

APPENDIX B - UNIFIED DEVELOPMENT REGULATIONS

FOOTNOTE(S):

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Editor's note—Ord. No. 99-20, § 1, adopted Nov. 23, 1999, repealed the former App. B which pertained to Zoning. Said ordinance also provided for the inclusion of a new appendix entitled unified development regulations to read as herein set. Amendments to this appendix have been incorporated herein, with the citation of any amending ordinance appearing in a history note at the end of any such amended subdivision or part thereof. The absence of any history note at the end of any subdivision or part thereof indicates that such provisions have not been amended subsequent to the original adoption of the 1999 ordinance. Words appearing in brackets have been added for clarity. See the Code Comparative Table.

Cross reference— Buildings and building regulations, Ch. 7; environmental protection, Ch. 9; fire prevention and protection, Ch. 10; licenses and business regulations, Ch. 14; motor vehicles and traffic, Ch. 15; parks and recreation, Ch. 18; planning, Ch. 20; plumbing, Ch. 21; streets, sidewalks and public grounds, Ch. 25; trees, Ch. 26; water and sewers, Ch. 28

State Law reference— Advertising devices, Minn. Stats. Ch. 173; Authority to regulate zoning and procedure for enacting and amending a zoning ordinance, Minn. Stats. § 462.357.

CHAPTER 1. - INTRODUCTORY PROVISIONS

Sec. 1-10. - Designated development ordinance.

This ordinance shall be known and cited as the "Unified Development Ordinance of the City of Faribault, Minnesota" and may be referred to herein as "this ordinance" or "this development ordinance."

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 1-20. - Authority.

This ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Sections 462.351 to 462.365.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 1-30. - Purpose.

This ordinance is adopted for the following purposes:

- (1) To implement the policies of the city's Land Use Plan.
- (2) To promote and protect the public health, safety, aesthetics, economic viability, and general welfare of the community and its people.
- (3) To encourage the most appropriate use of land throughout the city.
- (4)

To provide and protect adequate light, air, privacy, and convenience of access to property, and to secure from fire, flood, and other dangers.

- (5) To prevent over-crowding of land and undue concentration of population and structures.
- (6) To protect the stability and character of residential, commercial, and industrial areas within the city, and to promote the orderly and beneficial development of those areas.
- (7) To preserve and increase the amenities of the city.
- (8) To provide for the safe and efficient circulation of all modes of transportation, with particular regard to the avoidance of congestion within the public right-of-way.
- (9) To provide for the administration of this title including powers and duties of the administrative officers and bodies, procedures and standards for land use approvals, and procedures for enforcement.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 1-40. - Scope of these regulations.

All uses of land or structures, subdivision of land, structural alterations or relocation of existing buildings, and enlargements of, additions to, or intensification of existing uses shall be subject to all applicable regulations of this ordinance.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 1-50. - Provisions held as minimum requirements.

The application of the provisions of this ordinance shall be held to be minimum requirements for the promotion and protection of the public health, safety, aesthetics, economic viability, and general welfare.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 1-60. - Relationship to other city, county, state, and federal regulations.

- (a) *Compliance required.* In addition to the requirements of this development ordinance, all uses and development shall comply with all other applicable city, county, state, and federal regulations. If a provision of this ordinance conflicts with any other provision of this ordinance, the Faribault Code of Ordinances, or with any other provision of law, the more restrictive provision shall apply, except as otherwise provided.
- (b) *References to other regulations.* All references within this development ordinance to other city, county, state, and federal regulations are for informational purposes only and do not constitute a complete list of such regulations. These references do not imply any responsibility by the city for enforcement of county, state, or federal regulations.
- (c) *Current versions and citations.* All references to other city, county, state, and federal regulations within this ordinance are intended to refer to the most current version and citation for those regulations. If such references are invalid due to repeal or renumbering, the new regulations intended to replace those cited, regardless of the citation, shall govern unless otherwise specified.
- (d) *Comprehensive revision.* This ordinance is a comprehensive revision of Appendix B, C, and Chapter 23 of the Faribault Code of Ordinances. Any act done, offense committed, or rights accruing or accrued, or liability, or penalty incurred or imposed prior to the effective date of this ordinance is not affected by its

enactment.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 1-70. - Private easements or protective covenants.

This development ordinance is not meant to invalidate any easement, covenant, or other private agreement, provided that where the regulations of this ordinance are more restrictive or impose higher standards, the regulations of this ordinance shall prevail.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 1-80. - Severability.

- (a) *Severability of text.* If any portion of this ordinance is determined to be invalid or unconstitutional by a court of competent jurisdiction, that portion shall be deemed severed from this ordinance, and such determination shall not affect the validity of the remainder of the ordinance.
- (b) *Severability of application.* If the application of any provision of this ordinance to a particular property is determined to be invalid or unconstitutional by a court of competent jurisdiction, such determination shall not affect the application of said provision to any other property.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 1-90. - Repeal.

Appendix B, C, and Chapter 23 of the Faribault Code of Ordinances are hereby repealed and replaced by this development ordinance.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 1-100. - Rules of construction.

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

- (1) The singular number includes the plural, and the plural the singular.
- (2) The present tense includes the past and the future tenses, and the future the present.
- (3) The word shall is mandatory while the word may is permissible.
- (4) The word person includes, but is not limited to, individuals, partnerships, corporations, clubs, associations and other business, social, religious or charitable entities.
- (5) The words lot, zoning lot, parcel, or premises may be used interchangeably.
- (6) Distance shall be measured in a straight line, from lot line to lot line, except as otherwise provided in this ordinance.
- (7) All measured distances shall be to the nearest integral foot. If a fraction is one-half ($\frac{1}{2}$) foot or less, the integral foot next below shall be taken. In no case, however, shall rounding of fractional requirements occur when measuring for required building setbacks or building height.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 1-110. - Illustrations.

Illustrations in this ordinance are provided for the purpose of clarifying, describing, or providing examples. Such illustrations are not to scale, and do not replace, limit, or expand the meaning of the text.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 1-120. - Definitions.

Unless otherwise expressly stated, or unless the context clearly indicates a different meaning, the words and phrases in the following list of definitions shall, for the purposes of this development ordinance, have the meanings indicated. All words and phrases not defined shall have their common meaning.

Accessory structure or facility. Any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

Adaptive reuses of institutional or public buildings. The reuse of any building or structure originally constructed for educational, religious, or public purposes that involves uses not permitted in the primary zoning district.

Adult entertainment uses. Any use, including, but not limited to, adult movie theaters, adult mini-movie theaters, adult motion picture arcades, adult novelty businesses, and adult cabarets, which is conducted exclusively for the patronage of adults and from which minors are excluded by law or by the owners, or which offer patrons services or entertainment characterized by an emphasis on the presentation, display, depiction, or description of specified anatomical areas or specified sexual activities. Adult entertainment uses do not include uses offering goods displaying or describing specified anatomical areas or specified sexual activities for sale or rent for use off the premises where such transactions constitute less than ten (10) percent of the gross sales of the business and the physical display of such goods occupies less than five (5) percent of the display area, up to a maximum of five-thousand (5,000) square feet.

Agricultural use. The use of land where such land is devoted to the production of plants, animals, or horticultural products, including but not limited to: forages, grains and feed crops; dairy animals and dairy products; poultry and poultry products; beef cattle, sheep, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; or nursery, floral, ornamental, and greenhouse products. Agricultural use shall not include use of land for recreational purposes, suburban residential acreages, rural home sites, or farm home sites and yard plots whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of those plants or animals listed in the foregoing definition.

Airport. The Faribault Municipal Airport located in the City of Faribault, Wells Township, Rice County, Minnesota.

Airport hazard. Any structure or tree or use of land that obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or takeoff at the airport, and any use of land that is hazardous to persons or property because of its proximity to the airport.

Aisle. A driveway that provides access for vehicles entering and departing parking spaces.

Alley. A service roadway with a right-of-way providing a secondary means of motor vehicle access to abutting property and not intended for general traffic circulation.

Annexation. The incorporation of a land area into the City of Faribault with a resulting change to the corporate limits of the city.

Antenna. A device used for transmitting or receiving electromagnetic waves, including but not limited to, television or video, AM/FM radio, analog or digital, microwave, cellular or personal communications service (PCS), telephone or data, or similar signals.

Antiques or collectibles store. An establishment where valuable merchandise in excess of seventy-five (75) years in age, or cultural or collectible objects such as stamps, coins, sports memorabilia, and art works, are sold for collective purposes.

Automobile convenience facility. An establishment where the principal use is the sale of gasoline or any other automobile engine fuel (stored only in underground tanks), kerosene, motor oil, lubricants, grease or minor accessories, directly to the public on the premises. In addition, household and convenience items, food or other miscellaneous retail goods commonly associated with the same also may be sold.

Automobile repair, major. An establishment engaged in performing major repairs to, and the servicing of, passenger automobiles, where gasoline or other automobile engine fuel (stored only in underground tanks), kerosene, motor oil, lubricants, grease or minor accessories may be sold. Major repair may include engine rebuilding, rebuilding or re-conditioning of passenger automobiles, body, frame or fender straightening and repair, painting, rust-proofing, engine overhaul or replacement, and transmission overhaul. Such work excludes commercial wrecking, dismantling, junkyard, tire recapping and truck-tractor repair. In addition, household and convenience items, food or other miscellaneous retail goods commonly associated with the same also may be sold.

Automobile repair, minor. An establishment engaged in performing minor repairs to, and the servicing of, passenger automobiles, where gasoline or other automobile engine fuel (stored only in underground tanks), kerosene, motor oil, lubricants, grease or minor accessories may be sold. Minor repair may include muffler replacement, oil changing and lubrication, tire repair and replacement except tire recapping, wheel alignment, brake repair, engine tune-up, flushing of radiators, servicing of air conditioners, and other activities of minor repair or servicing of automobiles. In addition, household and convenience items, food or other miscellaneous retail goods commonly associated with the same also may be sold.

Awning. A roof-like cover, often constructed of fabric, plastic, vinyl, metal, or glass, designed and intended for protection from the elements or as a decorative embellishment, and which projects from a wall of a structure.

Banner. A piece of fabric or similar lightweight material, generally with no enclosing framework, which is designed either for decoration or to provide signage, and which may be mounted to a building at one or more edges.

Basement. That portion of a building located partially, up to fifty (50) percent, underground or below grade.

Basement (for floodplain purposes). 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 facility. An owner-occupied single-family dwelling in which a room or group of rooms forming a single habitable unit and one (1) meal are provided for a fee to the traveling public for the purpose of living and sleeping, but not for cooking.

Berm. A landscaped and contoured formation of land that is raised from natural grade.

Block. A tract of land bounded by streets, or by a combination of streets, public parks, cemeteries, railroad rights-of-way, shorelines, waterways, or boundary lines of the corporate limits of the city.

Bluff. A topographic feature such as a hill, cliff, or embankment having the characteristics shown below. An area with an average slope of less than fifteen (15) percent over a distance of fifty (50) feet or more shall not be considered part of the bluff.

- (1) Part or all of the feature is located in a shoreland area;
- (2) The slope rises at least twenty-five (25) feet above the ordinary high water level of the waterbody;
- (3) The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the ordinary high water level averages thirty (30) percent or greater; and
- (4) The slope must drain toward the waterbody.

Bluff impact zone. A bluff and land located within twenty (20) feet from the top of a bluff.

Board of Adjustment. The City Council of the City of Faribault.

Boathouse. A structure designed and used solely for the storage of boats or boating equipment.

Brewery. A manufacturer of malt liquor for sale.

Buffer area. An area including plant materials, fencing, landforms, or a combination thereof, between two or more land uses, buildings, lots or parcels of land, or adjacent rights-of-way, which is intended to eliminate or minimize negative impacts between the adjoining land uses lots or parcels and/or rights-of-way.

Buildable area. The area of a lot remaining after the minimum yard or setback requirements of this ordinance have been provided.

Building. See Structure.

Building, accessory. A building detached from a principal building, incidental and subordinate to the principal building or use, including, but not limited to, garages, sheds, and fences.

Building, principal. The building on a zoning lot in which the principal use of the lot is conducted.

Building line. A line parallel to the front lot line at a distance equal to the minimum depth of the front setback required for the zoning district in which the zoning lot is located.

Building Official. The building official of the City of Faribault or his or her authorized representative.

Bulk regulations. Standards and controls that establish the maximum size of structures and the buildable area within which the structure can be located, including height, gross floor area, lot area, lot coverage, impervious surface coverage and yard requirements, but excluding residential density regulations.

Business. Any occupation, employment, or enterprise wherein merchandise is exhibited, rented or sold, or which occupies time, attention, labor and/or materials or where services or goods are offered for compensation.

Canopy. A structure often constructed of fabric, plastic, vinyl, metal, or glass, with supports attached to the ground, sheltering an area or forming a sheltered walk to the entrance of a building.

Certificate of occupancy. A document issued by the Building Official allowing for the occupancy or use of a building, and certifying that the structure or use has been constructed or will be used in compliance with all the applicable codes and ordinances.

Channel. A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct flowing water either continuously or periodically.

Child care center. A commercial establishment providing, for a fee, the care, protection, and supervision of children on a regular basis.

City. The City of Faribault.

City Administrator. The City Administrator of the City of Faribault or his or her authorized representative.

City Council. The City Council of the City of Faribault.

City Engineer. The City Engineer of the City of Faribault or his or her authorized representative.

City Planner. The City Planner of the City of Faribault or his or her authorized representative.

Clinic. An establishment where patients are admitted for medical and dental exams and treatment on an outpatient basis only.

Club or lodge. An establishment in which a limited group of people are organized to pursue common social or fraternal goals, interests or activities, and usually characterized by certain membership restrictions, payment of fees or dues, regular meetings and a constitution of bylaws.

Coffee shop. An establishment engaged principally in the sale of coffee and other non-alcoholic beverages for consumption on the premises or for carryout, which may also include the sale of a limited number of food items.

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

Commissioner. The Commissioner of the Department of Natural Resources.

Community center. An establishment operated by a non-profit organization or government agency, which includes recreational facilities, meeting rooms, social service facilities, and public health facilities, or any combination thereof.

Community Development Director. The Community Development Director of the City of Faribault or his or her authorized representative.

Concrete, asphalt, and rock crushing facility. A use in which the principal activity is performed in an open area where concrete, asphalt, rock, brick, cement, or other similar paving or building materials are crushed, ground, pulverized, bought, sold, exchanged, stored, mixed, packed, disassembled, or handled. Such facility does not include the use, on a public roadway construction or repair project approved by the City Engineer, of equipment which directly moves along the roadway surface and grinds, reconstitutes, or resurfaces the roadway, or the temporary on-site crushing, grinding, or pulverizing of a razed building, parking area, or structural materials.

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

Contractor yard. An establishment providing general contracting or building construction service and which involves outdoor storage of machinery or equipment.

Correctional residential care facility. A facility where one (1) or more persons placed by the court, court services department, parole authority, or other correctional agency having dispositional power over a person charged with or convicted of a crime or adjudicated delinquent reside on a twenty-four-hour basis under the care and supervision of the Department of Corrections of Rice County, or licensed by the Department of Corrections as a corrections facility, excluding detention facilities.

County Assessor. The County Assessor of Rice County or his or her authorized representative.

Curb. A stone, asphalt, or concrete boundary marking the edge of a roadway or paved area.

Curb level. The level of the established curb in front of a building or structure measured at the center of such frontage. Where no curb elevation has been established, the City Engineer shall establish such curb elevation.

Deck. A structure open to the sky which is attached to or abuts the wall of a dwelling and which is afforded access to the interior of the dwelling through one or more doors. Any such structure thirty (30) inches or more above grade is considered an accessory use, while any other such structure is considered a permitted yard projection.

Detached accessory dwelling unit. An additional, detached, self-contained dwelling unit that is incidental and subordinate in area to the principal residential use on the lot.

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

Digital billboard. A billboard sign structure displaying static images controlled by electronic communication.

Display frame. The display screen on an electronic message board, which includes the message and background, including, but not limited to, words, letters, numbers, characters, symbols, or other graphics displayed thereon.

Dissolve mode. A mode of message transition on an electronic message board accomplished by varying the light intensity or pattern, where the display frame gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the next display frame.

Drive-through facility. A facility which accommodates automobiles and from which the occupants of the automobiles may make purchases or transact business, including the stacking spaces in which automobiles wait. Examples include, but are not limited to, drive-up windows, menu boards, order boards or boxes, drive-in restaurants and drive-up banks. Drive-through facilities shall not include the direct refueling of motor vehicles.

Driveway. The area used for vehicular access to an off-street parking area from a street or alley. Driveway shall also include the area used for vehicular access to areas of the zoning lot other than an off-street parking area.

Duplex. A building on a single lot that contains two dwelling units.

Dust-free. A minimum treatment of the native soil with a covering of asphalt, concrete, wood, masonry, granite, gravel, oil penetration or soil-cement.

Dwelling. A building, or portion thereof, designed exclusively for residential occupancy, but not including hotels, motels, and similar short-term lodging establishments.

Dwelling, multiple-family. A building containing three (3) or more dwelling units, all of which are located on a single lot.

Dwelling, single-family attached. A building containing one dwelling unit attached to another building containing only one (1) dwelling unit, each of which is located on a separate lot.

Dwelling, single-family detached. A residential building containing not more than one (1) dwelling unit and entirely surrounded by open space and yards located on the same lot.

Dwelling site. A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Dwelling unit. One (1) or more rooms, designed, occupied or intended for occupancy as a separate living quarter, with a single complete kitchen facility, sleeping room, and bathroom provided within the unit for the exclusive use of a single household.

Easement. The grant of one (1) or more of the property rights by the property owner to and for use by the public, a corporation, or another individual or entity.

