- A. Minimum Lot Area: Unless intended for a permitted use, the minimum lot area for a development shall be five (5) acres.
- B. Lot Coverage: No more than ten percent (10%) of the lot area located in a CD District shall be occupied by structures, parking facilities and roadways.

- C. Location In Floodprone Areas: Areas of Conservancy Districts which are located in a flood plain or floodway shall be additionally subject to the provisions of the Floodway and Flood Plain District. (1971 Code § 28-68)

Chapter 14

PUD PLANNED UNIT DEVELOPMENT DISTRICT

11-14-1: PURPOSE:

The purpose of the Planned Unit Development (PUD) District is to provide a district which will encourage the following:

- A. Flexibility in land development and redevelopment in order to utilize new techniques of building design, construction and land development;
- B. Provision of lifecycle housing to all income and age groups;
- C. Energy conservation through the use of more efficient building designs and sitings and the clustering of buildings and land uses;
- D. Preservation of desirable site characteristics and open space and protection of sensitive environmental features, including, but not limited to, steep slopes, trees and poor spoils;
- E. More efficient and effective use of land, open space and public facilities through mixing of land uses and assembly and development of land into larger parcels;
- F. High quality of design and design compatible with surrounding land uses, including both existing and planned;
- G. Sensitive development in transitional areas located between different land uses and along significant transportation or scenic corridors within the City; and
- H. Development which is consistent with the Comprehensive Plan. (Ord. 644, 2-19-1997)

11-14-2: USES:

Within the PUD District, all uses must be consistent with the Comprehensive Plan designation for the property and consistent with permitted uses and accessory uses allowed by this Title. Within the PUD District, all uses allowed by conditional use permit within any other district are allowed by conditional use permit. Uses allowed by conditional use permit shall be reviewed for compliance with

the PUD master development plan and with the applicable conditional use permit standards specified in Sections [11-2-4](#) and [11-2-9](#) of this Title. (Ord. 644, 2-19-1997)

11-14-3: DEVELOPMENT STANDARDS:

Within the PUD District, all development shall be in compliance with the following:

- A. **Minimum Area:** Each PUD shall have a minimum area of ten (10) acres, excluding areas within a designated wetlands, flood plain or shoreland district or right of way, unless the applicant can demonstrate the existence of one of the following:
1. Unusual physical features of the property itself or of the surrounding neighborhood such that development as a PUD will conserve a physical or topographic feature of importance to the neighborhood or community;
 2. The property is directly adjacent to or across the right of way from property which has been developed previously as a PUD and will appear as and will function as an extension of that previously approved development;
 3. The property is located in a transitional area between different land use categories or on a principal or minor arterial as defined in the Comprehensive Plan;
 4. The property is proposed to be developed with cluster homes as defined in Section [11-14-4](#) of this Chapter.
- B. **Uses Other Than Designated Uses:** The City may permit up to ten percent (10%) of the gross floor area of all buildings in a PUD to be used for land uses for which the site is not designated in the Comprehensive Plan if the City Council finds that such use is in the best interests of the City and is consistent with the requirements of this Chapter. If nondesignated uses are to be incorporated into a PUD, the City may forward a copy of the request to the Metropolitan Council for review.
- C. **More Than One Use:** Where the site of a proposed PUD is designated for more than one land use in the Comprehensive Plan, the City may require that the PUD include all the proposed land uses.
- D. **Density:** Each residential PUD or the residential portion of each mixed use PUD shall have a density within the range specified in the Comprehensive Plan for the PUD site. If the site is not designated in the Comprehensive Plan for residential use, the appropriate density shall be determined by the City based upon the City Council's finding that such density is consistent with the intent of the PUD and of the Comprehensive Plan.
- E. **Streets, Utilities, Public Facilities And Subdivisions:** The City ordinances governing the specifications and standards for streets, utilities, public facilities and subdivisions may be modified based upon the uniqueness of the PUD. The City Council may therefore approve streets, utilities, public facilities and land subdivisions which are not in compliance with usual specifications or ordinance requirements if it finds that strict adherence to such standards or requirements is not required to meet the intent of this Chapter or to protect the health, safety or welfare of the residents of the PUD, the surrounding area or the City as a whole.
- F. **Building Setbacks:**
1. Buildings shall set back a minimum of thirty feet (30') from local streets and forty feet (40') from railroad lines or principal or minor arterials, as designated in the Comprehensive Plan; except, that in no case shall the setback be less than the height of the building not to exceed a maximum of one hundred feet (100').
 2. The setback for all buildings from exterior PUD lot lines not abutting a public street shall be thirty feet (30'); except, that in no case shall the setback be less than the height of the building not to exceed a maximum of one hundred feet (100').

3. Building setbacks from internal public streets shall be determined by the City based on characteristics of the specific PUD.
 4. Parking lots and driving lanes shall be set back at least twenty feet (20') from all exterior lot lines of a PUD.
 5. Where industrial or commercial uses abut developed or platted single-family lots outside the PUD, greater exterior building and parking setbacks may be required in order to provide effective screening. The City Council shall make a determination regarding the adequacy of screening proposed by the applicant. Screening may include the use of natural topography or earth berming, existing and proposed plantings and other features such as roadways and wetlands which provide separation of uses.
 6. Areas within a PUD which are designated in the approved master development plan or final site plan for residential use shall be considered a residential district for purposes of determining building and parking setback requirements on adjacent commercial and industrial property outside the PUD.
- G. More Than One Building Per Lot: More than one building may be placed on one platted or recorded lot in a PUD.
- H. Single Land Use Or Housing Type: Any PUD which involves a single land use type or housing type shall be permitted; provided, that it is otherwise consistent with the objectives of this Title and the Comprehensive Plan.
- I. Private Recreational Uses: Each residential PUD comprised of units other than single-family detached housing or within a mixed use PUD shall provide an area dedicated for private recreational uses for project residents. Such areas will be for active or passive recreational uses suited for the needs of the residents of the project, including swimming pools, trails, nature areas, picnic areas, tot lots and saunas.
- J. Unified Ownership Or Control: All property to be included within a PUD shall be under unified ownership or control or subject to such legal restrictions or covenants as may be necessary to ensure compliance with the approved master development plan and final site and building plan.
- K. Signs: Signs shall be restricted to those which are permitted in a sign plan approved by the City and shall be regulated by permanent covenants.
- L. Application Of Other Provisions: The requirements contained in sections of this Title pertaining to [Chapter 3](#), General Zoning Provisions, and [Chapter 6](#), Performance Standards, shall apply to a PUD as deemed appropriate by the City.
- M. Compliance With Provisions: No building or other permit shall be issued for any work on property included within a proposed or approved PUD nor shall any work occur unless such work is in compliance with the proposed or approved PUD. (Ord. 644, 2-19-1997)

11-14-4: CLUSTER HOUSING:

Each PUD developed for single-family detached dwellings on sites guided for low density residential development in the Comprehensive Plan shall be subject to the following standards:

- A. Minimum Size Of Parcel: Minimum size of entire parcel or parcels subject to the PUD: 10 acres;
- B. Permitted Locations: In areas of the City where smaller lots will serve as a transition between low density residential areas and a

higher intensity use or because of unique physical or topographic constraints, the property could be more sensitively developed, as determined by the City Council, as a small lot cluster home development;

C. Minimum Lot Size:

1. MUSA: 7,500 square feet;
2. Non-MUSA: 1.5 acres;
3. For cluster housing where lot areas are designed to be similar to the size of the dwelling unit and the surrounding property held in common ownership, the 7,500 square foot lot size is waived as long as the average of all parcels is a minimum of 7,500 square feet;

D. Minimum Lot Width At ROW Line:

1. MUSA: 60 feet;
2. Non-MUSA: 180 feet;

E. Minimum Lot Depth: 125 feet;

F. Minimum Front Yard Setback:

1. MUSA: 20 feet on internal streets within the PUD. On exterior or through streets, a 30 foot setback must be provided on local streets and a 40 foot setback on intermediate and minor arterial streets as defined by the Comprehensive Plan;
2. Non-MUSA: 100 feet on internal streets within the PUD;

G. Minimum Side Yard Setbacks:

1. MUSA: 10 feet with 5 feet on the garage side;
2. Non-MUSA: 25 feet;

H. Rear Yard Setback:

1. MUSA: 30 feet;
2. Non-MUSA: 50 feet;

I. Building Height: Maximum of 35 feet;

J. Dwellings:

1. All dwelling units shall have a depth of at least 20 feet for at least fifty percent (50%) of their width;
2. All dwellings shall have a permanent foundation in conformance with the Minnesota State Building Code;

K. Accessory Structures: Accessory structures shall conform to the setbacks and sizes established in Section [11-3-3](#) of this Title;

L. Covenants:

1. MUSA: Where property is within the MUSA, a homeowners' association shall be established by the developer to oversee the maintenance of commonly held properties and review of architectural modifications to the approved plans;
2. Non-MUSA: When property is outside the MUSA, the developer shall sign a restrictive covenant for land to be held as open space or for agricultural purposes under this clustering provision. The restrictive covenant shall limit the use of the restricted land to agricultural purposes or open space until the property is rezoned, or receives City sewer and water services;

M. Architectural And Landscape Design; Privacy: The applicant shall demonstrate that the architectural and landscape design being proposed for cluster housing developments provide privacy for both internal and exterior living areas. This provision shall include, but not be limited to, landscape and fence screens, location of HVAC equipment, and location of structures relative to adjacent homes. Deviations from approved plans must be approved by both the City Council and by the established homeowners' association;

N. Fire, Life And Safety Requirements: The applicant shall demonstrate that the platting, design and setback of structures will meet City fire, life, and safety requirements and facilitate the maintenance of building exteriors, which may be accomplished by any combination of structural setback requirements, provision of easements and/or incorporation of building code improvements approved by the City. No intrusions of any kind will be permitted into approved setbacks unless it can be demonstrated that fire, life, and safety requirements of the City can be met. These revised setbacks will specifically be designated in the PUD agreement;

O. Compliance Required: All lots platted within a cluster housing development under this Chapter shall have a statement recorded in the chain of title that states that any construction on the lot must be in compliance with the PUD development plan, final site plan, and architectural drawings, as approved by the City; and

P. Lot Yield Plan: A lot yield plan must be submitted as part of the developer's proposal. The applicant shall demonstrate in the lot yield plan the number of potential lots which could be developed under the existing zoning compared to the developer's proposal. (Ord. 644, 2-19-1997)

11-14-5: REVIEW OF APPLICATION:

A. Concept Plan:

1. In order to receive guidance in the design of a PUD prior to submission of a formal application, an applicant may submit a concept plan for review and comment by the Planning Commission and City Council. Submission of a concept plan is optional but is highly recommended for large PUDs. In order for the review to be of most help to the applicant, the concept plan should contain such specific information as is suggested by the City. Generally, this information should include the following:
 - a. Approximate building and road locations;
 - b. Height, bulk and square footage of buildings;
 - c. Type and square footage of specific land uses;
 - d. Number of dwelling units;
 - e. Generalized grading plan showing areas to be cut, filled and preserved; and

f. Staging and timing of the development.

2. The comments of the Planning Commission and City Council shall address the consistency of the concept plan with this Chapter. The comments of the Planning Commission and City Council shall be for guidance only and shall not be considered binding upon the City regarding approval of the formal PUD application when submitted.

B. Rezoning; Master Development Plan:

1. Approval of a rezoning to PUD and approval of a master development plan shall be subject to the procedures outlined in Section [11-2-8](#) of this Title for a Zoning Map amendment. The master development plan shall contain the following:

- a. Building location, height, bulk and square footage;
- b. Type and square footage of specific land uses;
- c. Number of dwelling units;
- d. Detailed street and utility locations and sizes;
- e. Drainage plan, including location and size of pipes and water storage areas;
- f. Grading plan;
- g. Generalized landscape plan;
- h. Generalized plan for uniform signs and lighting;
- i. Plan for timing and phasing of the development;
- j. Covenants or other restrictions proposed for the regulation of the development; and
- k. Renderings or elevations of the entrance side of buildings to be constructed in the first phase of the development.

2. Approval of the master development plan shall indicate approval of the previously listed items and shall occur in conjunction with rezoning of the property to PUD. After rezoning of the property to PUD, nothing shall be constructed on the PUD site except in conformance with the approved plans and this Chapter.

C. Final Site And Building Plan:

1. Approval of a final site and building plan for the entire PUD or for specific parts of the PUD shall be subject to the procedures outlined in Section [11-2-4](#) of this Title. The final site and building plan shall contain information as required by the City, including the following:

- a. Detailed utility, street, grading and drainage plans;
- b. Detailed building elevations and floor plans; and
- c. Detailed landscaping, sign and lighting plans.

2. The final site and building plan shall be in substantial compliance with the approved master development plan. Substantial compliance shall mean:

- a. Buildings, parking areas and roads are in substantially the same location as previously approved;
- b. The number of residential living units has not increased or decreased by more than five percent (5%) from that approved in the master development plan;
- c. The floor area of nonresidential uses has not been increased by more than five percent (5%) nor has the gross floor area of any individual building been increased by more than ten percent (10%) from that approved in the master development plan;
- d. There has been no increase in the number of stories in any building;

- e. Open space has not been decreased or altered to change its original design or intended use; and
- f. All special conditions required on the master development plan by the City have been incorporated into the final site and building plan. Approval of a final site and building plan shall signify approval of all plans necessary prior to application for a building permit, subject to conformance with any conditions on the approval and subject to other necessary approvals by the City.

D. Combining Final Site And Building Plan With Master Development Plan: Applicants may combine the final site and building plan review with the master development plan review by submitting all information required for both stages simultaneously.

E. Recommendations And Actions:

1. The Planning Commission and City Council shall base their recommendations and actions regarding approval of a PUD on a consideration of the following:
 - a. Compatibility of the proposed plan with this Chapter and the goals and policies proposals of the Comprehensive Plan;
 - b. Effect of the proposed plan on the neighborhood in which it is to be located;
 - c. Internal organization and adequacy of various uses or densities, circulation and parking facilities, public facilities, recreation areas, open spaces, screening and landscaping;
 - d. Consistency with the standards of Section [11-2-4](#) of this Title pertaining to site and building plan review; and
 - e. Such other factors as the Planning Commission or City Council deems relevant.
2. The Planning Commission and City Council may attach such conditions to their actions as they shall determine necessary or convenient to better accomplish the purposes of this Chapter. (Ord. 644, 2-19-1997)

11-14-6: TERM OF APPROVAL:

If application has not been made for a final site and building plan approval pursuant to the approved master development plan for all or a part of the property within a PUD or construction on the property has not been initiated in conformance with the approved site and building plan by December 31 of the year following the date on which the PUD Zoning Map amendment became effective or if within that period no extension of time has been granted, the City Council may rezone the property to the zoning classification at the time of the PUD application or to a zoning classification consistent with the Comprehensive Plan designation for the property. In the absence of a rezoning, the approved master development plan shall and approved site and building plan if applicable shall remain the legal control governing development of the property included within the PUD. (Ord. 644, 2-19-1997)

11-14-7: AMENDMENTS:

- A. Major amendments to an approved master development plan may be approved by the City Council after review by the Planning Commission. The notification and public hearing procedure for such amendment shall be the same as for approval of the original PUD. A major amendment is any amendment which:
1. Substantially alters the location of buildings, parking areas or roads;
 2. Increases or decreases the number of residential dwelling units by more than five percent (5%);
 3. Increases the gross floor area of nonresidential buildings by more than five percent (5%) or increases the gross floor area of any individual building by more than ten percent (10%);

4. Increases the number of stories of any building;
5. Decreases the amount of open space by more than five percent (5%) or alters it in such a way as to change its original design or intended use; or
6. Creates noncompliance with any special condition attached to the approval of the master development plan.