Electronic message board. Any sign that displays a message electronically.

Entertainment, general. Entertainment that does not meet one or more of the definition requirements of limited entertainment.

Entertainment, limited. Entertainment limited to literary readings, story-telling, or live music by not more than three (3) persons, using non-amplified musical instruments, with no patron dancing.

Equal degree of encroachment. A method of determining the location of flood way boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Essential services. The erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems by public utilities, municipal or other governmental agencies, but not including buildings.

Extractive use. The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, and other nonmetallic minerals, and peat, not regulated under Minnesota Statutes.

Fade mode. A mode of message transition on an electronic message board accomplished by varying the light intensity, where the display frame gradually reduces intensity to the point of not being legible and the subsequent display frame gradually increases intensity to the point of legibility.

Family. One (1) or more individuals related by blood, marriage, or adoption, including foster children, or a group of not more than five (5) persons, some or all of whom are not related by blood, marriage, or adoption, occupying a single dwelling unit.

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

Firearm. Any device, designed to be used as a weapon, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive or other form of combustion, but excluding antique firearm, "BB" gun, scuba gun, stud or nail gun used in the construction industry, or toy gun.

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

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

Flood fringe. That portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study, Rice County, Minnesota And Incorporated Areas.

Floodplain. The land adjacent to a body of water that has been or may be hereafter covered by floodwater including that land covered by the regional flood.

Floodproofing. Any combination of structural or non-structural additions, changes, or adjustments to properties and structures which reduce or eliminate flood damage to real estate, water and sanitary facilities, structures and their contents.

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

Forest land conversion. The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

Frontage. The distance for which a lot line coincides with the right-of-way line of a public street or the boundary of a private street.

Garage. A detached accessory building or a portion of the principal building used for the parking and storage of vehicles, merchandise, or equipment, and which is not a separate commercial establishment open to the general public. When associated with a residential use, it shall be limited to use for parking and storage of vehicles, noncommercial trailers, and household equipment.

Garage sale. Garage sale shall include rummage sales, basement sales, yard sales, porch sales, and all other periodic sales at a residential location intended for the limited purpose of isolated or occasional sales as defined by Minnesota Statutes 297A.25 for the selling of used goods or home-crafted items by the residents thereof.

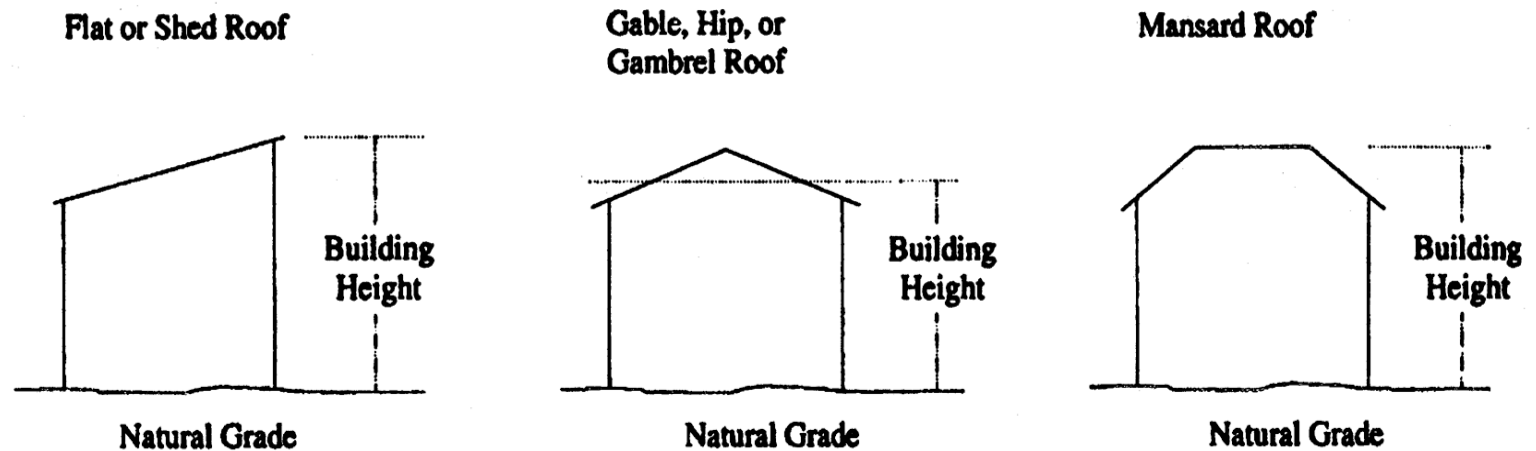
Grade. The lowest point of elevation of the finished surface of the ground, paving, or sidewalk with the area between the building and the property line, or between the building and a stabilization structure such as a retaining wall, or, where the property line or structure is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

Gross floor area. The sum of the gross horizontal area of the several floors of a building measured from the outside faces of walls or from the centerline of party walls separating two (2) buildings, but not including any interior parking spaces, loading spaces, any space where the floor to ceiling height is less than six (6) feet, any space devoted to mechanical equipment, terraces, breezeways, or screened porches, or basement or other subterranean area not intended for human habitation or service to the public. The floor area for enclosed space having a floor to ceiling height in excess of twenty (20) feet shall be computed on the basis that each fifteen (15) feet of height shall be equal to one floor.

Guest room. A room occupied by one (1) or more guests for compensation and in which no provision is made for cooking, but not including rooms in a dormitory for sleeping purposes primarily.

Hardship. This term means the same as that term is defined in Minnesota Statutes Chapter 462.

Height of building. The vertical distance from the natural grade measured either at the curb level or at a point ten (10) feet away from the front center of the structure or building, whichever is closer, to the top of the highest point of the roof on a flat or shed roof, the deck line on a mansard roof, or to a point half way between the highest top plate and the highest ridge for gable, hip, and gambrel roofs.



Height of Building

Height, wall. Wall height shall be the vertical distance from the floor to the top plate of the adjacent wall.

Historic site. Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listings after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

Home day care facility. A licensed facility operated within, and by the residents of, a private residence, which for gain or otherwise, provides one or more dependents with care, training, supervision, rehabilitation, or developmental guidance on a regular basis, for periods of less than twenty-four (24) hours a day, in a place other than the dependent's home.

Home occupation. An occupation or profession carried on by a member of the household residing on the premises, conducted as a customary, incidental, and accessory use of a dwelling. For the purposes of this ordinance, a home day care facility shall not be considered a home occupation.

Hotel. An establishment offering transient lodging accommodations to the general public and which may provide additional services such as restaurants, meeting rooms, entertainment, and recreational facilities.

Impervious surface. Any material that substantially reduces or prevents the natural absorption of stormwater into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow. Impervious surfaces include, but are not limited to, buildings or other structures with roofs, sidewalks,

and all stone, brick, concrete, or asphalt surfaces.

Industrial use. The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

Intensive vegetative clearing. The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

Interstate-oriented business. Any business located on a property within two thousand (2,000) feet of the midpoint where Trunk Highways 21 and 60 intersect Interstate 35 highway.

Kennel. An establishment licensed to operate a facility housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.

Laboratory, medical or dental. An establishment primarily engaged in providing professional analytic or diagnostic services to the medical profession, or to the patient, on direction of a physician; or an establishment primarily engaged in making dentures, artificial teeth, and orthodontic appliances to order for the dental profession.

Land Use Plan. The Land Use Plan of the City of Faribault.

Landing area. The area of an airport used for the landing, takeoff, or taxiing of an aircraft.

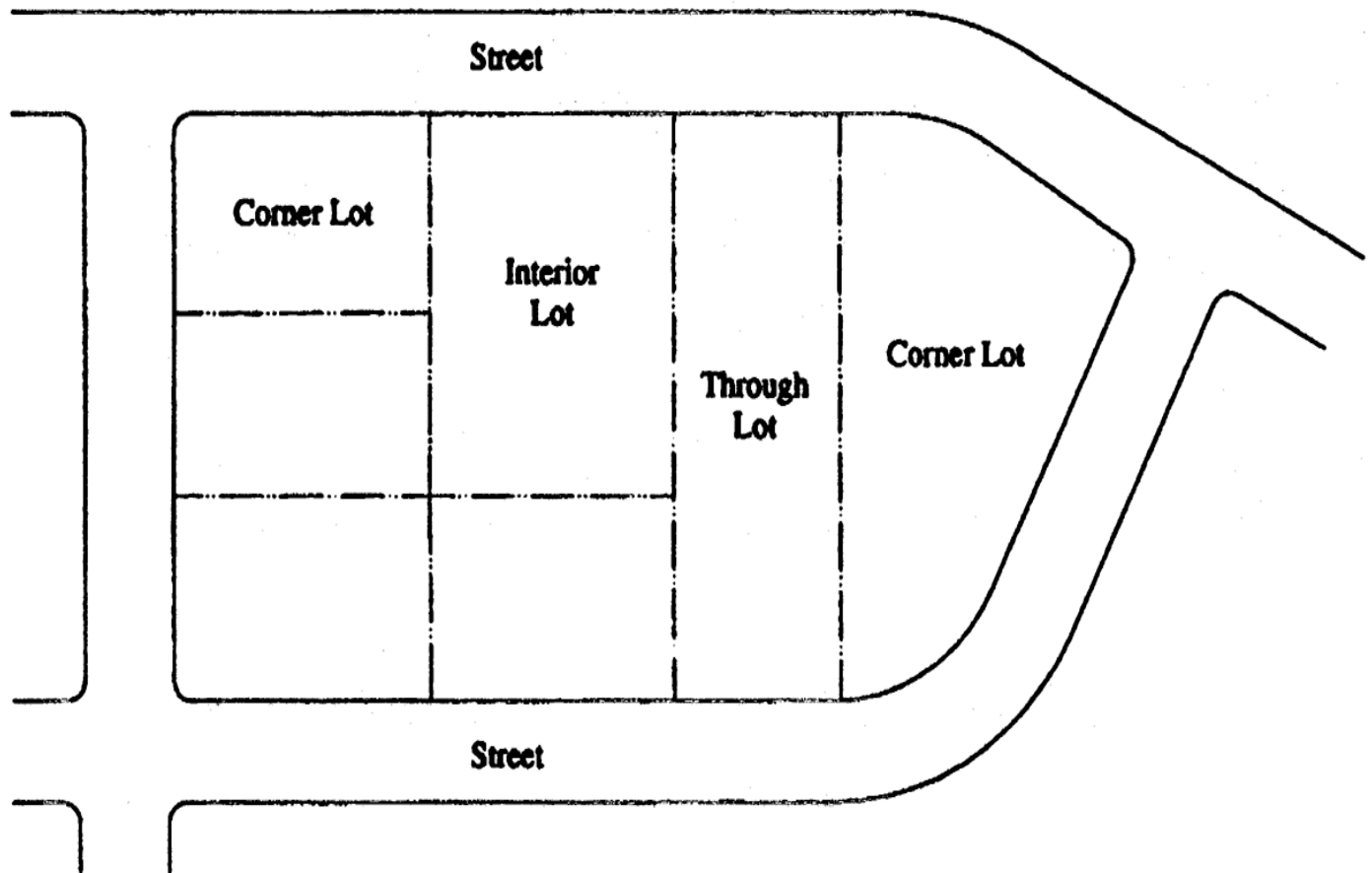
Loading space. An off-street space or berth use for the temporary parking of a vehicle while loading or unloading cargo, products, or materials from such vehicle.

Lot. A parcel of land occupied, or to be occupied, by one (1) main building or unit group of buildings, and the accessory buildings or uses customarily incident thereto, including such open spaces as are required under these regulations, and having its principal frontage upon a public street.

Lot, corner. A lot with frontage on two (2) or more streets at their intersection or on two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees.

Lot, interior. A lot other than a corner lot.

Lot, through. A lot which fronts upon two (2) parallel or that fronts upon two (2) streets that do not intersect at the boundaries of the lot.



Lots

Lot area. The area bounded by the front, side, and rear lot lines, but not including any area occupied by the waters of a duly recorded lake, river, street or alley right-of-way, or any other public space.

Lot coverage. That portion of a lot that is covered by the ground floor of any structure, parking lots, and private streets and drives. Pools, tennis courts, sidewalks and plazas are not counted toward lot coverage.

Lot depth. The average distance between the front lot line and rear lot line of a lot.

Lot line. A line of record bounding a lot that divides one lot from another lot or from a public or private street, alley, or any other public space.

Lot line, front. A boundary of a lot which runs along an existing or dedicated public street, but not an alley.

Lot line, rear. The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot, a line ten (10) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

Lot line, side. Any boundary of a lot that is not a front lot line or rear lot line.

Lot line, corner side. A side lot line separating a lot from a street right-of-way or a private street.

Lot of record. Any validly recorded lot which, at the time of recording, complied with all applicable laws, ordinances, and regulations.

Lot width. The distance between the side lot lines of a lot measured along a straight line parallel to the front lot line immediately in back of the required front setback.

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

Manufactured home. A building, transportable in one or more sections, which, in traveling mode, is eight (8) feet or more in width or forty (40) feet or more in length, or when erected is three hundred twenty (320) or more square feet in size, and which is built on a permanent chassis and designed to be used as a dwelling for one family, with or without permanent foundation, when connected to the required utilities and including the plumbing, heating, air conditioning, and electrical system contained therein. Such structure, when it exceeds twenty (20) feet in width and is placed on a permanent foundation, shall be classified as a single-family detached dwelling.

Manufactured home (for floodplain purposes). A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle".

Manufactured home park. A development on a site under a single ownership, which consists of two or more spaces for the placement of manufactured homes for dwelling or sleeping purposes, regardless of whether or not a fee is charged for utilization of such space.

Manufactured home space. An area of land within a manufactured home park which is designed and intended for the accommodation of one (1) manufactured home.

Manufactured home subdivision. A development that consists of individually owned lots created for the placement of manufactured homes and which complies with the subdivision regulations specified in this ordinance.

Marquee. A permanent, roof-like structure projecting over an entryway, parallel to the ground, generally designed and constructed to provide protection from the elements.

Mechanical equipment. Air conditioning, heating, ventilation, or other equipment that are reasonably necessary to the operation of a building or use within a building.

Motel. See Hotel.

Nightclub. A use engaged in the sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses, or a use other than a restaurant which provides general entertainment.

Nonconforming lot. A lot of record, lawfully existing on the effective date of this ordinance, which does not comply with one or more of the lot area or lot width regulations applicable in the district in which it is located because of the adoption of or amendment to the city's development regulations.

Nonconforming situation. A situation that occurs when, on the effective date of this ordinance, an existing lot, structure, or improvement, or the use of an existing lot, structure, or improvement no longer conforms to one or more of the regulations applicable to the zoning district in which the lot, structure or improvement is located.

Nonconforming structure. A structure, or portion thereof, lawfully existing on the effective date of this ordinance, which does not comply with one or more of the bulk regulations applicable in the district in which it is located because of the adoption of or amendment to the city's development regulations.

Nonconforming use. A use of land or structures, lawfully existing on the effective date of this ordinance, which currently is not allowed, or which does not comply with one (1) or more of the regulations applicable in the district in which it is located because of the adoption of or amendment to the city's development regulations.

Nursing home. A facility for aged, chronically ill, or incurable persons licensed by the Minnesota Department of Health providing nursing care and related medical services.

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.

Office. A room or group of rooms utilized for the management of the affairs of an establishment or for the non-retail, non-production conduct of affairs of a service, professional, institutional, or business nature.

Ordinary high water level. The boundary of public waters and wetlands and an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

Outdoor sales and display. The outdoor placement or presentation of goods, materials, or merchandise for sale on the premises.

Outdoor storage. The outdoor placement or depositing of goods, materials, equipment, stock, or supplies.

Overlay district. A zoning district that encompasses one or more primary zoning districts, or portions thereof, and that imposes additional requirements, or relaxes one or more standards required by the primary zoning district.

Owner occupancy. A property owner, as reflected in title records, who makes his or her legal residence at the given lot, as evidenced by voter registration, vehicle registration, or similar means and actually resides at the given lot more than six (6) months out of any given year.

Parking aisle. See Aisle.

Parking, off-street. An area, either a parking lot or a garage, that provides off-street parking for motor vehicles.

Parking space. A space of definite length and width designed for parking of motor vehicles within a parking area that is directly accessible to a parking aisle or driveway. Said space shall be exclusive of such drives, aisles, or entrances giving access thereto.

Pedestrian way. A public or private right-of-way, across or within a block, that provides access for pedestrians.

Perimeter. The boundaries or borders of a lot, tract, or parcel of land.

Pennant. Any lightweight plastic, fabric, or similar material that is suspended from a rope, wire, or string, usually in a series, designed to move in the wind.

Person. Any person, partnership, firm, company, corporation, tenant, owner, lessee or licensee, agent, heir or assign.

Place of assembly. A church, synagogue, temple, mosque, or other facility that is used for prayer by persons of similar beliefs, or a special purpose building that is designed or particularly adapted for the primary use of conducting, on a regular basis, religious services and associated accessory uses by a religious congregation.

Planned unit development. A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

Plat. A drawing or map of a subdivision prepared for filing of record and containing all elements required under this ordinance.

Plat, final. A drawing of a permanent nature showing the precise location and dimension of such features as streets, lots, easements, and other elements pertinent to transfer of ownership and prepared for permanent record.

Plat, preliminary. A drawing showing the proposed general patterns of streets, lots, and land uses within a tract to be subdivided.

Preferred co-location site. An existing or approved tower, structure, or building which may accommodate planned equipment for a proposed new tower within a one-half (½) mile search radius of the proposed tower location.

Production or processing. The assembly, disassembly, fabrication, manufacture, transformation, packaging, sorting, or other handling of goods or materials, either as an intermediate input for further production and processing, or for final sale, use, or consumption.