B. Any other amendment may be made administratively where the Director of Community Development determines that review and approval by the Planning Commission and City Council of a detailed site plan is unnecessary to meet the objectives of this Chapter. (Ord. 644, 2-19-1997)

11-14-8: EXEMPTIONS:

This Chapter shall not apply to any PUD which has received final approval by the City Council prior to the effective date of the ordinance from which this Title is derived¹ unless such is requested by the property owner and approved by the City Council. (Ord. 644, 2-19-1997)

ARTICLE A. PLANNED DEVELOPMENT OVERLAY DISTRICT

11-14A-1: PURPOSE STATEMENT:

The purpose of the planned development overlay district is to promote creative and efficient use of land. This is accomplished by providing flexibility in the design of land development than is presently possible through the strict interpretation of conventional zoning and land division ordinances. A planned development overlay plan should be compatible with the established and proposed surrounding land uses and should accrue benefits to the city and the general public in terms of need, convenience and service sufficient to justify any necessary exceptions to the zoning and subdivision ordinances.

It is the applicant's responsibility to demonstrate that the proposed planned development overlay plan accomplishes one or more of the following:

- A. Introduce flexibility of site design and architecture for the conservation of land, natural features, and open space through clustering of structures, facilities, amenities, and activities for public benefit;
- B. Improve the efficiency of public streets and utilities through a more efficient and effective use of land, open space, and public facilities through assembly and development of land in larger parcels;
- C. Provide mixed land use and land use transitions in keeping with the character of adjacent land uses in harmony with the comprehensive plan and the underlying zoning districts; and
- D. Provide for the clustering of land parcels for development as an integrated, coordinated unit as opposed to a parcel by parcel, piecemeal approach and to maintain these parcels by central management including integrated and joint use of parking, maintenance of open space and similar features, and harmonious selection and efficient distribution of uses. (Ord. 796, 6-21-2006)

11-14A-2: APPLICABILITY:

The provisions of this article apply to any zoning district established by section [11-1-5](#), "Zoning Districts Established", of this title. Within the PDO district, uses are determined by the underlying zoning district and in harmony with the comprehensive plan. All conditional uses must be considered permitted to eliminate the overlapping procedural requirements of individual conditional use provisions. (Ord. 796, 6-21-2006)

11-14A-3: SUBMITTAL REQUIREMENTS:

All property within a planned development overlay requires a development plan. The development plan must be preceded by a preliminary concept plan.

- A. Preliminary Concept Plan: Applicants must submit to the planning division for review and comment a preliminary concept plan for the affected property. The density of a planned development will be based on the density of the underlying zone. The development standards of the underlying zone will provide a basic guide for the design of a planned development. The preliminary concept plan must include the following information:
1. Proposed land uses, building locations and housing unit densities.
 2. Proposed circulation patterns indicating the status of street ownership.
 3. Proposed open space uses.
 4. Proposed grading and drainage patterns.
 5. Relationship of the proposed development to the surrounding area and the comprehensive plan.
- B. Planned Development Overlay (PDO) Plan: Applicants must submit a PDO plan for the entire property proposed for development. A request for a rezoning may be included in the development plan materials. Approval of a PDO plan is subject to the procedures for submittal, notification, and public hearing defined in this code, except as modified in this section. No final approvals may be granted by the city until all necessary approvals for an EIS, EAW or comprehensive plan amendment have been granted. The city council may attach such conditions to their actions as they determine necessary or convenient to better accomplish the purpose of this section.
- C. Site Plan Review: All proposed uses are subject to the site plan review requirements found in section [11-2-4](#) of this title. For single phase construction projects, site plan review may be combined with the PDO plan approval. (Ord. 796, 6-21-2006)

11-14A-4: APPLICATION:

- A. Amendment Procedure: All provisions of section [11-2-8](#), "Amendments", of this title will apply.
- B. Contents: Each application of a PDO must include at least the following details:
1. A legal description of the area proposed for a PDO plan.
 2. A map, drawn to scale showing the following:

- a. The proposed boundaries of the PDO plan;
 - b. The present zoning classification(s) and use(s) within the proposed PDO district that is within five hundred feet (500') of the proposed PDO plan area.
 - c. All public rights of way within the proposed PDO plan.
 - d. Other information as necessary to determine how the proposed PDO plan affects existing uses within the PDO plan boundaries and within five hundred feet (500') of those PDO plan boundaries.
3. A written description of the specific restrictions, standards, or guidelines to be implemented by the PDO district and the effect those restrictions, standards, or guidelines may have on development and performance standards for the underlying zoning district.
 4. A written statement generally describing how the proposed PDO will promote or implement the goals and objectives of the city's comprehensive plan.
 5. Evidence that all owners of land and structures within the proposed PDO who are not represented by the applicant have been notified by mail of: The applicant's intent to request the development overlay district zoning; the application, review and approval process for the PDO designation; and the specific effects of overlay district zoning on properties within the proposed overlay district.
 6. Summary sheet indicating the gross area in acres and square feet for each land use, the number of proposed dwelling units per gross acre, number of any proposed dwelling units by type and density, amount of land in common open space, and number of parking spaces provided.
 7. A site plan showing lot lines, building locations, parking spaces, drives, common open space areas, recreation facilities and development amenities.
 8. Preliminary and final plat in accordance with the subdivision ordinance.
 9. Sanitary sewer, water main, storm sewer, landscaping, grading and drainage pattern plans.
 10. Lighting, mailbox, sign and entry monument and other plans as necessary.
 11. Building elevations and colored plan renderings demonstrating architectural features and of the typical residences, community buildings, and other structures proposed to be constructed on the site.
 12. Proposed homeowners' association or condominium documents and declarations of covenants and restrictions.
 13. Other information as determined necessary. (Ord. 796, 6-21-2006)

11-14A-5: PLANNED DEVELOPMENT OVERLAY PLAN APPROVAL:

The planning commission must make a recommendation on the proposal to the city council. Upon receiving the planning commission's recommendation, the city council will grant, subject to conditions, or deny the planned development overlay plan. The findings necessary for approval must include, but not be limited to, the following:

- A. The PDO plan is consistent with the intent of this chapter.
- B. The PDO plan meets the standards required for a conditional use.
- C. Each stage of the PDO plan can exist as an independent unit.

- D. The area surrounding the PDO plan can be planned and developed in coordination and substantial compatibility with the proposed PDO plan.
- E. Any proposed density transfer is consistent with the preservation and enhancement of important natural features of the site.
- F. Any density bonus is consistent with the density bonus criteria of this chapter.
- G. Any variation of flexibility from zoning standards most similar in function to the proposed PDO plan must produce results equal to or better than those achieved by the applicable zoning standard.
- H. Other factors related to the project as the planning commission and city council deem relevant. The planning commission and city council may attach such conditions to their actions as they determine necessary to accomplish the purposes of this section. (Ord. 796, 6-21-2006)

11-14A-6: PLANNED DEVELOPMENT OVERLAY PLAN CHANGES:

Any significant changes in the approved PDO plan may be made only after a public hearing and recommendation to the city council by the planning commission and approved by the city council. (Ord. 796, 6-21-2006)

11-14A-7: PLANNED DEVELOPMENT OVERLAY PLAN TERMINATION:

Approval of a PDO plan will be effective for one year from the date approved by the city council. Upon written application by the developer the city council, following review and recommendation by the planning commission, may extend PDO plan approval for periods up to twelve (12) months each upon a finding that:

- A. The proposed use, or uses, is consistent with the city's comprehensive land use plan current at the time the request for an extension is considered; and
- B. The project design meets the applicable city code standards in effect at the time the request for an extension is considered, or the design is modified to satisfy those standards. (Ord. 796, 6-21-2006)

11-14A-8: DEVELOPMENT STAGING:

Certain PDO plans may involve construction over an extended period of time. If it is proposed to develop a project during a period exceeding two (2) years, the developer may request concept approval from the planning commission and city council for the entire project and permission to submit application for PDO plan approval for the first stage of the project. A public hearing will be required by the planning commission for consideration of concept approval as well as for each stage of development in the extended staged PDO plan. Each stage of the PDO plan requires development plan approval. (Ord. 796, 6-21-2006)

Chapter 15

MISSISSIPPI RIVER CORRIDOR CRITICAL AREA OVERLAY DISTRICT

11-15-1: FINDINGS:

The City finds that the Mississippi River Corridor within the Metropolitan Area and the City is a unique and valuable local, State, regional and national resource. The river is an essential element in the local, regional, State and national transportation, sewer and water and recreational system and serves important biological and ecological functions. The prevention and mitigation of irreversible damage to this resource and the preservation and enhancement of its natural, aesthetic, cultural and historic values is in furtherance of the health, safety and general welfare of the City. (1971 Code § 28-69)

11-15-2: PURPOSE AND INTENT:

It is the purpose and intent of this Chapter to prevent and mitigate irreversible damage to this unique State, local, regional and national resource to promote orderly development of the residential, commercial, industrial, recreational and public areas, to preserve and enhance its values to the public and protect and preserve the system as an essential element in the City's transportation, sewer and water and recreational systems in accordance with the following policies:

- A. The Mississippi River Corridor shall be managed as a multi-purpose public resource by continuing use of the river channel for transportation, continuing use of certain areas for fleeting for river transportation, conserving the scenic, environmental, recreational, mineral, economic, cultural and historic resources and functions of the river corridor and providing for the continuation of development of a variety of urban uses within the river corridor.
- B. The Mississippi River Corridor shall be managed in a manner consistent with its natural characteristics and its existing development and in accordance with regional plans for the development of the Metropolitan Area.
- C. The Mississippi River Corridor shall be managed in accordance with the Critical Areas Act of 1973¹, the Minnesota Environmental Policy Act of 1973² and the Governor's Critical Area Designation Order dated November 23, 1976, and the applicable State and Federal laws. (1971 Code § 28-69)

11-15-3: CRITICAL AREA OVERLAY DISTRICT ESTABLISHED:

A Critical Area Overlay District with its attendant regulations is hereby established as part of this Title. This District shall overlay the zoning districts established by this Title so that any parcel of land lying in the Overlay District shall also lie in one or more of the underlying established zoning districts. Territory within the Overlay District shall be subject to the requirements established in the Overlay District in addition to restrictions and requirements established by other applicable ordinances and regulations of the City. Within the Overlay District, all uses shall be permitted in accordance with the regulations for the underlying zoning district(s); provided, that such uses shall not be entitled to or issued the appropriate development permit until they have first satisfied the additional requirements established in this Chapter. (1971 Code § 28-69)

11-15-4: BOUNDARIES OF DISTRICT:

This Chapter shall apply to the area designated by the Governor's Critical Area Designation Order dated November 23, 1976, and

shown on Figure 3 of the Critical Area Plan. (1971 Code § 28-69)

11-15-5: PERMITTED USES:

The rural open space district classification of the Mississippi River Corridor Critical Area includes land uses which shall be used and developed to preserve their open, scenic and natural characteristics and ecological and economic functions. The following land uses shall be permitted within the boundaries of the River Corridor Overlay District:

1. Agricultural, except new feedlots.
2. Commercial and industrial facilities. Expansion of existing facilities only when they can be served by existing public or private sewerage, water and transportation facilities, and where the expansion has been determined to have no impact on regional systems.
3. Essential services, public safety facilities.
4. Mining and extraction, upon approval of either rezoning or conditional use permit, reclamation plan and conditions of excavation regulations.
5. One-family detached dwellings restricted to areas where on-site wastewater disposal systems can be utilized.
6. Open space, including park reserves, recreational land and conservancy districts.
7. Transportation and utility facilities. (1971 Code § 28-70)

11-15-6: PERMITTED ACCESSORY USES:

Accessory uses which are incidental to the permitted uses of the property are permitted. (1971 Code § 28-71)

11-15-7: EXISTING STRUCTURES AND USES:

A. Generally: Any existing structure or use of property which is inconsistent with this Chapter shall not be eligible for any permit granted for expansion, change of use, renewal of existing permit or building permit, unless the following criteria are met. Residential and agricultural structures and uses shall be exempt from this provision:

1. The applicant shall provide and maintain adequate screening of the structure from the water through the use of natural vegetative means.
2. Expansion of existing structures shall be in a direction away from the river front.

3. The public's ability to view the river and river corridor from existing public streets shall not be further degraded by the proposed activity.

B. Signs:

1. Advertising signs are prohibited between the flood fringe borderline and all County, State or Federal highways located within one thousand feet (1,000') of the line, except where the river cannot be viewed from the highway due to natural topography or existing buildings.
2. All advertising signs permitted within the critical area outside the area set forth in subsection B1 of this Section shall conform with the provisions of the Sign Ordinance or other appropriate applicable ordinances.
3. Views of the water from vistas and public roads shall not be impaired by the placement of business or advertising signs.
4. Advertising signs may be located only on the shore side of public transportation routes which are parallel and adjacent to the river front.

- C. Nonconforming Uses And Structures: Any structure or use existing upon the effective date of this Chapter³ which does not conform to the use restrictions of a particular use district shall automatically continue as a nonconforming use or structure and shall be regulated according to this Title. (1971 Code § 28-72)

11-15-8: DEVELOPMENT STANDARDS:

- A. Objectives: The objectives of dimensional standards are to maintain the aesthetic integrity and natural environment of the Mississippi River Corridor Critical Area. These standards are designed to protect and enhance the shoreline and bluff areas, as well as provide sufficient setback for on-site sanitary facilities, to prevent erosion of bluffs, to minimize flood damage and to prevent pollution of surface and ground water.
- B. Lot Density And Size: Density of residential development in areas without sanitary sewer shall not exceed four (4) dwelling units per quarter/quarter section, is permitted in the AG-2 Agricultural District, except the minimum lot size for a single-family structure shall be at least three (3) acres, unless the lot is part of a planned cluster development as provided in subsection H3 of this Section, or unless the lot was approved by the City and such lot was recorded in the office of the County Register of Deeds prior to April 25, 1975, and meets the criteria of Section [11-3-2](#) of this Title.
- C. Structure Setbacks: All new structures shall meet the following minimum setbacks:
1. Setback From Bluff Line: No structure shall be constructed less than one hundred feet (100') landward from the bluff line of the river.
 2. Setback From Normal High Water Mark: No structure or road shall be constructed less than one hundred feet (100') from the normal high water mark of any water body.
 3. Exceptions: Exceptions to the setback provisions shall be:
 - a. Public safety facilities, public bridges and their roadway approaches, railroad sidings, public and private roadways serving water-related uses on the river front.
 - b. Public recreation facilities, scenic overlooks, public observation platforms and the regional trail system, docks, and boat launching facilities.
 - c. Approved river crossings of essential services distribution systems which are primarily underground except for terminal and metering devices not exceeding six feet (6') in height, and support structures for transmission crossing spans.