Protective covenants. Any contract made between private parties as to the manner in which land may be used.

Public use. A use of land owned or operated by a municipality, school district, county or state agency, or other governmental entity.

Public utility tower. A permanent steel tower structure which is owned by the city or a public utility corporation or cooperative and is designed and constructed to carry high voltage transmission lines and will bear the additional weight of an antenna as defined herein.

Public waters. Any waters as defined in Minnesota Statutes, Section 103G.

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

Recreational vehicle. See Vehicle, recreational.

Recreational vehicle (for floodplain purposes). 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. The term "recreational vehicle" shall be synonymous with the term "travel trailer"

Recreational vehicle park. A development providing individual spaces for the parking of a recreational vehicle for temporary portable housing and sleeping purposes, whether or not a charge is made for such accommodation.

Recreational vehicle space. An area of land within a recreational vehicle park designed and intended for the accommodation of one (1) recreation vehicle.

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

Regulatory flood protection elevation. An elevation no lower than one (1) foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

Residential care facility. A licensed public or private facility, which, for gain or otherwise, regularly provides one or more dependents with a twenty-four (24) hour a day substitute for the care, food, lodging, training, supervision, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the dependent's own home. The term includes, but is not limited to, residential programs that are licensed by the Minnesota Department of Health, adult foster care homes, board and lodge serving developmentally disabled, mentally retarded, mentally ill, and/or frail elderly, residential treatment centers, maternity shelter, schools for handicapped children, and homes for battered children or spouses. Such term shall not include any facility eligible for licensure by the Minnesota Department of Corrections.

Restaurant. An establishment that sells unpackaged food to the customer in a ready-to-consume state, in individual servings, and where the customer consumes these foods in the building, picks up the food from the building to consume elsewhere, or the food is delivered to the customer by employees of the restaurant.

Restaurant, drive-through. A restaurant providing a drive-through facility as defined elsewhere in this chapter.

Right-of-way. A strip of land occupied or intended to be occupied by a road, crosswalk, utility line, railroad, electric transmission line, or other similar use.

Road. See Street.

Rooming unit. One or more rooms, designed, occupied, or intended for occupancy as a separate living quarter that is not a dwelling unit.

Runway. Any designated area or areas used for the landing, takeoff, and maneuvering of aircraft.

Runway, instrument. A runway equipped or to be equipped with a precision electronic navigational aid, landing aid, or other air navigation facilities suitable to permit the landing of aircraft by an instrument approach under restricted visibility conditions.

Salvage yard. A lot, parcel of land or structure, or part thereof, used primarily for the collecting, storage, and sale of waste paper, rags, scrap metal, discarded materials or similar materials; or for the collection, dismantling, storage and salvaging of machinery or vehicles not in running condition; or the sale of part thereof.

Satellite dish. An antenna device used for transmitting or receiving electromagnetic waves, but which incorporates a reflective surface that is solid, open mesh, or bar figured and is in the shape of a shallow dish, cone, horn or cornucopia. For purposes of this chapter only, a satellite dish, which technologically constitutes an antenna as defined herein, shall be deemed as a separate and distinct antenna and shall be specifically regulated as such in this chapter.

Screening. The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, wall, hedges, berms, or other features.

Scroll mode. A mode of transition on an electronic message board where the display frame or message moves or appears to move vertically on the board.

Self-service storage facility. An establishment designed and utilized for the purpose of renting or leasing individual storage spaces to tenants who have sole access to such space for the storage of personal property.

Semi-public use. The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

Sensitive resource management. The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

Setback. The minimum separation in linear feet, measured on a horizontal plane, required between the wall of a building or structure and each of the lot lines or between the walls of buildings located on the same zoning lot.

Setback, corner side. A line parallel to any side lot line, located immediately adjacent to and extending along a public or private street, and extending from the front setback line to the rear setback line.

Setback, front. A line parallel to the front lot line and extending from side lot line to side lot line.

Setback, rear. A line parallel to all rear lot lines and extending from side lot line to side lot line.

Setback, side. A line parallel to any side lot line and extending from the front setback line to the rear setback line.

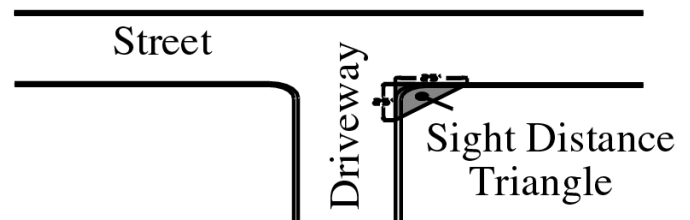
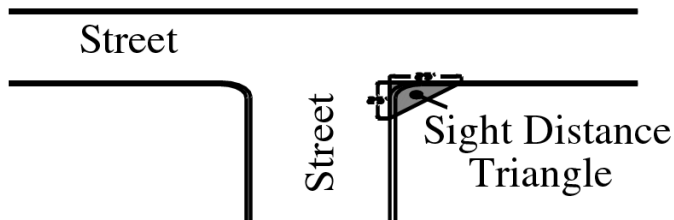
Sewage treatment system. A septic tank and soil absorption system or other individual or cluster type sewage treatment system.

Shopping center. A group of commercial establishments planned, developed, owned, or managed as a unit, related in size (gross floor area) and type of shops to the trade area that the unit serves, and with off-street parking provided on the property.

Shore impact zone. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of fifty (50) percent of the structure setback.

Shoreland. Land located within the following distances from public waters: One thousand (1,000) feet from the ordinary high water level of a lake, pond, or flowage, and three hundred (300) feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides that extend landward from the waters for lesser distances and when approved by the Commissioner.

Sight distance triangle. A triangular shaped portion of land established at street or driveway intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving an intersection. Such triangle shall be defined beginning at the intersection of the projected curb lines of two (2) intersecting streets or at the intersection of projected curb lines where a driveway intersects a street, measured twenty-five (25) feet along each curb line and connected by a diagonal line.



Sight Distance Triangle

Sign. Any framed, bracketed, free-formed, or engraved surface which is fabricated to create words, numerals, figures, devices, designs, trademarks or logos, which is mounted on or affixed to a building or the ground, and which is sufficiently visible to persons not located on the lot where such device is located to attract the attention of such persons or to communicate information to them. Sign includes sign supports.

Sign, animated. Any sign that utilizes movement, change of lighting, or electronic lettering to depict action, create messages, or special effects.

Sign, awning. A sign which is integrated into a roof-like cover, often constructed of fabric, plastic, vinyl, metal, or glass, designed and intended for protection from the elements or as decorative embellishment and which projects from a wall of a structure. An awning sign will have lettering and/or graphics painted or screen printed on its exterior surface.

Sign, billboard. A sign which directs attention to a business, product, service, or activity not conducted, sold, or offered upon the premises where such sign is located.

Sign, business. A sign that identifies the business, product, service, or activity that is sold or offered upon the premises where such sign is located.

Sign, canopy. A sign which is often constructed of a fabric, plastic, vinyl, metal, or glass, with supports attached to the ground, sheltering an area or forming a sheltered walk to the entrance of a building.

Sign, changeable copy. A sign, or portion thereof, with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. Such sign shall not include any sign considered to be an animated sign. A reader board sign is to be considered a changeable copy sign.

Sign element. That portion of a sign that includes graphics, illustrations or text which provides a message to the public. The sign element is also considered the sign face. The sign element shall not include poles, mounting brackets, hinges or other material that supports the sign element.

Sign, flashing. A sign, the illumination of which is not kept constant in intensity at all times when in use.

Sign, freestanding. A monument or pylon sign that is not connected or attached to the principal building. A freestanding sign shall include no more than two (2) sides for the placement of signs.

Sign, hanging. A double-faced sign which hangs from a bracket or support and projects from any horizontal surface.

Sign height. The distance from the ground level to the highest point on the sign structure.

Sign, illuminated. A sign having characters, letters, figures, designs, or outlines illuminated by electric lighting or luminous tubes as a part of the sign.

Sign, joint identification. A sign which serves as a common or collective identification for a group of businesses or occupations operating on the same zoning lot and not including any other advertising.

Sign, nameplate. A sign which states the name or address, or both, of the occupant of the lot where the sign is located.

Sign, projecting. A sign, other than a wall sign, which is perpendicular to and protruding from a building to an extent greater than twelve (12) inches.

Sign, pylon. A sign erected on freestanding shafts, posts, walls, or piers that are solidly affixed to the ground and not attached to a building. A pylon sign shall be considered as one sign though it may have two (2) or more faces.

Sign, temporary. Any sign which is erected or displayed and is not permanently mounted, including but not limited to banners, sandwich boards, pennants, and balloons. Signs placed within a building shall not be considered temporary signs.

Sign, wall. A sign which is attached to the wall of a building, with the sign face in a plane parallel to such wall, not extending more than eighteen (18) inches from the face of such wall.

Sign, window. Any sign, lettering, pictures, symbols, or combination thereof, designed to communicate information about a business, product, service, or activity that is placed upon a window and meant to be visible from the exterior of the building.

Significant historic site. Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

Site. Any lot or parcel or combination of lots or parcels assembled for the purpose of development.

Site plan. An integral set of documents which may consist of both drawn and written materials whose purpose is to provide the necessary information for an approving authority to decide whether the proposed development will comply with the standards and regulations of this ordinance.

Solar collector. A device, or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical or electrical energy and that contributes significantly to a structure's energy supply.

Solar energy system. A set of devices whose primary purpose is to collect solar energy and convert and store it for useful purposes including heating and cooling buildings or other energy-using processes, or to produce generated power by means of any combination of collecting, transferring, or converting solar-generated energy.

Solar structure. A structure designed to utilize solar energy as an alternative or supplement to, a conventional energy system for the principal use of the structure.

Specified anatomical areas. Anatomical areas consisting of the following

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

Specified sexual activities. Activities consisting of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (2) Sex acts, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy between persons or involving persons with animals;
- (3) Excretory functions as part of or in connection with the activities described in (1) and (2) above.

Sports and health facility. A facility, for profit or nonprofit, where members or nonmembers pay a fee to use equipment or space for the purpose of physical exercise, including but not limited to swimming, court games, aerobics, jogging, and muscular exercise programs. Such facility may include as an accessory use personal services to patrons, including but not limited to therapeutic massage, tanning, saunas, whirlpools, and locker rooms.

Steep slope. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having average slopes over fifteen (15) percent over horizontal distances of fifty (50) feet or more and that are not bluffs.

Story. That portion of a building included beneath the upper surface of a floor and upper surface of the floor next above, or fourteen (14) feet, whichever is less, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar, or unused under floor space is more than six (6) feet above grade, more than fifty percent (50%) of the total perimeter, or is more than twelve (12) feet above grade at any point, such basement, cellar, or unused under floor space shall be considered a story.

Street. A right-of-way that affords a primary means of motor vehicle access to abutting property.

Street, arterial. A street or highway that provides for rapid and efficient movement of large volumes of through traffic between sections of the city and across the urbanized area. It is not primarily intended to provide land access service.

Street, collector. A street that provides for traffic circulation within residential areas. Land access is a secondary function of the collector. The collector distributes trips from the arterial streets to the local street network.

Street, cul-de-sac. A street with only one (1) outlet and having an appropriate turnaround for the safe and convenient reversal of traffic movement.

Street, local. A street that provides direct traffic access to abutting land in residential areas.

Street, private. An easement that affords principal access to property abutting thereon, which easement is owned, controlled, and maintained by persons other than the public.

Street, public. A right-of-way that affords the principal means of vehicular access to property abutting thereon which right-of-way has been dedicated to the public for such use.

Structure. Anything constructed or erected with a more or less fixed location on the ground or in or over a body of water. A structure shall include, but not be limited to, buildings, fences, walls, signs, canopies, decks, patios, antennae, piers, docks, recreational vehicles not meeting the exemption criteria of Section 13-190(2)(A) and any objects or things permanently attached to the structure.

Structural alteration. Any change in the supporting members of a building, such as bearing walls, beams, or girders, or any change in the dimension or configuration of the roof or exterior walls.

Structure. Anything constructed or erected with a more or less fixed location on the ground or in or over a body of water. A structure shall include, but not be limited to, buildings, fences, walls, signs, canopies, decks, patios, antennae, piers, docks, and any objects or things permanently attached to the structure.

Structure, accessory. See Building, accessory.

Structure, principal. See Building, principal.

Subdivision. The separation of an area, parcel, or tract of land under single ownership into two (2) or more parcels, tracts, lots, or long-term leasehold interests, and may include planned unit developments.

Substantial damage. Damage of any origin sustained by a structure where the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

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

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- (2) Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure." For the purpose of this Ordinance, "historic structure" shall be as defined in 44 Code of Federal Regulations, Part 59.1.

Surface water-oriented commercial use. The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conduct of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

Taproom. A licensed premises up to twenty-five (25) percent of the gross floor area within a brewery that offers on-sale and/or off-sale purchases and consumption of the malt liquor manufactured at the adjoining brewery and retail sales of related merchandise pursuant to the requirements of M.S. 304A.301, subd. 6b and 6d, and the City Code.

Toe of the bluff. The low point of a fifty-foot segment with an average slope exceeding fifteen (15) percent.

Top of the bluff. The high point of a fifty-foot segment with an average slope exceeding fifteen (15) percent.

Tower. Any freestanding structure designed specifically to elevate an antenna, satellite dish or similar apparatus.

Townhouse. Single-family attached units in structures housing three (3) or more dwelling units, contiguous to each other, only by the share of common walls, and each dwelling unit shall have separate and individual front and rear entrances. Such structures to be of the row or group house type as contrasted to multiple dwelling apartment-type structures. No single structure shall contain in excess of eight (8) dwelling units.

Transition. The means by which an electronic message board changes from one (1) message to another; or from one (1) message segment to the next in cases where the message is conveyed by using more than one (1) consecutive display frame.

Travel mode. A mode of message transition on an electronic message board where the message moves or appears to move horizontally on the board.

Travel trailer. A vehicle or portable unit that is mounted on its own chassis and wheels and drawn by a motor vehicle to provide temporary living quarters for recreational, camping, or travel use. Park trailers shall be considered a travel trailer for the purposes of this ordinance. This term shall be considered synonymous with the term "recreational vehicle" for floodplain purposes.

Truck camper. A portable unit consisting of a roof, floor and sides, designed to be loaded onto and unloaded from the bed of a pickup truck, to provide temporary living quarters for recreational, camping or travel use.

Use. The purpose or activity for which the land or buildings thereon are designated, arranged, intended, occupied, or maintained.

Use, accessory. A use of land or of a building or portion thereof, incidental and subordinate to a principal use.

Use, conditional. A use which, because of its unique characteristics, cannot be properly classified as a permitted use in a district but which may be allowed in such zoning district upon demonstrating that such use will comply with all of the conditions and standards of this development ordinance.

Use, permitted. A use which may be lawfully established in a particular district or district, provided it conforms to all requirements, regulations, and performance standards of such districts.

Use, principal. The main use of land as distinguished from subordinate or accessory uses. The principal use may be either permitted or conditional.

Use, temporary. Any use designed, built, erected, or occupied for short and/or intermittent periods of time and shall include tents, lunch wagons, dining cars, trailers, and other roofed structures on wheels or other supports used for business, storage, industrial, institutional, assembly, educational or recreational purposes.

Variance. The departure from the literal requirements of this development ordinance in instances where strict adherence would cause practical difficulties due to unique circumstances related to the property.

Vehicle. A vehicle shall include the following:

Vehicle, commercial. A motor vehicle designed and registered as a truck and licensed under motor carrier laws of the State of Minnesota for the transportation of property but not persons, or a motor vehicle designed primarily for the movement of property or special purpose equipment, or a motor vehicle that is designed to carry ten (10) or more persons or any number of persons for a fee. Commercial vehicle includes vehicles commonly called trucks, delivery vans, buses, taxicabs, limousines, and other similar vehicles.

Vehicle, inoperable. A vehicle that is abandoned or lacking vital component parts essential to its mechanical functioning, including, but not limited to, the engine, drive train, and wheels; or a vehicle that is so mechanically defective as to be unsafe for operation; or a vehicle that does not display a current

license plate, current license tab, or current registration, or which does not meet all vehicle requirements for operation on public rights-of-way as set forth in M.S. Chapter 169.

Vehicle, motor. A vehicle that has its own motive power and that is used for the transportation of people or goods on streets. Motor vehicle includes passenger automobiles, trucks and commercial vehicles, and recreational vehicles with motive power.

Vehicle, passenger. A motor vehicle designed to carry less than ten (10) persons, including the driver. Passenger automobile includes vehicles commonly called cars, minivans, passenger vans, sport utilities, motorcycles, and pickups.

Vehicle, recreational. A vehicle with or without motive power, which is designed for sport or recreational use or which is designed for human occupancy on an intermittent basis. Recreational vehicles include, but are not limited to, snowmobiles, boats, travel trailers, park trailers, motor homes, campers, all terrain vehicles, and similar items for personal recreation.

Vehicle storage. Any situation where inoperable motor vehicles, or parts thereof, are stored in the open and are not being restored to operation, or any land, building, or structure used for wrecking or storing of such motor vehicles or parts thereof; and including any commercial salvaging and scavenging of any other goods, articles, or merchandise.

Video store. An establishment where movies are offered for rent to the general public for off-premise use. A video store may also offer accessory products or services, such as rental of video equipment.

Wall area. The total exterior wall area surface visible above normal grade.