- d. The construction of aboveground pumping stations which shall be screened from view of the river.
- e. The reconstruction or restoration of historical structures or sites on the inventory of the State Historical Society or the National Register of Historic Places.
- f. Aggregate processing and barge loading facilities as a replacement of existing facilities.
- g. Construction of a single-family dwelling on a lot approved by the City and recorded in the office of the County Register of Deeds prior to April 25, 1975, and where the abutting lots have been developed prior to the establishment of these regulations. In no case shall a dwelling be placed closer to the bluff line or normal high water mark than the average setback of the structures on the adjacent lots.

D. Height Of Structures: All new structures shall be limited to thirty five feet (35'); except, that the following may be allowed:

- 1. Barns, silos and similar farm structures.
- 2. Essential service distribution systems.
- 3. Bridges, bridge approach roadways and transmission services.
- 4. Restoration and construction of historical sites and structures.
- 5. Structures associated with mining and excavation.
- 6. Expansion of existing industrial complexes.

E. Line Of Sight: Development of new and the expansion of existing water-related uses such as barge loading facilities shall be screened by berms and natural vegetation where practical.

F. On-Site Sewage Disposal Systems:

- 1. Any premises intended for human occupancy must be provided with an adequate method of sewage disposal. Public or Municipal collection and treatment facilities must be used where available and where feasible. Where public or Municipal facilities are not available, all on-site individual sewage disposal systems shall conform to the minimum standards as set forth in the standards of WPC-40 as interpreted by the State Pollution Control Agency and the on-site system management provisions set forth in the Comprehensive Plan.
- 2. All parts of an on-site sewage disposal system shall be located at least one hundred fifty feet (150') from the normal high water mark and from bluff lines.
- 3. No on-site sewage disposal system shall be placed within designated flood plains.

G. Uses Within Designated Flood Plains: All land in the Mississippi River Corridor Critical Area that is within the designated flood plain shall comply with the standards of [Chapter 12](#) of this Title.

H. Subdivision Of Property For Residential, Commercial And Industrial Development:

- 1. No land shall be subdivided which is found to be unsuitable for reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewer disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or the community. The Planning Commission, in applying the provisions of this Section, shall in writing cite the particular features upon which it bases its conclusions that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence regarding such suitability. Thereafter, the Commission may affirm, modify or withdraw its determination of unsuitability.

2. All subdivisions shall comply with the applicable provisions of [Title 10](#) of this Code.
 3. For planned cluster developments, a pattern of residential subdivision development which places dwelling units into compact groupings may be allowed when the proposed clustering provides a better means of preserving agricultural land, open space, woods, scenic views, wetlands and other features of the natural environment than traditional subdivision development. Except for minimum setbacks and height limits, altered dimensional standards may be allowed as exceptions for planned cluster developments, provided:
 - a. The number of dwelling units allowed shall not exceed the total number of dwelling units allowed if the development was based on the minimum lot size requirements for a single-family residential subdivision.
 - b. No lot shall be less than one and one-half ($1\frac{1}{2}$) acres in a planned cluster development.
- I. Protection Of Natural Features: The governing body may require the preservation of natural features such as large trees, watercourses, scenic points, historical sites and similar community assets and may decline approval of a subdivision or other development if provision is not made for preservation of these assets.
- J. Dedication Of River Front And Park Lands: In all subdivisions which embrace in whole or in part a proposed park, scenic overlook, trail, drainageway, river front or other open space as shown in the Critical Area Plan, these areas shall be considered for dedication to the public according to the procedures set forth in [Title 10](#) of this Code. (1971 Code § 28-73; amd. 2000 Code)

11-15-9: SITE PLANNING REQUIREMENTS:

- A. Site Plan Required; Exceptions: No building permit, zoning approval or subdivision approval permit or certificate shall be issued for any action located in an area covered by this Chapter until a site plan has been prepared and approved in accordance with the provisions of this Section. All or portions of the site planning requirements may be waived in the following cases:
1. The construction or alteration of a single-family detached dwelling and its associated accessory buildings on an individual lot.
 2. Agricultural buildings.
 3. Any other situation where the Director of Community Development determines that the preparation and review of a detailed site plan is unnecessary to meet the objectives of this Section.
- B. Application And Contents Of Plan: A written application for site plan approval and required site plans shall be submitted to the Director of Community Development according to the procedures set forth in Section [11-2-4](#) of this Title. The site plan shall contain the following information, in addition to those requirements listed in Section [11-2-4](#) of this Title:
1. The topography map shall clearly delineate any bluff line, all streams, including intermittent streams and swales, rivers, water bodies and wetlands located on the site, including depth of water, bottom slope, a description of body materials and all vegetation which may be found in the water body, a statement of water turbidity, a statement of water quality and a classification given to the water body by the State Department of Natural Resources and the Minnesota Pollution Control Agency, if any. The topography map shall indicate the floodway and/or flood fringe lines and shall indicate the normal high water mark of the river.
 2. A plan delineating existing drainage of the water, setting forth in which direction the volume and at what rate storm water is conveyed from the site and setting forth those areas of the site where storm water collects and is gradually percolated into the ground or slowly released to a stream or lake.
 3. A description of the soils of the site, including a map indicating soil types by areas to be disturbed as well as a soil report prepared by a soil scientist containing information on the suitability of the soils for the type of development proposed and for the type of sewage disposal proposed and describing any remedial steps to be taken by the developer to render the soils suitable. All areas proposed for grading shall be identified by soil type, both as to soil type of existing topsoil and soil type of the new contour. The location and extent of any erosion areas shall be indicated. The stability of rock units along bluff lines and faces

shall be included in the soils description.

4. A description of the flora and fauna which occupy the site or are occasionally found thereon, setting forth with detail those areas where unique plant or animal species may be found on the site.
5. A description of any features, buildings or areas which are of historic significance.
6. A proposed drainage plan of the developed site delineating in which direction the volume and at what rate storm water will be conveyed from the site and setting forth the areas of the site where storm water will be allowed to collect and gradually percolate into the ground or be slowly released to a stream or lake. The plan shall also set forth hydraulic capacity of all structures to be constructed or existing structures to be utilized, including volume of holding ponds and design storm.
7. An erosion and sedimentation control plan indicating the type, location and necessary technical information on control measures to be taken both during and after construction, including a statement expressing the calculated anticipated gross soil loss expressed in tons/acre/year both during and after construction.
8. A description of the method to be provided for vehicular and pedestrian access to the proposed development and public access to the river and/or public river view opportunities both before and after development; a description of the development's impact on existing views of and along the river.
9. A delineation of the areas to be dedicated for public use.
10. A delineation of the location and amounts of excavated soils to be stored on the site during construction.
11. Any other information pertinent to the particular project which, in the opinion of the inspector or applicant, is necessary or helpful for the review of the project. (1971 Code § 28-74; amd. 2000 Code)

11-15-10: NATURAL RESOURCE MANAGEMENT:

The City hereby finds that uncontrolled and inadequately planned use of wetlands, woodlands, habitat areas, areas subject to soil erosion and areas containing restrictive soils adversely affects the public health, safety and general welfare by contributing to pollution and other environmental problems, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the City to provide adequate community services. Therefore, the following standards have been developed to promote, preserve and enhance the natural resources within the corridor and to protect them from adverse effects by regulating developments that would have a severe adverse and potentially irreversible impact on unique and fragile environmentally sensitive land within the Mississippi River Corridor Critical Area:

A. Standards For Soil Erosion Control: Since certain areas within the corridor have steep slopes or unstable soils which may cause ecological problems due to siltation and pollution of water bodies and streams, the following standards shall be applied to all development within the corridor except certain areas designated for mining or excavation which shall comply with soil erosion standards in the Mining Ordinance:

1. No development shall be permitted on slopes of eighteen percent (18%) or more.
2. No development shall be permitted on land having a slope before alteration in excess of twelve percent (12%) but less than eighteen percent (18%), unless the applicant shall prove that the following conditions are met:
 - a. The foundation and underlying material of any structure, including roads, shall be adequate for the slope condition and soil type.
 - b. Adequate controls and protections exist uphill from the proposed development such that there is no danger of structures or roads being struck by falling rock, mud, uprooted trees or other materials.
 - c. The view of the developed slope from the river and opposite river bank is consistent with the natural appearance of the undeveloped slope, consistent with any historic areas nearby, compatible with the view from historic areas and compatible with surrounding architectural features. To the maximum extent possible, the use of natural devices, including vegetation management, shall be preferred over the construction of artificial devices, including culverts, holding ponds, walls and terracing.

- d. All structures other than buildings and roadway surfaces, but including retaining walls, shall meet the following design requirements:
- (1) Retaining walls or terrace contours shall not exceed five feet (5') in height.
 - (2) Construction shall be of native stone or wood.
 - (3) The use of gavvions, pilings, tiebacks, metal retaining walls and precast or cast in place concrete retaining walls is specifically prohibited.
 - (4) The minimum space between terraces and retaining walls shall be twenty feet (20').
- e. Development activities shall be conducted and staged to minimize soil erosion. The smallest practical increment of land shall be developed at any one time, and that increment shall be subjected to erosion for the shortest practical period of time, not to exceed a single construction season.
- f. Sufficient control measures and retention facilities shall be put in place prior to commencement of each development increment to limit gross soil loss from the development site to no more than five (5) tons per acre per year during development. Gross soil loss from construction sites adjacent to streams and lakes shall not exceed two (2) tons per acre per year.
- g. Conditions on the site shall be stabilized within thirty (30) days following completion of the work such that the yearly gross soil loss from the site will be less than five-tenths (0.5) ton per acre.

B. Standards For Development On Restrictive Soils: Certain soils in the corridor, without proper management, are unsuitable for development due to specific conditions which increase the probability of pollution of ground water, erosion or other problems detrimental to the public health, safety and welfare. Therefore, the following standards shall be applied to any development designated or identified as an area of restrictive or unsuitable soil:

1. Development of on-site waste disposal systems shall conform to the standards of the WPC-40 as interpreted by the State Pollution Control Agency and the on-site system management provision set forth in the utilities element of the Comprehensive Plan.
2. No residential development shall be permitted on soils which are susceptible to severe changes in physical volume when moistened or are susceptible to changes in volume during periods of frost, unless the applicant proves that construction techniques capable of overcoming the restrictive condition will be utilized.
3. Industrial uses requiring bulk storage of chemicals will not be allowed in wet soils, shallow soils or soils with permeability rates faster than five-tenths (0.5) minutes per inch.
4. No solid waste disposal shall be permitted in soils having a permeability rate between five-tenths (0.5) minutes per inch and five (5.0) minutes per inch or soils over fractured carbonate bedrock within fifty feet (50') of the ground surface.
5. Development which will result in unusual road maintenance costs or utility line breakages due to soil limitations, including high frost action, shall not be permitted.
6. The lowest floor elevation of buildings if used for living quarters or work area shall be at least three feet (3') above the seasonal high water level of any wetland.

C. Standards For Wetland Protection: No area defined and designated as a wetland shall be developed without first obtaining a conditional use permit. No permit shall be issued unless the proposed development complies with the following standards:

1. Filling: A minimum amount of filling may be allowed when necessary, but in no case shall the following restrictions on total amount of filling be exceeded:
 - a. Total filling shall not cause the total natural flood storage capacity of the wetland to fall below the projected volume of runoff from the whole developed watershed generated by a six inch (6") rainfall in twenty four (24) hours.
 - b. Filling in a wetland shall not exceed the excess storage and nutrient stripping capacities of the wetland based on the ultimate projected development of the wetland watershed.

- c. Only fill free of chemical pollutants and organic wastes may be used.
 - d. Wetlands shall not be used for solid waste disposal.
2. Vegetation: No wetland vegetation may be removed or altered except that reasonably required for the placement of structures and use of property.
3. Use As Primary Sediment Traps: Wetlands and other water bodies shall not be used as primary sediment traps during or after construction.
 4. Dredging: Dredging may be allowed only when a boat channel is required for access to a navigable lake or for a marina or when it will not have a substantial or significant adverse effect upon the ecological and hydrologic characteristics of the wetland and is proposed for a purpose consistent with the critical area designation. Dredging, when allowed, shall be limited as follows:
 - a. It shall be located so as to maximize the activity in the areas of lowest vegetation density.
 - b. It shall not significantly change the water flow characteristics.
 - c. The size of the dredged area shall be limited to the absolute minimum.
 - d. Disposal of the dredged material shall not result in a significant change in the current flow or in substantial destruction of vegetation, fish spawning areas or water pollution.
 - e. Work in the wetlands will not be performed during the breeding season of waterfowl or fish spawning season.
 - f. Only one boat channel or marina shall be allowed per large scale development.
 - g. In other residential developments, dredging shall be located so as to provide for the use of boat channels and marinas by two (2) or more adjacent property owners.
 - h. The width of the boat channel to be dredged shall not be more than the minimum required for the safe operation of boats at minimum operating speed.
- D. Standards For Woodland Protection: No area defined and designated as a woodland area on Figure 8 of the Critical Area Plan may be developed unless that development complies with the following standards, with the exception of trees seriously damaged by storms or other natural causes or diseased trees:
1. Development shall be conducted so that the maximum number of trees are preserved by the clustering of structures in existing cleared areas and natural clearings, and the utilization of other site design techniques.
 2. Grading, contouring and paving shall not detrimentally affect the root zone aeration and stability of existing trees, and existing trees shall be provided with a watering area equal to at least one-half ($1/2$) the crown cover.
 3. When trees are removed, the permittee will restore the density of the trees, utilizing nursery stocks of a size generally accepted as suitable for the purpose, to that which existed before the development; provided, that in no case need the density exceed ten (10) trees per acre.
 4. Development shall not reduce the existing crown cover greater than fifty percent (50%) and shall be conducted in such a manner as to preserve the understory and litter, unless otherwise approved by the community.
 5. Trees used in reforestation or landscaping must be compatible with the local landscape and conditions and not presently under disease epidemic.
- E. Standards For Wildlife Habitat Protection: In order to protect and preserve unique resource areas and unique and/or endangered species of plants or animals which populate these areas from the impact of unplanned development, and to manage such areas and species for educational, recreational, scientific, aesthetic and conservation purposes, the following standards shall apply to any development within an area defined or designated as a wildlife habitat area on Figure 9 of the Critical Area Plan:
1. Structures, including utilities and roadways, shall be sited so as to minimize the impact on natural areas and unique plant and animal species within the District.