Water-oriented accessory structure or facility. A small aboveground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

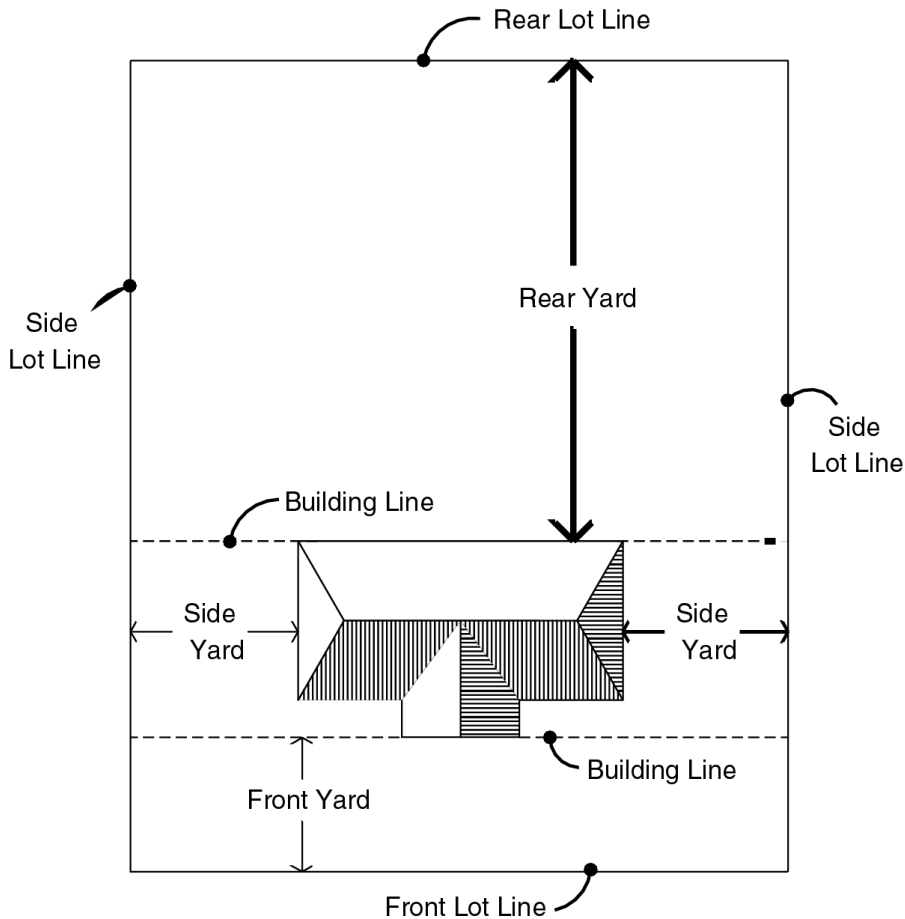
Wetland. A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).

Wholesale establishment. A business establishment engaged primarily in selling to retailers for resale.

Wind energy conversion system (WECS). An aggregation of parts including the base, tower, generator, rotor, blades, supports, and accessory facilities, including, but not limited to: power lines, transformers, substations and meteorological towers, that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

Wind turbine. Any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy, including the tower, hub, and rotor blades.

Yard. An open space that lies between the principal building or buildings and the nearest lot line.



Yard

Yard, front. A space extending across the full width of the lot between any building and the front lot line and measured perpendicular to the building at the closest point to the front lot line.

Yard, rear. A space extending across the full width of the lot between any building and the rear lot line and measured perpendicular to the building at the closest point to the rear lot line.

Yard, side. A space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular to the building at the closest point to the side lot line.

Yard, corner side. A space extending from the front yard to the rear yard between the principal building and a side lot line which runs along a private or public street, measured perpendicular to the building at the closest point to the side lot line.

Zero lot line. The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

Zoning Administrator. The zoning administrator of the City of Faribault or his or her authorized representative.

Zoning certificate. A certificate issued by the City Planner, certifying that any proposed use, building, or structure to be located on a lot is in compliance with all of the regulations of this ordinance.

Zoning district. An area or areas within the limits of the city within which there are uniform regulations and requirements governing the use, placement, spacing, and size of land and buildings.

Zoning map. The map or maps, referenced by this ordinance, that delineate the boundaries of the zoning districts within the city.

(Ord. No. 2001-24, § 1, 1-8-02; Ord. No. 2002-13, § 1, 6-25-02; Ord. No. 2004-05, § 8, 6-8-04; Ord. No. 2004-24, § 1, 10-12-04; Ord. No. 2006-21, § 1, 9-26-06; Ord. No. 2007-10, § 1, 11-13-07; Ord. No. 2008-25, § 1, 2-24-09; Ord. No. 2009-10, § 1, 8-11-09; Ord. No. 2009-12, § 1, 10-27-09; Ord. No. 2011-05, 6-14-11; Ord. No. 2011-11, 9-27-11; Ord. No. 2011-17, § 1, 10-25-11; Ord. No. 2012-03, § 1, 3-27-12; Ord. No. 2013-008, § 1, 11-13-13; Ord. No. 2013-009, § 7, 11-26-13)

CHAPTER 2. - ADMINISTRATION AND ENFORCEMENT

ARTICLE 1. - GENERAL PROVISIONS

Sec. 2-10. - Purpose.

This chapter is established to set forth the procedures required for the administration of this ordinance, to outline the powers and duties of the officials and bodies charged with such administration, to establish standards for required zoning approvals, and to provide for its enforcement in a manner which adds to the quality of land use and development and protection of the public health, safety, and welfare.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-20. - Concurrent review.

In order to provide for the efficient administration of this ordinance, whenever a project or proposal requires more than one land use review, including but not limited to conditional use permit, site plan review, rezoning, variance, or platting, all applications shall be processed concurrently.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-30. - Compliance with conditions of approval.

All land use approvals made pursuant to this ordinance shall remain in effect as long as all of the conditions and guarantees of such approval are observed. Failure to comply with such conditions and guarantees shall constitute a violation of this ordinance and may result in termination of the land use approval.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-40. - Pending applications.

No new application for zoning approval for the same project or proposal shall be submitted or accepted until all previous applications for such project or proposal have been finally acted upon or withdrawn.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-50. - Substantially similar uses.

Whenever an application contains a use not included in this ordinance, the City Planner, after review by the Development Review Committee, shall issue a statement of clarification, finding that the use either is substantially similar in character and impact to a use regulated herein or that the use is not sufficiently similar to any other use regulated in this ordinance. Such statement of clarification shall include the findings that led to such conclusion and shall be filed in the office of the City Planner. If said use is not sufficiently similar to any other use regulated in this ordinance, the use shall be prohibited.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 2. - DUTIES OF DECISION-MAKING BODIES AND OFFICIALS

Sec. 2-60. - City Planner.

Except where otherwise specifically provided in this ordinance, the City Planner shall be responsible for the administration, interpretation, and enforcement of the provisions of this ordinance.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-70. - Development Review Committee.

The Development Review Committee, consisting of city staff members as appointed by the City Administrator, is established to review plans for conformance with the technical requirements of this ordinance and to make recommendations to the Planning Commission and City Council regarding applications for land use approval.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-80. - Planning Commission.

The Planning Commission, as established and organized under Chapter 20 of the Faribault Code of Ordinances, shall have the advisory and decision-making powers granted to it as identified within this chapter and elsewhere in this ordinance.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 3. - GENERAL APPLICATION PROCEDURES

Sec. 2-90. - Application procedures.

- (A) *In general.* All applications for land use approval shall be made on forms approved by the city and available from the City Planner.
- (B) *Pre-application conference.* A pre-application conference with the City Planner shall be required prior to submission of any application for land use approval. The purpose of the conference is to acquaint the applicant with applicable procedure and ordinance requirements, to provide for an exchange of information regarding the proposed project, and to identify potential opportunities and constraints for development of a given site.
- (C) *Submission of technical studies.* The city may require applicants for land use approval to submit such technical studies as may be necessary to enable the Planning Commission and City Council to evaluate the application. Such studies may include, but not be limited to, traffic studies, engineering studies,

environmental impact assessments, and economic impact reports. The costs of such studies shall be borne by the applicant, with the persons or firms preparing the study approved by the City Planner.

- (D) *Completeness of application.* No application for land use approval shall be deemed complete until all items that are required in support of the application have been submitted.
- (E) *Application and submission deadlines.* The City Planner shall administratively set submission deadlines for all applications requiring public hearing. Compliance with such deadlines shall generally be required in order to have the application placed on an agenda to be heard by the Planning Commission. At the discretion of the City Planner, non-agenda items may be brought before the Planning Commission for consideration, provided, however, that the Planning Commission may refuse to hear a non-agenda item at its sole discretion.
- (F) *Application fees.* Fees for all applications provided for in this ordinance shall be established by resolution of the City Council and are non-refundable, except when an application is withdrawn by the applicant prior to notice of public hearing.
- (G) *Required action by review bodies.* Pursuant to Minnesota Statutes 15.99, any application for zoning approval, excluding preliminary plat requests, shall be approved or denied within sixty (60) days from the date of its official and complete submission, unless extended pursuant to Statute or a time waiver is granted by the applicant. If applicable, processing of the application through required state or federal agencies shall extend the review and decision-making period an additional sixty (60) days unless the applicant waives this limitation. Pursuant to Minnesota Statutes 462.358, any application for approval of a preliminary plat shall be approved or denied within one hundred twenty (120) days from the date of its official and complete submission, unless extended pursuant to Statute or a time waiver is granted by the applicant.
- (H) *Reconsideration of land use approval applications.* No application for land use approval which has been denied by the City Council, in whole or in part, shall be reconsidered for a period of six (6) months from the date of City Council action on the application, except on grounds of new evidence or proof of a change in conditions.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-100. - Public hearings.

(A) *Notice.*

- (1) Land use applications. For all land use applications requiring a public hearing as set forth in this ordinance, notice of the public hearing shall be given in the following manner. The failure to give mailed notice to individual property owners, or defects in the notice, shall not invalidate the proceedings, provided a bona fide attempt to comply with this section has been made.
 - (a) *Newspaper of general circulation.* The City Planner shall publish notice of the time, place, and purpose of the public hearing at least once, not less than ten (10) days nor more than thirty (30) days before the hearing, in a legal newspaper of general circulation. For purposes of computing time, both the day of publication and the day of the public hearing shall be excluded.
 - (b) *Affected property owners.* The City Planner shall mail notice to all owners of record of property located in whole or in part within three hundred fifty (350) feet of the boundaries of the subject property, as identified in the records of the Rice County Assessor's office, not less than ten (10) days nor more than thirty (30) days before the hearing.

- (B) *Notification regarding natural resources.* When an application for a conditional use permit, variance, appeal, zoning amendment, expansion of a nonconforming use, or other similar land use review relates to the Floodplain Management or Shoreland overlay districts, as established in Chapter 13, Overlay Districts, the City Planner shall submit to the Minnesota Commissioner of Natural Resources a written notice of public hearing at least twenty-one (21) days in advance of the hearing.
- (C) *Procedures.* All hearings conducted shall be open to the public. Any person may appear and testify at a hearing either in person or by duly appointed agent or attorney. Upon the conclusion of public input, the review body shall announce its decision or recommendation or shall continue the matter to a subsequent meeting. No additional public notice shall be required once the public hearing on an item has been opened. The review body shall keep minutes of its public hearings, and shall also keep records of its official actions. Decisions of the review body shall be filed in the office of the City Planner.
- (D) *Continuances.* Any applicant or authorized agent may request the continuance of a public hearing, provided that a written request is filed with the City Planner at least two business days prior to the date of scheduled public hearing. The Planning Commission and City Council, upon majority vote, may grant a continuance upon good cause, provided that the record indicates the reason for such continuance, any conditions placed upon said continuance, and the date on which the item will be considered. At the discretion of the Planning Commission or City Council, re-notification of public hearing may be required as specified in Section 2-100(A).
- (E) *Notice to applicant regarding decision.* The City Planner shall notify the applicant for any land use approval, in writing, of the City Council's decision within ten (10) days. In the event that the request for approval was denied, the letter shall clearly state the reasons for such denial.
- (F) *Filing of resolutions and ordinances.* The City Planner shall file with the Rice County Recorder's office a certified copy of all resolutions and ordinances pertaining to land use approvals and amendments to this ordinance.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 4. - APPEALS

Sec. 2-110. - Appeals of decisions by administrative staff.

All findings and decisions of the City Planner, Zoning Administrator, or other official involved in the administration of this ordinance shall be final subject to appeal to the Planning Commission, except as otherwise provided by this ordinance. Any affected person may initiate such a request by filing an appeal with the City Planner on an approved form. All appeals shall be filed within thirty (30) days of the date of the decision. The Planning Commission shall hold a public hearing on each complete application for appeal in the manner set forth in Section 2-100 and, after the close of the hearing, shall make findings and submit its recommendations to the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-120. - Action by the City Council on appeals.

The City Council, acting as the Board of Adjustment, shall make the final decision regarding all appeals requests. Approval shall require a majority vote of the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-130. - Expiration of appeal.

If substantial development or construction has not taken place within one (1) year of the date of approval of an appeal, such appeal shall be considered void unless a petition for a time extension has been granted by the City Council. Such extension request shall be submitted in writing at least thirty (30) days prior to expiration of the appeal and shall state facts showing a good faith effort to complete work permitted under the original approval.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 5. - ZONING AMENDMENTS

Sec. 2-140. - Purpose of zoning amendments.

Amendments to the text of the this ordinance and the official zoning map are made for the purpose of promoting the public health, safety, and general welfare, and in consideration of changing conditions, conservation of property values, the trend of development, and the current and anticipated future uses of property.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-150. - Initiation of zoning amendments.

Amendments shall be initiated by the City Council, Planning Commission, or by petition of any person with a legal or equitable interest in a property.

- (1) *Amendments initiated by petition.* An application for amendment to the zoning classification of a particular property shall be filed with the City Planner on an approved form and be accompanied by an accurate boundary survey of the property, concept development plan, and any other information determined by the City Planner to be necessary for review of the request.
- (2) *Amendments initiated by the City Council or Planning Commission.* The City Council or the Planning Commission may initiate amendments to the text of this ordinance or to the zoning classification of specific properties in the manner provided by Minnesota Statutes 462.357.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-160. - Hearing on zoning amendments.

The Planning Commission shall hold a public hearing on each valid and complete application for zoning amendment and all amendments initiated by the City Council or Planning Commission, as provided in Section 2-100. After the close of the hearing on a proposed zoning amendment, the Planning Commission shall make findings, pursuant to Section 2-180, and shall submit the same together with its recommendations to the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-170. - Action by the City Council on zoning amendments.

The City Council shall make the final decision regarding all zoning amendments. Amendment of this ordinance or the zoning district boundaries shall require a majority vote four-sevenths (4/7) of the City Council, except when an adoption or amendment changes all or part of the existing classification of a zoning district from residential to either commercial or industrial, in which case a two-thirds (2/3) vote five-sevenths (5/7) of all members of the City Council shall be required.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-18, § 1, 8-27-02)

Sec. 2-180. - Required findings on zoning amendments.

The City Council shall make each of the following findings before granting approval of a request to amend this ordinance or to change the zoning designation of an individual property:

- (1) Whether the amendment is consistent with the applicable policies of the city's Land Use Plan.
- (2) Whether the amendment is in the public interest and is not solely for the benefit of a single property owner.
- (3) Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of a particular property.
- (4) Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of a particular property.
- (5) Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of a particular property.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 6. - ZONING CERTIFICATE

Sec. 2-190. - Purpose of zoning certificate.

A zoning certificate is a permit authorizing the development of land or use of land upon evidence that all requirements of this ordinance are satisfied.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-200. - Zoning certificate required.

Except for single and twin-family residential uses, a zoning certificate shall be obtained from the City Planner prior to the following:

- (1) The construction, reconstruction, enlargement, relocation, or structural alteration of any building or structure or part thereof, including any principal use, accessory use, or any other use that requires a building permit.
- (2) Any change or expansion of use of any building or land.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-210. - Application for zoning certificate.

Any person having a legal or equitable interest in a property may file an application for a zoning certificate. An application for a zoning certificate shall be filed with the City Planner on an approved form and shall be accompanied by a plan so dimensioned and annotated as to show the proposed building, including building dimensions, height, and use, and existing buildings and uses, if any, in exact relation to lot lines, as well as any other information required by the City Planner to determine compliance with this ordinance.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-220. - Zoning certificate approval.

Upon review of the application and plan for consistency with the regulations of this ordinance, the City Planner shall affix a stamp to the plan, which shall serve as the zoning certificate. In such instances where only a change of use and no structural alterations requiring a building permit are involved, the City Planner may affix a stamp to a letter certifying that the change of use is allowed. In the event that an application for a zoning certificate is denied, the applicant shall be notified in writing of the reasons for such denial. The decision of the City Planner may be appealed to the Planning Commission, as provided for in Section 2-110.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-230. - Additional reviews prior to zoning certificate approval.

In such instances that the application requires additional land use review by the Development Review Committee, Planning Commission, or City Council, the City Planner shall not grant the zoning certificate until all necessary approvals have been obtained.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-240. - Revocability of zoning certificate.

Any certificate, document, or approval issued by the City Planner may be revoked upon violation of this ordinance or any conditions under which it is issued.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-250. - Compliance with performance standards.

Whenever an application is made for issuance or change of a zoning certificate, which may include the production, processing, cleaning, servicing, testing or repair of materials, goods, and products, the City Planner shall review the application to determine compliance with the applicable regulations of the zoning district and the general performance standards specified in Chapter 6. The City Planner may initiate an investigation or study to ensure compliance with the standards when it is believed that proposed processes may violate applicable general performance standards. When unusual technical complexity or expense would be incurred in securing sufficient information to conclude the study or investigation, the City Planner may require the applicant to provide the evidentiary submission at the applicant's expense, including but not limited to the following:

- (1) Plans of the existing and proposed construction or development.
- (2)

Detailed descriptions of existing and proposed machinery, processes, activities and materials made or used and the products made.