2. No substantial alteration of the natural environment or removal of vegetation may be permitted, when such alteration or removal would significantly diminish the scientific, historical, educational, recreational or aesthetic value of the resource, or where the alteration or removal would remove a unique or endangered plant species or the supporting environment or critical habitat or a unique or endangered animal species, or where such activities would have a significant detrimental impact upon the food supply, security and reproductive cycle of the species.
 3. The vibration level, including the generation of vibrations during construction, shall not be allowed to reach a level which would endanger fragile resources, including geological features.
 4. Public access to historically significant natural resource areas or unique and endangered species of plants and animals should be controlled and limited so as to minimize the intrusion and impact upon the resources.
 5. No uses likely to generate air pollution which will be toxic to plants or animals or otherwise detrimental to the resource shall be allowed.
 6. Development shall not detrimentally affect the existing water quality, including the chemical, biological and turbidity characteristics of the water body or watercourse.
 7. Development shall not cause extreme fluctuations of water levels or unnatural changes in water temperature or changes in water currents or movements which may have significant impact on endangered or unique species of the natural resource area.
- F. Standards For Grading And Filling: With the exception of approved mining and mineral extraction operations, grading, filling, excavating or otherwise changing the topography landward of the ordinary high water mark shall not be conducted without a permit. A permit may be issued only if:
1. Earth moving, erosion, vegetative cutting and the destruction of natural amenities is minimized;
 2. The smallest amount of ground is exposed for as short a time as feasible;
 3. Temporary ground cover, such as mulch, is used and permanent ground cover, such as sod, is planted;
 4. Methods to prevent erosion and trap sediment are employed; and
 5. Fill is established to accepted engineering standards.
- G. Standards For Vegetation Management: The following standards shall apply for management of vegetation:
1. On developed islands and public recreation lands, the slope or face of bluffs within two hundred feet (200') of the normal high water mark of the river and within the area forty feet (40') landward from bluff lines, clear cutting shall not be permitted except for a view corridor as provided.

Twenty five percent (25%) of the width of a lot may be cleared to a depth sufficient to allow a view corridor. In the remaining seventy five percent (75%) of this strip, cutting shall leave sufficient cover to screen cars, dwellings and other structures, except boathouses, piers, docks and marinas, from the view of the water body.
 2. On all other lands, clear cutting shall be allowed by conditional use permit and be guided by the following provisions:
 - a. The applicant shall demonstrate that there are no feasible or prudent alternatives to cutting trees on the site.
 - b. Clear cutting shall not be used where soil, slope or other watershed conditions are fragile and subject to injury.
 - c. Clear cutting shall be conducted only where clear-cut blocks, patches or strips are, in all cases, shaped and blended with the natural terrain.
 - d. The size of clear-cut blocks, patches or strips shall be kept at the minimum necessary.
 - e. Where feasible, all clear cuts shall be conducted between September 15 and May 15. If natural regeneration will not result in adequate vegetable cover, areas in which clear cutting is conducted shall be replanted to prevent erosion and to maintain the aesthetic quality of the area where feasible; replanting shall be performed in the same spring or the following spring.
 3. The selective cutting of trees greater than six inches (6") in diameter measured at a point two feet (2') above ground level shall

be allowed by permit when the cutting is appropriately spaced and staged so that a continuous natural cover is maintained.

4. These vegetative management standards shall not prevent the pruning and cutting of vegetation to the minimum amount necessary for the construction of bridges and roadways and for the safe installation, maintenance and operation of essential services and utility transmission services which are permitted uses.

H. Standards For Surface Water Runoff Management:

1. Raw sewage, seepage from on-site sewage disposal systems, pollutants and industrial wastes shall not be deposited into public waters.
2. Withdrawal of ground water shall not result in reducing surface water levels.
3. Water released into the natural drainage system shall be directed so as not to travel over contaminated surfaces.
4. Storm water runoff may be directed to public water bodies or wetlands; provided, that storm water runoff is substantially free of silt, debris and chemical pollutants, and only at rates which will not disturb vegetation or increase turbidity.
5. The quality of water runoff and water infiltrated to the water table or aquifer shall be as high as it was before development of the site.
6. Development shall not increase the runoff rate or decrease the natural rate of absorption of storm water.

- I. Noise Control In Public Open Space Areas: Noise levels within public open space areas shall not exceed those for nature exhibits as set forth in Minnesota Regulations NPC-1, 2.

- J. Management Of Undeveloped Islands: Existing undeveloped islands shall be managed under the provisions of the Conservancy District and other provisions in the Critical Area Overlay District. These islands shall be considered open space areas, and no structures except those provided for in subsection [11-15-8C3](#) of this Chapter shall be allowed. (1971 Code § 28-75)

11-15-11: RIVER SURFACE USE:

Due to problems with erosion of shore land and nuisances because of noise, the following standards for use of the surface waters within the river corridor shall apply:

- A. Water surface use on backwater areas and lakes shall be restricted to noncommercial navigation only and so as not to cause unnecessary wakes.
- B. Docks or piers may be allowed subject to approval by the applicable State or Federal agencies. (1971 Code § 28-76)

11-15-12: ROAD, UTILITY AND PIPELINE CONSTRUCTION AND ROUTING REGULATIONS:

- A. Utility Facilities: Utility crossings of the Critical Area Corridor or routing within the corridor shall meet the following standards:
 1. Underground placing of the utility facility shall be required unless economic, technological and land characteristic factors make underground placement infeasible. Economic considerations alone shall not be made the major determinant regarding feasibility.

2. Overhead crossings, if required, shall meet the following criteria:
 - a. The crossings shall be adjacent to or part of an existing utility corridor, including bridge or overhead utility lines.
 - b. All structures utilized shall be as compatible as practicable with land use, scenic views and existing transmission structures in height, material, color and design.
 - c. Right-of-way clearance shall be kept to a minimum.
 - d. Vegetative screening shall be utilized to the maximum extent consistent with safety requirements.
 - e. Routing shall avoid unstable soils, bluff lines or high ridges. The alteration of the natural environment, including grading, shall be minimized.
 - f. The crossings shall be subject to the site planning requirements set forth in Section [11-15-9](#) of this Chapter.
3. Utility substations shall be subject to the following standards:
 - a. All substations shall be subject to the site planning requirements set forth in Section [11-15-9](#) of this Chapter.
 - b. New substations or refurbishment of existing substations shall be compatible in height, scale, building materials, landscaping and signing with the surrounding natural environment or land uses. Screening by natural means is encouraged and should be compatible with the surrounding environment.
4. Pipelines and underground utility facilities shall be subject to the following standards:
 - a. All pipelines and underground facilities shall be subject to the site planning requirements set forth in Section [11-15-9](#) of this Chapter.
 - b. The facilities shall be located to avoid wetlands, woodlands and areas of unstable soils.
 - c. All underground placing of utility facilities and pipelines shall be followed by revegetation and rehabilitation to the conditions which existed on-site prior to development.