- (3) Plans and specifications for the mechanisms and techniques used or proposed to be used in demonstrating compliance with the applicable regulations of the zoning district and the applicable general performance standards.
- (4) Measurements or estimates of the amount and rate of emission of any substance or force demonstrating compliance with applicable general performance standards.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 7. - CONDITIONAL USE PERMITS

Sec. 2-260. - Purpose of conditional use permits.

A conditional use permit is a zoning device that is intended as a means of reviewing uses which, because of their unique characteristics, cannot be permitted as a right in a particular zoning district, but may be allowed upon demonstration that such use meets identified standards established within this ordinance. A conditional use permit is granted for the particular use of a specific property, and may be transferred to subsequent owners so long as the use does not change.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-270. - Application for conditional use permit.

Any person having a legal or equitable interest in a property may file an application for such use when it is identified as a conditional use within the zoning district in which the property is located. An application for a conditional use permit shall be filed with the City Planner on an approved form, as specified in Section 2-90. A written description of the proposed use and a detailed site plan, including information as specified in Section 4-30, shall also accompany the application form unless specifically waived by the City Planner.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-280. - Hearing on application for conditional use permit.

The Planning Commission shall hold a public hearing on each complete application for a conditional use permit as provided in Section 2-100. After the close of the hearing on a proposed conditional use, the Planning Commission shall make findings, pursuant to Section 2-300, and shall submit the same together with its recommendations to the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-290. - Action by City Council on conditional uses.

The City Council shall make the final decision regarding all applications for conditional use. Approval of the conditional use permit shall require a majority vote of the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-300. - Required findings for conditional use permits.

The City Council shall make each of the following findings before granting a conditional use permit:

- (1) The conditional use will not be detrimental to or endanger the public health, safety, comfort, convenience, or general welfare.
- (2) The conditional use will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
- (3) The conditional use will be designed, constructed, operated, and maintained in a manner that is compatible in appearance with the existing or intended character of the surrounding area.
- (4) The conditional use will not impose hazards or disturbing influences on neighboring properties.
- (5) The conditional use will not substantially diminish the value of neighboring properties.
- (6) The site is served adequately by essential public facilities and services, including utilities, access roads, drainage, police and fire protection, and schools or will be served adequately as a result of improvements proposed as part of the conditional use.
- (7) Development and operation of the conditional use will not create excessive additional requirements at public cost for facilities and services and will not be detrimental to the economic welfare of the community.
- (8) Adequate measures have been or will be taken to minimize traffic congestion in the public streets and to provide for adequate on-site circulation of traffic.
- (9) The conditional use will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance to the community.
- (10) The conditional use is consistent with the applicable policies and recommendations of the city's Land Use Plan or other adopted land use studies.
- (11) The conditional use, in all other respects, conforms to the applicable regulations of the district in which it is located.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-310. - Established conditions of approval.

The City Council may establish any reasonable conditions of approval that are deemed necessary to mitigate adverse impacts associated with the conditional use, to protect neighboring properties, and to achieve the objectives identified elsewhere in this ordinance.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-320. - Revocation of conditional use permit.

Failure to comply with any condition set forth as part of conditional use permit approval shall constitute a violation of this ordinance and is subject to the enforcement process identified in Section 2-620. Continued non-compliance shall also constitute grounds for revocation of the conditional use permit, as determined by the City Council following a public hearing on the matter.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-330. - Expiration of conditional use permits.

If substantial development or construction has not taken place within one (1) year of the date of approval of a conditional use permit, such permit shall be considered void unless a petition for a time extension has been granted by the City Council. Such extension request shall be submitted in writing at least thirty (30) days prior to expiration of the conditional use permit and shall state facts showing a good faith effort to complete work permitted under the original approval.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-340. - Discontinuance of conditional use permits.

Where a conditional use has been established and is discontinued for any reason for a period of one (1) year or longer, or where a conditional use has been changed to a permitted use or to any other conditional use, the conditional use permit shall be deemed to be abandoned.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 8. - INTERIM USES

Sec. 2-350. - Purpose of interim uses.

An interim use is a use not currently allowed by this ordinance, which may be allowed as a temporary use of property until an established date, until the occurrence of a particular event, or until the zoning regulations no longer allow it.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-360. - Authorization of interim use.

The City Council may approve an interim use of property as defined and authorized by Minnesota Statutes 462.3597.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-370. - Application for interim use.

Any person having a legal or equitable interest in a property may file an application to use such land for one or more interim uses. An application for interim use shall be filed with the City Planner on an approved form, as specified in Section 2-90, and shall be accompanied by such information as is requested by the City Planner to facilitate review.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-380. - Hearing on application for interim use.

The Planning Commission shall hold a public hearing on each valid and complete for an interim use as provided in Section 2-100. After the close of the hearing on a proposed interim use, the Planning Commission shall make findings, pursuant to Section 2-400, and shall submit the same together with its recommendations to the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-390. - Action by City Council on interim uses.

The City Council shall make the final decision regarding all applications for interim use. Approval shall require a majority vote of the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-400. - Interim use findings and conditions.

(A) *Required findings.* The City Council shall make the following findings in order to approve an interim use:

- (1) The proposed interim use will utilize property where it is not reasonable to utilize it in a manner provided for in the city's Land Use Plan.
- (2) The proposed interim use is presently acceptable but, given anticipated development, will not be acceptable in the future.

(B) *Conditions and guarantees.* Any City Council approval of an interim use shall be subject to the following conditions:

- (1) Except as otherwise authorized by this section, an interim use shall conform to this ordinance as if it were established as a conditional use.
- (2) The date or event that will terminate the interim use shall be identified with certainty.
- (3) In the event of a public taking of property after the interim use is established, the property owner shall not be entitled to compensation for any increase in value attributable to the interim use.
- (4) Such conditions and guarantees as the City Council deems reasonable and necessary to protect the public interest and to ensure compliance with the standards of this ordinance and policies of the Land Use Plan.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-410. - Termination of interim use.

An approved interim use shall terminate upon the occurrence of any of the following events:

- (1) The termination date specified with approval of the interim use.
- (2) Any violation of the conditions under which the interim use was approved.
- (3) A change in this ordinance which would render the use nonconforming.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 9. - VARIANCES

Sec. 2-420. - Purpose of variances.

Variances are intended to provide a means of departure from the literal requirements of this ordinance where strict adherence would cause practical difficulties because of unique circumstances related to the property. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. It is not the intent of this section to allow a variance for a use that is not permitted within a particular zoning district.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2011-17, § 3, 10-25-11)

Sec. 2-430. - Application for variance.

Any person having a legal or equitable interest in a property may file an application for one or more variances. An application for a variance shall be filed with the City Planner on an approved form as specified in Section 2-90, and shall be accompanied by a site plan and any other information deemed necessary by the City Planner to facilitate review.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-440. - Hearing on application for variance.

The Planning Commission shall hold a public hearing on each valid and complete application for a variance as provided in Section 2-100. After the close of the hearing on a proposed variance, the Planning Commission shall make findings, pursuant to Section 2-460, and shall submit the same together with its recommendations to the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-450. - Action by City Council on variances.

The City Council shall make the final decision regarding all applications for variance from the provisions of this ordinance. Approval shall require a majority vote of the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-460. - Required findings for variance.

- (A) *Prerequisites for approval.* The City Council shall not vary the regulations of this ordinance, except under Subsection (B) below, unless it makes each of the following findings based upon the evidence presented to it in each specific case:
- (1) The variance is in harmony with the general purposes and intent of the City's ordinances.
 - (2) The variance is consistent with the Comprehensive Plan.
 - (3) The applicant proposes to use the property in a reasonable manner not permitted by the City's ordinances.
 - (4) Unique circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owner of the property has not had control. The unique circumstances do not result from the actions of the applicant.
 - (5) The variance does not alter the essential character of the neighborhood.
 - (6) The variance requested is the minimum variance which would alleviate the practical difficulties.
 - (7) Economic conditions alone do not constitute practical difficulties.
- (B) *Historical variance.* The City Council may vary the regulations of this ordinance and declare that practical difficulties exist, regardless of economic circumstances, when the following facts and conditions are shown to exist in addition to the above conditions being satisfied:
- (1) The applicant's property is currently located within the HPD, Historical Preservation District, as identified in Section 13-360, or listed on the National Register of Historic Places.
 - (2)

The historically significant structure would lose any or all of its historical value and/or architectural uniqueness if strict application of the regulations were carried out.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2011-17, § 3, 10-25-11)

Sec. 2-470. - Variance conditions and guarantees.

The City Council may impose such conditions upon the premises benefited by the variance as may be necessary to comply with the standards established by the City's ordinances, or to reduce or minimize the effect of such variance upon other properties in the neighborhood and to better carry out the intent of the variance. The condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2011-17, § 3, 10-25-11)

Sec. 2-480. - Expiration of variance.

If substantial development or construction has not taken place within one (1) year of the date of approval of a variance, such variance shall be considered void unless a petition for a time extension has been granted by the City Council. Such extension request shall be submitted in writing at least thirty (30) days prior to expiration of the variance and shall state facts showing a good faith effort to complete work permitted under the original approval.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 10. - VACATIONS OF STREET, EASEMENT, OR OTHER PUBLIC RESERVATIONS

Sec. 2-490. - Purpose of vacation.

This ordinance makes provision for the vacation of streets, alleys, or other public reservations of land, when it is demonstrated that such public reservation of land does not, or no longer, serves a clearly identified public purpose.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-500. - Initiation of vacation.

Any person or persons who own property adjoining on both sides of the street, alley, or public reservation to be vacated may file an application for such action. In the event that the person or persons making the request do not own in entirety the adjoining parcels of land, such application shall be accompanied by affidavits of all such owners indicating their consent.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-510. - Application for vacation.

An application for a vacation of a street, alley, or public reservation shall be filed with the City Planner on an approved form, as specified in Section 2-90, and shall be accompanied by a legal description, a survey depicting the area to be vacated, and a list of all property owners with land adjacent to the area to be vacated.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-520. - Hearing on application for vacation.

The Planning Commission shall hold a public hearing on each valid and complete application for a vacation of a street, alley, or public reservation, as provided in Section 2-100. After the close of the hearing on a proposed vacation, the Planning Commission shall make findings, pursuant to Section 2-540, and shall submit the same together with its recommendations to the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-530. - Action by City Council on vacation.

The City Council shall make the final decision regarding all applications for vacation of a street, easement, or other public reservation of land. Approval shall require a two-thirds (2/3) vote of the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-540. - Required findings for vacation of a street, alley, or other public reservation.

The City Council shall make the following findings in granting approval of the vacation of a street, alley, or other public reservation:

- (1) No private rights will be injured or endangered as a result of the vacation.
- (2) The public will not suffer loss or inconvenience resulting from the granting of the requested vacation.
- (3) No written objection has been received, prior to the public hearing, from an adjacent property owner who did not join in the application.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 11. - OTHER DEVELOPMENT APPROVALS AND PERMITS

Sec. 2-550. - Subdivision approval.

Procedures for approval of minor subdivisions, preliminary plats, and final plats are specified within Chapter 15, Subdivision Regulations.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-560. - Planned unit development.

Procedures for approval of a planned unit development are specified in Chapter 14, Planned Unit Development District. Shoreland Planned Unit Developments will also be subject to the standards of Chapter 13, Overlay and Special Districts, Article 6, Shoreland Management District.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2006-21, § 2, 9-26-06)

Sec. 2-570. - Building permit.

Building permits are required in accordance with the adopted building code. No building permit shall be issued unless the proposed construction or use is in conformance with the requirements of this ordinance and all necessary zoning approvals have been granted.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-580. - Certificate of occupancy.

The City Planner shall review all requests for certificate of occupancy, except in the case of a single or two-family residential use, to ensure compliance with this ordinance and with the terms of any zoning approvals that were required for the project. No certificate of occupancy shall be issued for any building or use until all required improvements and conditions of approval have been satisfied. A temporary certificate of occupancy may be issued in cases where a project is substantially complete and lacks only non-essential site improvements.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-590. - Sign permits and variances.

All signs displayed within the city are subject to the permit requirements and standards identified in Chapter 9, Signs.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-600. - Site plan approval.

Approval of a site development plan is required prior to approval of a building permit for most uses, as is specified in Chapter 4, Site Plan Review.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 12. - ENFORCEMENT

Sec. 2-610. - Complaints regarding violations.

The City Planner shall have the authority to investigate any complaint alleging a violation of this ordinance or the conditions of any zoning approval and to take such action as is warranted in accordance with the procedures set forth in this chapter.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-620. - Procedures upon discovery of violations.

- (A) *Notice of violation.* The City Planner shall provide a written notice to the property owner or to any person responsible for such violation, identifying the property in question, indicating the nature of the violation, and ordering the action necessary to correct it, including a reasonable time period to remedy the violation. The written notice shall advise that the City Planner's decision or order may be appealed to Planning Commission in accordance with the provisions of Section 2-110. Additional written notices may be provided at the City Planner's discretion.
- (B) *Enforcement without notice.* Whenever the City Planner finds that an emergency exists in relation to the enforcement of the provision of this ordinance which requires immediate action to protect the health, safety, or welfare of occupants of any structure, or the public, the City Planner may seek immediate enforcement without prior written notice, notwithstanding any other provision of this ordinance.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 2-630. - Violation and penalties.

Any person, firm, or corporation violating any of the provisions of this ordinance or any amendment thereto is guilty of a misdemeanor. Fines and imprisonment are appropriate as a penalty for violations and a deterrent against future violations.

(Ord. No. 99-20, § 1, 11-23-99)

CHAPTER 3. - NONCONFORMITIES

Sec. 3-10. - Purpose.

This chapter is established in recognition of the existence of uses, structures, site improvements, and lots which were lawfully established but which do not currently comply with the provisions of this ordinance or subsequent amendment of this ordinance. It is further established to specify the requirements, circumstances, and conditions under which nonconforming buildings, structures, site improvements, and uses will be operated, repaired, replaced, restored, improved and maintained and to encourage actions that bring nonconforming uses into conformance with the city code.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2009-03, § 1, 2-24-09)

Sec. 3-20. - Continuance of nonconforming situations.

- (A) *In general.* Legal nonconforming situations shall be allowed to continue as long as they remain otherwise lawful, subject to the provisions of this chapter. Nonconforming situations that were not lawfully in existence on the effective date of this ordinance shall be prohibited.
- (B) *Change of tenant or ownership.* A change of tenancy, ownership, or management of any nonconforming situation shall be allowed, provided there is no change in the nature or character of such nonconforming situation, except as otherwise provided by this chapter.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2009-03, § 1, 2-24-09)

Sec. 3-30. - Nonconforming use restrictions.

- (1) A nonconforming principal use shall not be expanded to occupy a greater area of land or by intensifying the use, with the following exceptions:
- (a) A single-family dwelling that is a nonconforming use may be enlarged by up to twenty-five (25) percent of the bulk of the building, as it was established when it became nonconforming within the required building setback lines and other dimensional standards for the R-1 and R-2 districts.
 - (b) An accessory structure that is incidental to a nonconforming residential use may be enlarged by up to twenty-five (25) percent of the bulk of the building, as it was established when it became nonconforming within the required building setback lines and other dimensional standards for the R-1 and R-2 districts.
 - (c) Structural alterations may be made to a building containing two (2) or more lawful nonconforming residential units provided that alterations will improve the livability of the building without increasing the number of units or the exterior size of the structure.
- (2) When a nonconforming principal use has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.
- (3)

Repair, replacement, restoration, maintenance and improvement of a structure containing or related to a nonconforming use are permitted, except as provided in subsection (5) below.

- (4) Whenever a nonconforming principal use of a structure or land is discontinued for a period of more than one (1) year, any future use of the structure or land shall be in conformance with the city code.
 - (5) If a structure containing a nonconforming principal use is destroyed by fire or other peril, to the extent of greater than fifty (50) percent of its market value, as determined by the Rice County Assessor and the building official, and no building permit has been applied for within one hundred eighty (180) days of when the property is damaged, the use shall not be resumed except in conformance with the city code.
- (Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2009-03, § 1, 2-24-09)

Sec. 3-40. - Nonconforming buildings or structures.

- (1) A principal or accessory building or structure which is nonconforming due to dimensions or setbacks from property lines may be expanded in compliance with the following:
 - (a) The addition or alteration does not increase the degree of nonconformity or further infringe upon established setbacks or building restrictions.
- (2) Repair, replacement, restoration, maintenance and improvement are permitted, except as provided in subsection (3) below.
- (3) A nonconforming building or structure which is destroyed by fire or other peril to the extent of greater than fifty (50) percent of its market value, as determined by the Rice County Assessor and building official and no building permit has been applied for within one hundred eighty (180) days of when the property is damaged, shall not be restored except in conformance with the city code.
- (4) If a nonconforming structure is moved for any reason, it shall thereafter conform to the regulations for the district in which it is located.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2009-03, § 1, 2-24-09)

Sec. 3-50. - Reserved.

Editor's note— Ord. No. 2009-03, § 1, adopted February 24, 2009, repealed § 3-50, which pertained to repair, maintenance, and restoration and derived from Ord. No. 99-20, adopted November 23, 1999.

Sec. 3-60. - Reserved.

Editor's note— Ord. No. 2009-03, § 1, adopted February 24, 2009, repealed § 3-60, which pertained to nonconforming lots and derived from Ord. No. 99-20, adopted November 23, 1999.

CHAPTER 4. - SITE PLAN REVIEW

ARTICLE 1. - GENERAL PROVISIONS

Sec. 4-10. - Purpose.

Site plan review standards and guidelines are established to promote development that is compatible with nearby properties, neighborhood character, and natural features, to minimize conflict between pedestrian and vehicular traffic, to promote public safety, and to visually enhance development within the city. The requirements of this chapter aim to recognize the unique character of land and development and the need for flexibility in site plan review.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 4-20. - Uses subject to site plan review.

The site plan review requirements of this chapter shall apply to all new construction, remodeling, or expansion of commercial, industrial, or multi-family residential uses, with the following exceptions:

- (1) The use is established in an existing building that has received site plan approval, and the establishment of the use does not alter the approved site plan for the property.
- (2) Proposed modifications are strictly related to the interior of the building.
- (3) Modifications, additions, or enlargements to a building which do not increase the gross floor area by more than five hundred (500) square feet or ten (10) percent, whichever is less, and which do not require a variance from the provisions of this ordinance.
- (4) Grading or site preparation that results in minor modifications to the existing site, as approved by the City Engineer.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 4-30. - Site plan requirements.

- (A) *In general.* Except in those instances specified in Section 4-20, site plan approval is required prior to issuance of a building permit for any proposed construction or issuance of a zoning certificate for any proposed use. When a site plan is required in support of a request for conditional use permit or variance approval, such plan shall also be subject to the requirements established within this chapter.
- (B) *Required information.* All site plans shall be drawn to scale and shall contain the following information, unless otherwise specifically waived by the City Planner:
 - (1) A vicinity map which shall include the location of any railroads, major streams or rivers, and public streets in the vicinity of the site.
 - (2) The boundaries and dimensions shown graphically, along with a written legal description of the property.
 - (3) The present and proposed topography of the site and adjacent areas within fifty (50) feet by contour lines at an interval of not more than five (5) feet, and by use of directional arrows, the proposed flow of storm water runoff from the site.
 - (4) The location of existing and proposed structures, with height and gross floor area appropriately noted.
 - (5) The location and dimensions of existing and proposed curb cuts, aisles, off-street parking and loading spaces, and walkways.
 - (6) The location, height, and material for screening walls and fences.
 - (7) The type of surfacing and base course proposed for all parking areas, loading areas, and walkways.
 - (8) The location of all existing and proposed water lines, hydrants, sanitary sewer lines and storm drainage systems.
 - (9) Existing and proposed public streets or rights-of-way, easements, or other reservations of land on the site.
 - (10) The location and method of screening of outdoor trash storage areas.

- (11) The location and size of all proposed signage.
- (12) The location and height of proposed lighting facilities.
- (13) Elevation views of all proposed buildings or structures, with building materials and proposed colors noted.
- (14) When a site is to be developed in stages, the plan should indicate the ultimate development of the site and proposed developmental phases.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 4-40. - Administrative site plan review.

- (A) *In general.* The Development Review Committee shall conduct the administrative review of all site plan approval requests. All findings and decisions of the Committee shall be final, subject to appeal to the Planning Commission and City Council, as specified in Section 2-110
- (B) *Required findings.* The Development Review Committee shall make each of the following findings before approving a site plan approval request:
 - (1) The site plan conforms to all applicable standards within this chapter.
 - (2) The site plan conforms to all applicable regulations of this ordinance and is consistent with the applicable policies of the Land Use Plan.
 - (3) The site plan is consistent with any applicable functional or special area plans or development objectives adopted by the City Council.
 - (4) The site plan minimizes any adverse affects of property in the immediate vicinity and minimizes congestion of the public streets.
- (C) *Conditions of site plan approval.* The Development Review Committee may impose conditions on any proposed site plan and require such guarantees as it deems necessary for the protection of the public interest and to ensure compliance with the standards and purposes of this ordinance, the applicable policies of the Land Use Plan, and any special land use plans adopted by the City Council.
- (D) *Changes to approved site plan.* An approved site plan may not be changed, modified, or altered in any manner without the approval of the city. In such cases where proposed changes are minor in nature, as determined by the City Planner, a revised site plan may not be required. In all other cases, a revised site plan shall be re-submitted for consideration by the Development Review Committee.
- (E) *Expiration of approved site plan.* Unless a written extension request is submitted to and approved by the City Planner, an approved site plan shall expire upon either of the following conditions:
 - (1) A new site plan for the property is submitted to and approved by the Development Review Committee.
 - (2) A building permit has not been issued within two (2) years from the date of site plan approval.
- (F) *Inspection and enforcement.* Prior to issuance of a certificate of occupancy for any use not exempted within Section 4-20, the City Planner shall conduct an inspection to determine compliance with the conditions set forth on the approved site plan for the project. A temporary certificate of occupancy may be issued without completion of all elements on the site plan, provided written assurance is given that all improvements will be completed when feasible.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 2. - BUILDING AND SITE DESIGN GUIDELINES

Sec. 4-50. - Purpose.

Building and site design guidelines, as established in this section, are for the purpose of promoting quality development in terms of attractiveness, convenience, ease of access, and compatibility with surrounding uses. These guidelines are intended to be general in nature and are not intended to restrict creativity, variety, or innovation. However, unless site characteristics or conditions dictate otherwise, the city's expectation is that these guidelines be adhered to. In cases where building and site design standards are specific in nature and required as part of this ordinance, such standards are noted within the individual zoning district chapters.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 4-60. - Architectural design guidelines.

- (A) *In general.* Building materials for all projects should be durable, require low maintenance, and be of the same or better quality than those used at surrounding properties. Special care should be given to those elevations that face a public street or residential area, with quality building materials selected that will enhance the surrounding neighborhood or view from the street.

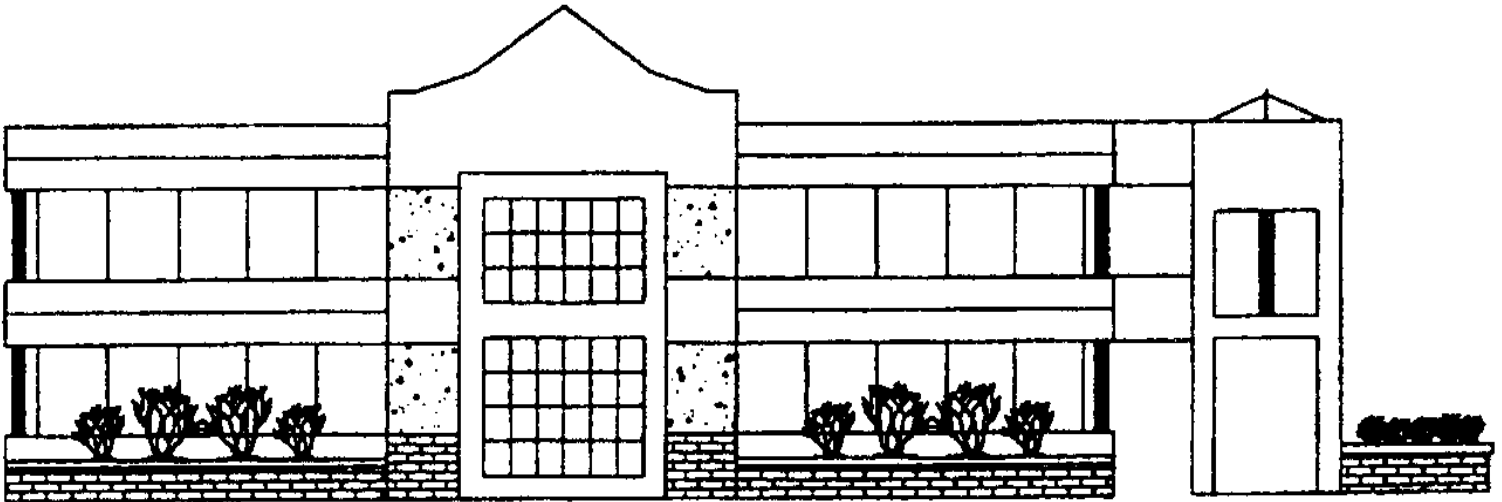


Figure 4-1

- (B) *Architectural variety.* The use of a variety of architectural features and building materials is encouraged to give each development a distinct character. The use of accent colors and architectural features should be utilized to avoid repetitious and bland building elevations, as shown in Figure 4-1. When accent colors are proposed, the number of colors should be limited to prevent a gaudy appearance. Doors, screening walls, or other architectural features should be painted or finished to complement the color of the building.
- (C) *Signage.* Signage should be integrated as an architectural element, with attention given to the color, scale, and orientation of all proposed signs in relation to the overall design of the building.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 4-70. - Site layout guidelines.

- (A) *Existing site features.* Site design, where feasible, should incorporate existing topography and natural features, such as hillsides, wooded areas, and greenways. Important vistas and viewpoints, both from the site and into the site, should be protected and enhanced.
 - (B) *Building arrangement.* When multiple buildings are proposed for a site, care should be taken to provide maximum street exposure for all buildings. Pad site buildings should be located using elevations and angles that do not inhibit the view of other buildings on the site.
 - (C) *Service and docking facilities.* Loading, delivery, and service bays should be oriented away from existing residences and public streets. When site considerations do not allow for such orientation, such service and docking areas should be screened from view through the provision of walls, fencing, or landscaping. Industrial zoning districts are exempt from these screening requirements.
 - (D) *Lighting.* Lighting location should provide for security and visual interest while limiting impact on adjacent properties. All light sources adjacent to residential properties shall be shielded from view, with illumination directed in a manner to prevent bleeding and glare onto adjacent properties and public right-of-way. Additionally, parking and loading areas should be located in such a manner to minimize the chance of headlights shining into residential windows. Performance standards related to glare and lighting are further specified in Section 6-340
 - (E) *Drive-through facilities.* Drive-through facilities, where permitted in the applicable zoning district, are permitted when the resulting traffic patterns are safe, easily understood, and provide sufficient stacking space based on the requirements shown in Section 8-270. Drive-through windows should be placed on an elevation that does not face a public street. Loudspeakers should be so directed to avoid the creation of a nuisance for adjacent properties.
 - (F) *Public safety through site design.* Site plans should employ design principles aimed at crime prevention, such as the promotion of natural surveillance and visibility, minimization of the number of entrances and exits to the site, and clear distinction between public and non-public spaces.
 - (G) *Stormwater management.* Site design should utilize practices to minimize off-site stormwater runoff, increase on-site filtration, and minimize the discharge of pollutants to ground water and surface water. Consideration should be given to reducing the need for stormwater management facilities by incorporating the use of natural topography and existing land cover.
- (Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2008-09, § 1, 5-13-08)

Sec. 4-80. - Vehicular access and circulation.

- (A) *In general.* Vehicular circulation should be designed to minimize conflicts with pedestrian access and circulation within surrounding residential areas. Primary access should be from streets designed to handle higher traffic volumes, rather than from streets whose primary purpose is to serve residential areas.
- (B) *Entrance and exits.* All entrances and exits should be designed to facilitate efficient and safe traffic flow for both in-bound and out-bound traffic. Parking spaces that require backing into an entrance or exit drive are discouraged. Figure 4-2 illustrates a site with efficient separation between access driveways and parking areas.

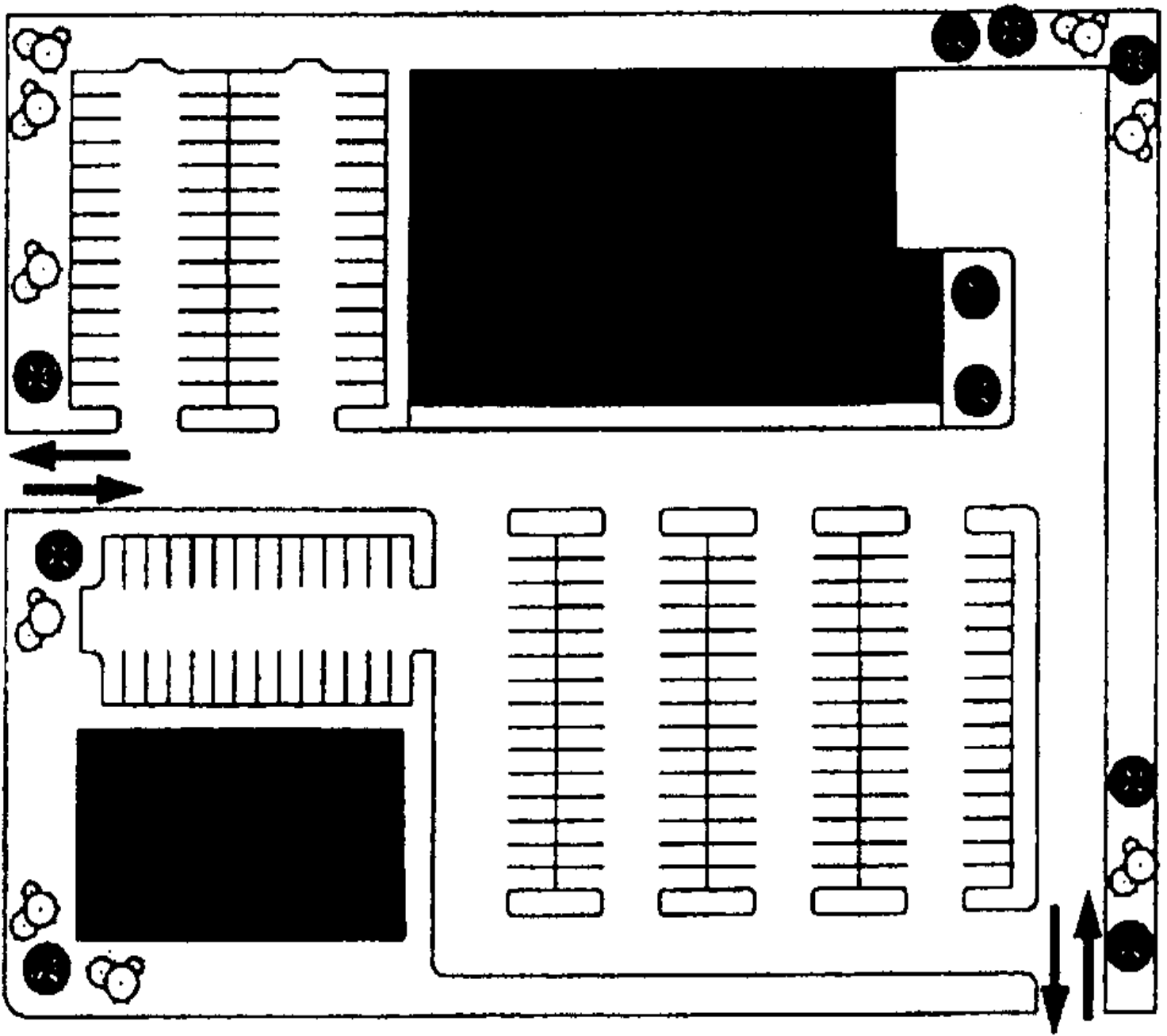


Figure 4-2

- (C) *Internal traffic circulation.* Internal traffic circulation patterns should be easily understood, allow for efficient movement of traffic, and be designed in such a way to reduce the potential for traffic accidents. When multiple buildings are proposed as part of a development, the use of access easements is encouraged to ensure adequate access in the event of any property ownership changes.
- (D) *Snow storage and removal.* Adequate areas for snow storage should be provided on site in order to eliminate the utilization of access drives and parking areas for such purposes.
- (E) *Service and delivery access.* Reasonable access for service and delivery vehicles should be provided which does not conflict with pedestrian or general vehicle use of the site. Access points for such vehicles should provide as direct a route as possible to service and loading dock areas while avoiding movement through

parking areas, as shown in Figure 4-3.

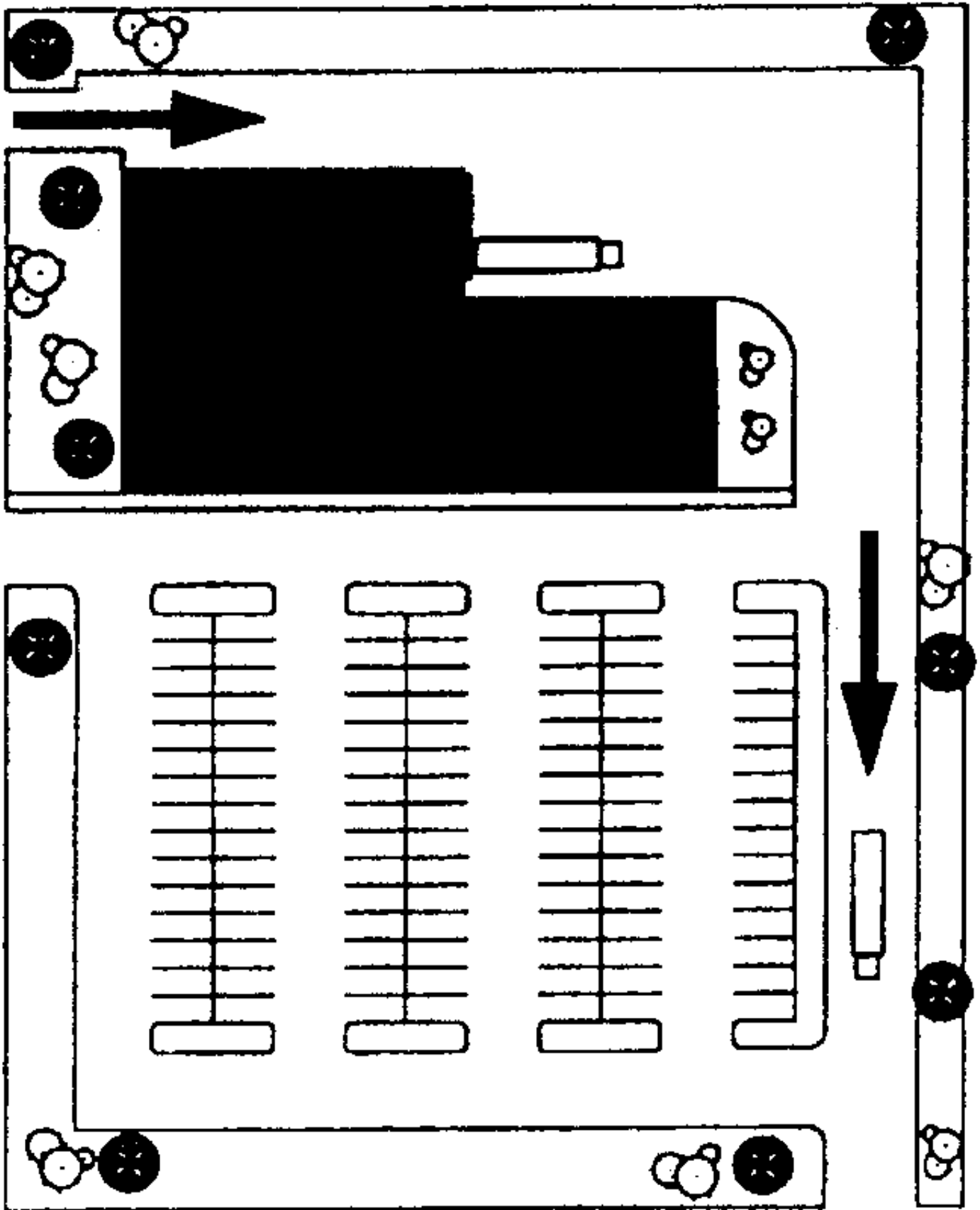


Figure 4-3

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 3. - LANDSCAPING AND SCREENING

Sec. 4-90. - Purpose.