B. Public And Private Roads And Railways: New roads and railways crossing the Critical Area Corridor or routed within the Critical Area Corridor shall meet the following standards:

1. Roads and railways shall be constructed to minimize impacts on the natural terrain and natural landscape.
2. Cuts and fills are to be avoided.
3. All roads and railways shall be subject to the site planning requirements set forth in Section [11-15-9](#) of this Chapter.
4. New roads and railways shall not utilize the river corridor as a convenient right of way for new arterials or main lines.
5. New roads and railways shall be restricted to those facilities needed to access existing and planned residential, commercial and industrial uses.
6. All new roads and railways shall provide safe pedestrian crossing points to allow access to the river front. Rest areas, vistas and waysides shall be provided.
7. The grades of any streets shall not exceed ten percent (10%). (1971 Code § 28-77)

11-15-13: MARINAS; BARGE FLEETING AND LOADING FACILITIES:

A. Boat Launching Ramps:

1. Boat launching ramps may be located only where access streets are adequate to handle the traffic load generated by the facility.

2. Shared or joint use accessory parking will be preferred. Loading will be permitted only at ramps. Parking areas must be screened from the river and adjoining residential property and located at least one hundred feet (100') from the normal high water mark.
3. The impact of the accessory parking must not adversely affect the environmental quality of the site or the surrounding neighborhood.
4. Boat launching ramps and minor accessory buildings and haul-off facilities must be in character and scale with the surrounding neighborhood.

B. Public Marinas: Public marinas shall be permitted, subject to the following conditions:

1. The marina must have lavatory facilities adequate to serve the marina clientele.
2. Off-street parking areas should be provided in accordance with the requirements set forth for boat launching ramps.
3. Areas for the winter storing of boats should be naturally screened from view from the river and from upland lots.
4. The marina shall be designed for and used only by pleasure craft.
5. Maximum height of any buildings or structures shall be thirty five feet (35').
6. Accessory uses customarily incidental to public marinas, including fueling stations, may be permitted, providing they are consistent in scale and intensity with the marina and surrounding uses.

C. Barge Fleeting, Loading And Storage: Barge fleeting, loading and storage shall be permitted only in compliance with the following provisions:

1. Any barge cleaning facilities must be serviced by public sewer.
 2. Barge fleeting areas shall be located more than two hundred feet (200') from marina access and boat access points in order to provide a clear line of site for boaters using these facilities.
3. Barge fleeting areas shall not be located immediately adjacent to park areas, unless it is shown that there is no conflict with the park usage.
4. Existing trees shall not be utilized for tie-up facilities.
5. First priority for new barge fleeting sites shall be given to those sites adjoining industrial and commercial areas and where the topography serves as a buffer from noise and visual obstructions.

D. Pilings, Dredging And Filling: No pilings shall be driven into the riverbed except as is necessarily incident to water-dependent uses. Landfill and dredging shall not be permitted except as incident to a water-dependent use when no feasible alternative exists. Dry land disposal of dredge spoils shall be authorized on shore sites which contain no unique or valuable resources. Dry land disposal of dredge spoils shall be subject to the site planning requirements set forth in Section [11-15-9](#) of this Chapter. (1971 Code § 28-78)

11-15-14: RIVER FRONT USE AND ACCESS:

A. Public Access On Public Property: Public access shall be provided to the river front of developments on publicly-owned and publicly-controlled river front property, whether leased to private lessees or not, except where:

1. Unavoidable hazards exist to the public.

2. Public pedestrian access at a particular location cannot be designed or developed to provide a pleasant view or recreational experience.

B. Public Access On Private Property: Public access shall be provided to the river front for all nonwater-dependent uses which are developed as a planned unit development or requiring subdivision approval.

C. Denial Of Access: Access to the river front may be denied to any person who creates a nuisance or who engages in illegal conduct on the property. Public access may be temporarily or permanently closed upon a finding that such offensive conduct cannot otherwise be reasonably controlled. (1971 Code § 28-79)

11-15-15: SEWAGE TREATMENT PLANTS, SEWAGE OUTFALLS AND WATER INTAKE FACILITIES:

The provision of sewage treatment plants, sewage outfalls and water intake facilities shall:

A. Wherever practicable, conform with the dimensional standards and criteria in Sections [11-15-8](#) and [11-15-9](#) of this Chapter.

B. Provide that in the case of public sewage treatment plants, the unused river frontage after construction shall be made available for public access or recreation open space use if practical.

C. Not include new combined storm and sanitary sewer outfalls. (1971 Code § 28-80)

11-15-16: ADMINISTRATION OF PROVISIONS:

A. Updating And Re-Evaluation Of Plans And Regulations:

1. The City may amend its plans and regulations that have been approved by the State Environmental Quality Board (EQB) by resubmitting the plans and regulations with any recommended changes thereto to the EQB for consideration.

2. Two (2) years after the EQB's initial approval of the plans and regulations, the City shall resubmit its plans and regulations, with any recommended changes thereto, for review and approval by the EQB.

3. Amendments to plans and regulations shall become effective only upon the approval thereof by the EQB.

B. Variances:

1. Variances from strict compliance with the setback, lot size, height restriction or line of site requirements contained in this Chapter may be issued by the City Council following a procedure as required by Section [11-2-7](#) of this Title. Variances shall only be granted where there are particular hardships which make the strict enforcement of this Chapter impractical. "Hardship" means the proposed use of the property and associated structures in question cannot be established under the conditions allowed by this Chapter; the plight of the landowner is due to circumstances unique to his/her property, not created by the landowner after April 25, 1975; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship for the reasonable use of the property and associated structures. In addition, no variance shall be granted that would permit any use that is prohibited in the Critical Area River Corridor.

2. When considering a proposal for a variance or other applications within the Mississippi River Corridor Critical Area, the Planning Commission and City Council shall address the following items in making their decision:
 - a. Preserving the scenic and recreational resources of the river corridor, especially in regard to the view from and use of the river.
 - b. The maintenance of safe and healthful conditions.
 - c. The prevention and control of water pollution, including sedimentation.
 - d. The location of the site with respect to floodways, flood plains, slopes and bluff lines.
 - e. The erosion potential of the site based on degree and direction of slope, soil type and vegetative cover.
 - f. Potential impact on game and fish habitat.
 - g. Location of the site with respect to existing or future access roads.
 - h. The amount of wastes to be generated and the adequacy of the proposed disposal systems.
 - i. The anticipated demand for police, fire, medical and school services and facilities.
 - j. The compatibility of the proposed development with uses on adjacent land.

- C. Conditional Use Permits: Conditional use permits may be granted after an application process and a public hearing according to the provisions of Section [11-2-9](#) of this Title. A conditional use permit may be granted only when the following findings are made:
 1. It is consistent with the intent of the critical area order and the City's Comprehensive Plan;
 2. It is compatible with uses in the immediate vicinity; and
 3. It is permitted by the ordinances of the community.

- D. Emergency Actions: A development permit may be issued when certified in writing by the local unit of government that the development is essential to protect the public health, safety or welfare in an existing emergency and that a local ordinance or State regulation was in effect immediately prior to April 25, 1975, and a development permit would have been granted thereunder (1971 Code § 28-81; amd. 2000 Code)

[Footnote 1:](#) M.S.A. § 116G.01 et seq.

[Footnote 2:](#) M.S.A. § 116D.01 et seq.

[Footnote 3:](#) This Chapter is derived from Ordinance 379 which was adopted on August 4, 1982, to become effective after publication according to law.