Landscaping and screening requirements are established to transition between uncomplimentary land uses, to screen unsightly views, to reduce noise, glare, and stormwater runoff, and to generally enhance the quality and appearance of development within the city.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2010-09, § 1, 6-8-10)

Sec. 4-100. - Landscape plan required.

- (A) *In general.* A landscape plan shall be required in support of a site plan or building permit for all new construction, remodeling, or expansion of commercial, industrial, or multi-family residential uses.
- (B) *Review.* The City Planner shall review all landscape plans for compliance with the landscaping and screening requirements outlined within this chapter. For the purposes of this section, all calculations regarding the number of required plantings shall be rounded to the nearest whole number, unless indicated otherwise.
- (C) *Plan contents.* All landscape plans submitted for approval shall contain, at a minimum, the following information:
 - (1) North point and scale.
 - (2) The boundary lines of the property with accurate dimensions.
 - (3) The location of all driveways, parking areas, sidewalks, structures, utilities, or other features, existing or proposed, affecting the landscaping and screening of the site.
 - (4) The location, size, and identification of all existing trees, shrubs, and other vegetation intended for use in meeting the planting requirements of this chapter.
 - (5) The location, common name, size, and quantity of all proposed landscape materials.
 - (6) Proposed seeding or sodding plans for all disturbed areas, including the type of ground cover and method of application.
 - (7) The location and height of any proposed earth berms, fences, or other measures used to satisfy screening requirements of this chapter.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2010-09, § 1, 6-8-10)

Sec. 4-110. - Landscape design requirements.

Landscape design shall serve to provide visually interesting open space, to reduce the potential negative impact of development on adjacent land uses, and to facilitate the preservation and reestablishment of plants native to the region. The following items are required in developing a landscape plan for submittal to the city:

- (1) The overall composition and location of landscaped areas should complement the scale of the development and its surroundings.
- (2)

Plant materials should be selected and arranged to prevent blocking or obscuring of required site lighting during all stages of plant growth.

- (3) Plantings at intersections or driveway entrances shall be arranged to allow a permanently clear, safe sight distance.
- (4) Trees or shrubs shall not be planted under existing or proposed utility lines when their ultimate height may interfere with the lowest lines.
- (5) Trees and shrubs shall not be placed over underground drainage and shall maintain adequate distance from storm sewers, sanitary sewers, and water lines to prevent roots from entering such facilities.
- (6) Landscaped areas should be of adequate size to promote proper plant growth and to protect plantings from pedestrian traffic, vehicle traffic, and other types of concentrated activity.
- (7) Landscaped areas and plantings should be located in a manner to prevent spread onto adjacent properties or right-of-way, and to allow adequate room for proper maintenance.
- (8) A variety of tree and shrub species should be utilized to provide visual, four-season interest. Not more than fifty (50) percent of the required number of trees or shrubs may be comprised of any one (1) species.
- (9) Final slopes greater than a 3:1 ratio will not be permitted without special approval or treatment, such as special seed mixtures or reforestation, terracing, or retaining walls.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 4-120. - Landscaping requirements, single and two-family residential uses.

A minimum of two (2) trees shall be required per single or two-family residential lot. The trees shall be placed in the front yard area at least ten (10) feet from the curb line. On corner lots and cul-de-sac lots, one of the trees may be placed in the side yard area. All remaining lot area not used for structures, parking area, or driveway shall be landscaped with turf grass, native grasses, ground cover, or other perennial flowering plants, vines, shrubs, or trees.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 4-125. - Landscaping requirements, industrial districts.

(A) *[Base number of landscape plantings.]* The base number of landscape plantings required on industrially zoned properties shall be determined by the percent of impervious surface on the property as shown in the following table. For the purposes of this section, all calculations regarding the number of required plantings shall be rounded to the nearest whole number.

Percent Impervious Surface	Base Plantings Required
0 — 19%	3 plantings/Acre
<u>20</u> — 39%	4 plantings/Acre
40 — 59%	5 plantings/Acre

60 — 79%	6 plantings/Acre
80 — 100%	7 plantings/Acre

- (B) *Shrub plantings.* No more than 1/3 of the total required plantings shall be shrubs. Perennials and annuals shall not qualify as shrubs.
- (C) *Evergreen plantings.* A minimum of 1/3 of the required plantings shall be evergreen.
- (D) *Planting locations.* A minimum of fifty (50) percent of the required base plantings shall be located within the required front building setback area. If the property has more than one (1) street frontage, the plantings required within this section shall be evenly divided between the street frontages.
- (E) *Landscape transitions.* Landscape transitions are established to lessen the impact of industrial uses on certain less intense land uses, zoning districts, and Interstate 35. Such transitions are required as follows:
- (1) A fifty (50) percent increase in the base number of plantings is required for properties abutting Interstate 35. Such plantings shall be planted within the building or parking setback area adjacent to Interstate 35.
 - (2) A fifty (50) percent increase in the base number of plantings is required if the property is adjacent to a Public Park, Trail, or Open Space. Such plantings shall be planted in the setback area immediately adjacent to the Public Park, Trail, or Open Space. If a trail is located adjacent to or within the public right-of-way it is exempt from this provision.
 - (3) A fifty (50) percent in the base number of plantings is required if the property is adjacent to a residential use or zoning district. Such plantings shall be planted in the setback area adjacent to the residential use or zoning district.
 - (4) A maximum increase of seventy-five (75) percent increase in the base number of plantings shall be required on any one (1) property. In cases where two (2) or more of the above criteria are met, the plantings shall be evenly distributed and planted in the building setback area along the property line for which the increased plantings are required.
- (F) *Interior landscaping of parking lots.* In all parking areas that contain more than fifty (50) parking spaces, a landscaped island of not less than one hundred (100) square feet shall be provided for each twenty-five (25) parking spaces or fraction thereof, and shall contain one (1) tree which provides shade or is capable of providing shade upon maturity, as illustrated in Figure 4-4. The remainder of the landscaped area shall be covered with turf grass, native grasses, or other perennial flowering plants, vines, shrubs, trees, or landscape rock a minimum of one and one-half (1½) inch in size.
- (G) *Lawn coverage.* All areas, excluding those within the public right-of-way, which are disturbed by grading and not built upon, paved, retained as natural area, or covered with other landscaping materials shall be seeded or sodded to provide complete coverage. Disturbed areas located within the public right-of-way shall be sodded. Disturbed areas located within the public right-of-way unmaintained ditch areas may be seeded, subject to approval by the City Engineer.
- (H) *Screening.* When screening is required, as stated in other sections of this chapter, the following standards shall apply:

- (1) The screening shall be a minimum of six (6) feet in height.
- (2) The screening shall have a minimum of ninety (90) percent opacity.
- (3) If landscaping is used for the screening, the plantings shall be evergreen and a minimum of six (6) in height when planted. A ninety (90) percent opacity level shall be obtained within two (2) years.
- (4) Screening shall be required when the area is visible from one (1) of the following areas:
 - a. A residential zoning district or use.
 - b. A public park, trail, or open space.
 - c. Interstate 35, a State Highway, or County Highway.

(Ord. No. 2008-09, § 1, 5-13-08; Ord. No. 2010-09, § 1, 6-8-10)

Sec. 4-130. - Landscaping requirements, all other uses.

- (A) The base number of landscape plantings required for all other uses shall be determined by the percent of impervious surface on the property as shown in the following table. For the purposes of this section, all calculations regarding the number of required plantings shall be rounded to the nearest whole number.

Percent Impervious Surface	Base Plantings Required
0 — 19%	5 plantings/Acre
<u>20</u> — 39%	7 plantings/Acre
40 — 59%	8 plantings/Acre
60 — 79%	10 plantings/Acre
80 — 100%	12 plantings/Acre

- (B) *Shrub plantings.* No more than one-third (1/3) of the total required plantings shall be shrubs. Perennials and annuals shall not qualify as shrubs.
- (C) *Evergreen plantings.* A minimum of one-third (1/3) of the required plantings shall be evergreen.
- (D) *Planting locations.* A minimum of fifty (50) percent of the required base plantings shall be located within the required front building setback area. If the property has more than one (1) street frontage, the plantings required within this section shall be evenly divided between the street frontages.
- (E) *Landscape transitions.* Landscape transitions are established to lessen the impact of more intense land uses on certain less intense land uses. Such transitions are required as follows:
- (1) A fifty (50) percent increase in the base number of plantings is required if the property is adjacent to a public park, trail, or open space. Such plantings shall be planted in the setback area immediately adjacent to the public park, trail, or open space. If a trail is located immediately adjacent to or within the public right-of-way, it is exempt from this provision.
 - (2)

A seventy-five (75) percent increase in the base number of plantings is required if a commercial property is adjacent to an elementary school. Such plantings shall be planted in the setback area adjacent to the elementary school.

- (3) A seventy-five (75) percent increase in the base number of plantings is required if the high density residential use is adjacent to a medium density residential use or a medium density residential use is adjacent to a high density residential use. Such plantings shall be planted in the setback area adjacent to the neighboring use.
- (4) A seventy-five (75) percent increase in the base number of plantings is required if the medium density residential use is adjacent to a single- or two-family residential use or if a single- or two-family residential use is adjacent to a medium density residential use. Such plantings shall be planted in the setback area adjacent to the neighboring use.
- (5) A one hundred (100) percent increase in the base number of plantings is required if a high density residential use is adjacent to a single- or two-family use or if the single- or two-family is adjacent to a high density residential use. Such plantings shall be planted in the setback area adjacent to the neighboring use.
- (6) A one hundred (100) percent increase in the base number of plantings is required if the commercial property is adjacent to a residential use or zoning district. Such plantings shall be planted in the setback area adjacent to the residential use or zoning district.
- (7) The base number of plantings shall be adjusted by the number of stories in the building according to the table below. A story is defined as provided in Section 1-120

One Story	0% Increase
Two Story	25% Increase
Three Story	50% Increase
Four + Story	100% Increase

- (8) A maximum increase of one hundred fifty (150) percent in the base number of plantings shall be required on any one (1) property. In cases where two (2) or more of the above criteria are met, the plantings shall be evenly distributed and planted in the building setback area along the property line for which the increased plantings are required.
- (F) *Rain garden and bio-retention cell discount.* A discount in the total number of landscape plantings required may be allowed for properly installed and maintained rain gardens and bio-retention cells due to their ability to enhance the landscaped environment. A properly installed rain garden or bio-retention cell provides numerous plantings that are not considered trees or shrubs but add to the landscaped environment. A discount is being provided based on the square footage of the rain garden or bio-retention cell as stated below:

--	--

0 — 5000 total square feet	10% discount
5,001 — 10,000 total square feet	20% discount
10,001 + total square feet	30% discount

(G) *Interior landscaping of parking lots.* In all parking areas that contain more than fifty (50) parking spaces, a landscaped island of not less than one-hundred (100) square feet shall be provided for each twenty-five (25) parking spaces or fraction thereof, and shall contain one (1) tree which provides shade or is capable of providing shade upon maturity, as illustrated in Figure 4-4. The remainder of the landscaped area shall be covered with turf grass, native grasses, or other perennial flowering plants, vines, shrubs, trees, or landscape rock a minimum of one and one-half (1½) inch in size.

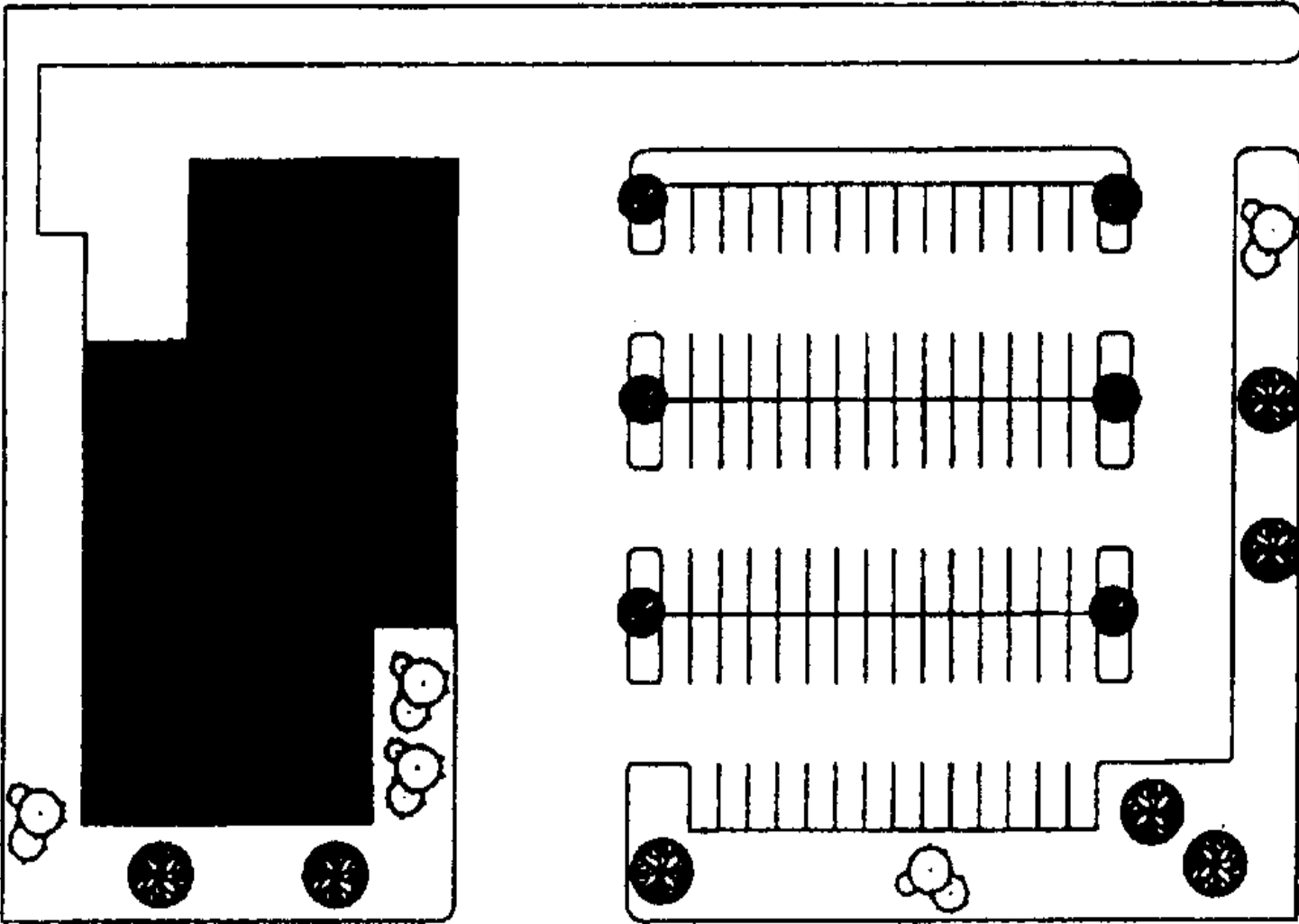


Figure 4-4

- (H) *Lawn coverage.* All areas, excluding those within the public right-of-way, which are disturbed by grading and not built upon, paved, retained as natural area, or covered with other landscaping materials shall be seeded or sodded to provide complete coverage. Disturbed areas located within the public right-of-way shall be sodded. Disturbed areas located within the public right of way unmaintained ditch areas may be seeded, subject to approval by the City Engineer.
- (I) *Screening.* When screening is required, as stated in other sections of this chapter, the following standards shall apply:
- (1) The screening shall be a minimum of six (6) feet in height.
 - (2) The screening shall have a minimum of ninety (90) percent opacity.
 - (3) If landscaping is used for the screening, the plantings shall be evergreen and a minimum of six (6) [feet] in height when planted. A ninety (90) percent opacity level shall be obtained within two (2) years.
 - (4) Screening shall be required when the area is visible from one (1) of the following areas:
 - a. A residential zoning district or use.
 - b. A public park, trail, or open space.
 - c. Interstate 35, a State Highway, or County Highway.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2008-09, § 1, 5-13-08; Ord. No. 2010-09, § 1, 6-8-10)

Sec. 4-140. - Reserved.

Editor's note— Ord. No. 2010-09, § 1, adopted June 8, 2010, repealed § 4-140 in its entirety. The former § 4-140 pertained to landscaped buffer areas and derived from Ord. No. 99-20, § 1, adopted Nov. 23, 1999; Ord. No. 2008-09, § 1, adopted May 13, 2008.

Sec. 4-150. - Landscaping materials.

- (A) *In general.* All plant materials must meet the standards set by the American Association of Nurserymen and be of a variety that is indigenous to the hardiness zone in which Faribault is located.
- (B) *Minimum plant size.* All plant materials shall meet the minimum size standards identified in Table 4-3. For the purposes of determining tree trunk size, the diameter shall be measured six (6) inches above ground level.

Table 4-3. Minimum plant size for landscape materials.

Plant Type	Minimum Plant Size
Trees	
Evergreen	4—5 feet in height
Deciduous	1—1½ inches in diameter
Deciduous ornamental	1 inch in diameter
Shrubs	

Evergreen	18" in height
Deciduous	18" in height

(C) *Existing plant material.* Existing, healthy plant material may be utilized to satisfy landscaping requirements, provided it meets the minimum plant size specified in Table 4-3.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2010-09, § 1, 6-8-10)

Sec. 4-160. - Installation and maintenance of required landscaping.

- (A) *In general.* All landscaping materials depicted on plans approved by the city shall be considered as required elements of the project.
- (B) *Installation requirements.* All landscape material and required screening shall be installed prior to issuance of a final certificate of occupancy. A temporary certificate of occupancy may be issued without the installation, provided a financial security shall be submitted, in an amount established by the City Council, to ensure the remaining improvements are completed. The remaining improvements shall be installed when weather conditions are favorable.
- (C) *Maintenance and care.* The landowner shall be responsible for the continued maintenance of landscape materials to remain in compliance with all requirements of this chapter. Plant material that exhibits evidence of insect pests, disease, or damage shall be appropriately treated and dead plants promptly removed and replaced within the next planting season.
- (D) *Inspection.* All landscaping shall be subject to periodic inspection by the City Planner. Landscaping that is not installed, maintained, or replaced as needed to comply with the approved landscape plan shall be considered in violation of the terms of the site plan or building permit. The landowner shall receive notice of such violation in accordance with code enforcement requirements as specified in Section 2-620

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2008-09, § 1, 5-13-08; Ord. No. 2010-09, § 1, 6-8-10)

Editor's note— Ord. No. 2010-09, § 1, adopted June 8, 2010, changed the title of § 4-160 from "Installation and maintenance of required landscaping and buffering methods" to "Installation and maintenance of required landscaping".

Sec. 4-170. - Substitutions or reductions of required landscaping.

The City Planner may approve the substitution or reduction of planting requirements where one (1) or more of the following conditions are shown to exist:

- (1) The proposal will allow site development that is more consistent with the historic nature of the area.
- (2) Existing plant materials, walls, fences, or the topography of the site and its surroundings make the required landscaping less necessary.
- (3) The required landscaping would hinder truck access and service necessary to the operation of the use or create a hazard by obstructing a motorist's view of traffic.
- (4) The required landscaping would reduce necessary surveillance of the site for security purposes.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2010-09, § 1, 6-8-10)

CHAPTER 5. - ZONING DISTRICTS AND MAPS GENERALLY

Sec. 5-10. - Establishment of zoning districts.

In order to carry out the purposes and provisions of this ordinance, the city shall be divided into the following zoning districts:

(1) Residential Districts

R-1	Single Family Residential District
R-2	Low Density Residential District
R-3	Medium Density Residential District
R-4	High Density Residential District
RM	Residential Manufactured Home District

(2) Commercial Districts

C-1	Neighborhood Commercial District
C-2	Highway Commercial District
C-3	Community Commercial District
CBD	Central Business District

(3) Industrial Districts

I-P	Industrial Park District
I-1	Light Industrial District
I-2	Heavy Industrial District

(4) Special Districts

O	Agriculture-Open Space District
TUD	Transitional Urban Development District

- (5) Overlay Districts
 - Floodplain Management Districts
 - Heritage Preservation District
 - Airport District
 - Shoreland Management District
 - Planned Unit Development

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 5-20. - Primary and overlay districts.

Primary zoning districts include the districts listed in Sections 5-10(1) through (4). All property in the city shall be located within a primary zoning district. Overlay districts shall include the districts listed in Section 5-10 (5).

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 5-30. - Official zoning map.

The locations and boundaries of the zoning districts established by this ordinance shall be set forth on the official zoning map, to be maintained by the City Planner. The official zoning map is incorporated herein by reference.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 5-40. - Interpretation of district boundaries.

The following rules shall be used to determine the precise location of any zoning district boundary, as shown on the official zoning map:

- (1) Boundaries shown as following or approximately following the municipal limits shall be construed as following such limits.
- (2) Boundaries shown as following or approximately following streets shall be construed to follow the centerlines of such streets.
- (3) Boundary lines that follow or approximately follow platted lot lines or other property lines as shown on the zoning map shall be construed as following such lines.
- (4) Boundaries shown as following or approximately following section lines, half-section lines, or quarter-section lines shall be construed as following such lines.
- (5)

Boundaries shown as following or approximately following railroad lines shall be construed to lie midway between the main tracks of such railroad lines.

- (6) Boundaries shown as following or approximately following shorelines of any lakes shall be construed to follow the mean high water line of such lakes, and, in the event of change in the ordinary high water line, shall be construed as moving with the actual mean high water line.
- (7) Boundaries shown as following, or approximately following, the centerlines of streams, rivers, or other continuously flowing watercourses shall be construed as following the channel centerline of such watercourses taken at mean low water, and, in the event of a natural change in the location of such streams, rivers, or other watercourses, the zoning district boundary shall be construed as moving with the channel centerline.
- (8) Boundaries shown as separated from, and parallel or approximately parallel to, any of the features listed in numbers (1) through (7) above shall be construed to be parallel to such features and at such distances therefrom as shown on the zoning map.
- (9) Appeals concerning the exact location of zoning district boundary lines shall be made to the Planning Commission and City Council, as specified in Section 2-110

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 5-50. - Property within two or more zoning districts.

Where a single parcel of land is bisected by one (1) or more zoning district boundary lines, land in the more restrictive district shall not be included as a part of the required yards or minimum lot area for any structures or uses not allowed in said district.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 5-60. - Designation of annexed property.

Annexed property shall be placed within the TUD, Transitional Urban Development District, unless special action is taken at the time of annexation to designate it otherwise.

(Ord. No. 99-20, § 1, 11-23-99)

CHAPTER 6. - GENERAL REGULATIONS

ARTICLE 1. - GENERAL PROVISIONS

Sec. 6-10. - Purpose.

This chapter is established to provide regulations of general applicability for property throughout the city, to promote the orderly development and use of land, to protect and conserve the natural environment, to minimize conflicts among land uses, and to protect the public health, safety, and welfare.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-20. - Applicability.

The regulations set forth in this chapter apply to all structures and all land uses, except as otherwise provided in this ordinance.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-30. - Mechanical equipment.

- (A) *In general.* All mechanical equipment installed on or adjacent to structures shall be arranged so as to minimize visual impact using one of the following methods.
- (1) Screened by another structure. Mechanical equipment installed on or adjacent to a structure may be screened by a fence, wall, or similar structure. Such screening structure shall comply with the following standards:
 - (a) The required screening shall be permanently attached to the structure or the ground and shall conform to all applicable building code requirements.
 - (b) The required screening shall be constructed with materials that are architecturally compatible with the structure.
 - (c) Off-premise advertising signs and billboards shall not be considered required screening.
 - (2) Screened by vegetation. Mechanical equipment installed adjacent to the structure served may be screened by hedges, bushes, or similar vegetation.
 - (3) Screened by the structure it serves. Mechanical equipment on, or adjacent to, a structure may be screened by a parapet or wall of sufficient height, built as an integral part of the structure.
 - (4) Designed as an integral part of the structure. If screening is impractical, mechanical equipment may be designed so that it is balanced and integrated with respect to the design of the building.
- (B) *Exceptions.* The following mechanical equipment shall be exempt from the screening requirements of this section:
- (1) Minor equipment not exceeding one (1) foot in height.
 - (2) Mechanical equipment accessory to a single or two-family dwelling.
 - (3) Mechanical equipment located in an industrial district not less than three hundred (300) feet from a residence or residential zoning district.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-40. - Screening of trash enclosures.

Trash or recycling collection areas, when provided for any property other than one containing a single or two-family residential use, shall be enclosed on at least three (3) sides by opaque screening at least six (6) feet in height. The open side of the enclosure shall not face any street or the front yard of any abutting property.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 2. - LOT CONTROLS

Sec. 6-50. - Purpose.

Lot controls are established to provide for the orderly development and use of land, to minimize conflicts among land uses, and to provide adequate light, air, open space, and separation of uses.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-60. - Zoning lots.

No part of an existing zoning lot shall be used as a separate zoning lot or for the use of another zoning lot, except as otherwise provided in this ordinance.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-70. - Minimum lot area.

Lot area requirements shall be as specified in the applicable zoning district in which a zoning lot is located. No yard or lot existing at the time of passage of this ordinance shall be reduced in size or area below the minimum requirements identified within this ordinance.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-80. - Division of zoning lot.

No zoning lot shall be divided into two (2) or more zoning lots unless all zoning lots resulting from such division conform to all applicable regulations of this ordinance.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-90. - Street frontage.

Each lot shall have frontage on a public street at a width satisfying the requirements specified for each zoning district. In the case of a condominium, unified shopping center, or planned unit development, the entire site shall be considered one zoning lot.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-100. - Limited principal buildings in residential districts.

There shall be no more than one principal building on one zoning lot in any residential district except as part of a planned unit development. A detached accessory dwelling unit shall be considered an accessory building and not a principal building.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2009-12, § 2, 10-27-09)

Sec. 6-110. - Required setbacks.

Setback requirements shall be as specified in the applicable zoning district. Setbacks provided for an existing structure or use shall not be reduced below, or further reduced if already less than, the minimum requirements of this ordinance for equivalent new construction, except as otherwise provided in Section 3-40.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-120. - Setback encroachments.

All required setbacks shall remain open and unobstructed from ground level to the sky, subject to the following permitted obstructions. In no case, however, shall the identified permitted obstructions be located closer than one (1) foot to a property line, except for fences.

- (1) Cornices, canopies, eaves, and other ornamental features, provided they do not extend more than three (3) feet into a yard.

- (2) Chimneys, fire escapes, uncovered stairs, ramps and necessary landings, bay windows, balconies, uncovered decks or porches, provided they do not extend more than four (4) feet into a yard.
- (3) Vestibules, greenhouses, or structures for energy conservation, provided they do not extend more than four (4) feet into a yard.
- (4) Driveways and parking areas, subject to the provisions established in Chapter 8, Off-Street Parking and Loading.
- (5) Recreational playground equipment.
- (6) Fences in compliance with Sections 6-250 and 6-260
- (7) Accessory buildings in compliance with Sections 6-170 through 6-200
- (8) Air-conditioning, heating, ventilation, or other mechanical equipment, subject to the screening requirements specified in Section 6-30. In no case, however, shall such equipment be located in the front yard area or closer than five (5) feet to a side or rear property line.
- (9) Containers for storage of household refuse, compost, or firewood.
- (10) Signs in compliance with the provisions of Chapter 9, Signs.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-130. - Corner lots.

On a corner lot, one of the lot lines that abuts the street shall be considered a front lot line and the other shall be considered a corner side lot line. Establishment of the front lot line shall be based on the orientation of the existing or proposed building.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-140. - Through lots.

On a through lot, both lot lines that abut the street shall be considered front lot lines. The required front setback shall be provided and maintained along each front lot line.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-150. - Structure height.

(A) *In general.* The building height limitations established in each separate zoning district shall apply to all buildings and structures, with the exception of the following:

- (1) Church steeples, spires, or belfries.
- (2) Chimneys or flues.
- (3) Cupolas and domes which do not contain useable space.
- (4) Flagpoles.
- (5) Mechanical or electrical equipment.
- (6) Monuments.
- (7) Parapet walls extending not more than three (3) feet above the limiting height of the building.
- (8) Communication antennas and towers in accordance with the standards identified in Section 6-230
- (9) Towers, poles, or other structures for essential services.

- (10) Water towers.
- (B) *Limits.* No excluded roof equipment or structural element extending beyond the defined height of a building may occupy more than twenty-five (25) percent of the roof area.
- (Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2010-07, § 1, 5-25-10)

Editor's note— Ord. No. 2010-07, § 1, adopted May 25, 2010, changed the title of § 6-150 from "building height" to "structure height". This historical notation has been preserved for reference purposes.

ARTICLE 3. - PROTECTION OF NATURAL FEATURES

Sec. 6-160. - Protection of natural features.

- (A) *In general.* All developments shall be located so as to preserve the natural features of the site, to avoid areas of environmental sensitivity, to minimize the creation of impervious surface area, and to minimize negative impacts on the alteration of the natural environment. The following areas shall be preserved as undeveloped open space, to the extent consistent with the reasonable utilization of land, and in accordance with applicable federal, state, or local regulations:

The following areas shall be preserved as undeveloped open space, to the extent consistent with the reasonable utilization of land, and in accordance with applicable federal, state, or local regulations:

- (1) Shorelands. Lands within the Shoreland Management District shall be governed by the regulations specified in Chapter 13, Overlay and Special Districts.
- (2) Wetlands. No development, grading or filling, alteration of the natural character of the land, or construction of buildings or structures shall occur within any vegetated wetland, except in compliance with the Minnesota Wetland Conservation Act of 1991.

(a) Buffer strips shall be required adjacent to all wetlands and shall be measured from the ordinary high water level of the wetland.

(b) Buffer strip dimensions and setbacks:

i. Structure setbacks shall be measured from the outer edge of the wetland buffer strip to the structure.

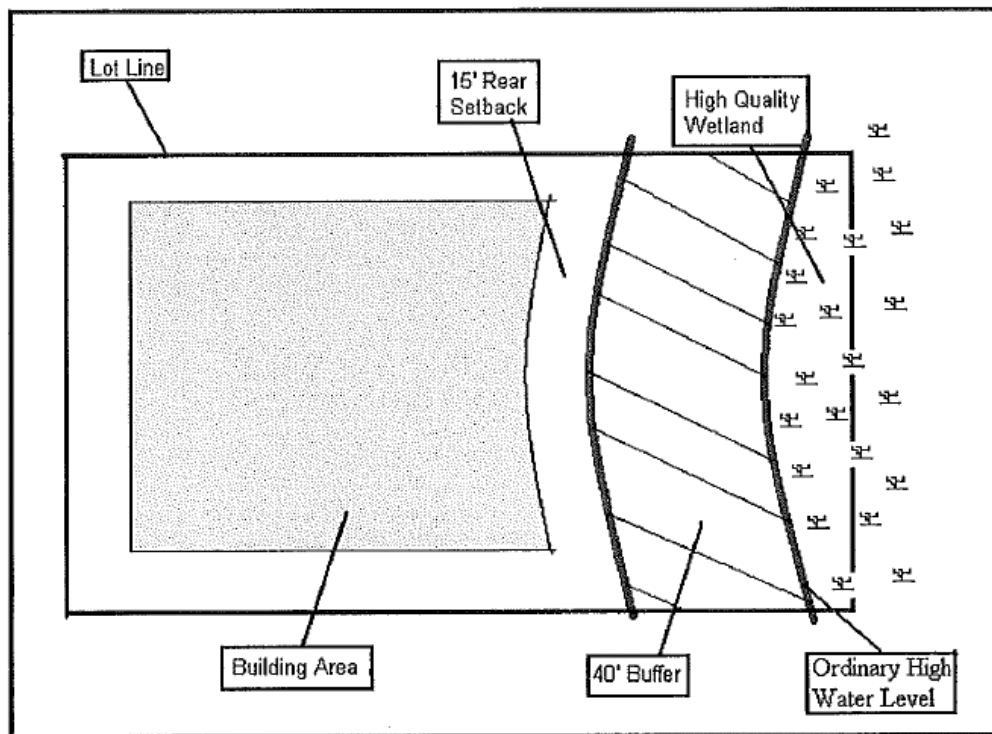
ii. The required dimensions for all wetland buffer strips and structure setbacks shall be as follows:

Table 6-1. Wetland Buffers and Setbacks

MNRAM Wetland Classification	High Quality	Medium Quality	Low Quality
Buffer strip width	40'	25'	15'
Structure	15'	15'	15'

setback from
outer edge
of wetland
buffer

Figure 6-1. Buffer strip and structure setback- High quality wetland



- (c) All provisions of Chapter 28, Article VII, shall apply to any work, construction, development or maintenance in proximity to a wetland.
- (3) Vegetated areas. Significant trees or plant communities, including remnant stands of native trees or prairie grasses, trees or plant communities that are rare to the area or of particular landscape significance.
- (4) Steep slope areas. Development on slopes of fifteen (15) percent or greater shall be prohibited. Where no practicable alternatives exist, development on steep slope areas shall be subject to the following conditions:
 - (a) The foundation and underlying material of any structure shall be adequate for the slope condition and soil type.
 - (b) The proposed development will not result in soil erosion, flooding, severe scarring, reduced water quality, inadequate drainage control, or other problems.
 - (c) The proposed development will preserve significant natural features by minimizing disturbance to existing topographical forms.
 - (d)

The city may require that a property be rezoned and developed as a planned unit development to utilize flexible development standards to preserve steep slopes.

- (e) The proposed development shall comply with all provisions of Chapter 28, Article VII related to stormwater pollution.
 - (5) Habitats of threatened or endangered wildlife as identified on federal or state lists, including the federal Endangered Species Act and the Minnesota County Biological Survey.
 - (B) *Mitigation.* Where preservation is not consistent with the reasonable utilization of land, the city may require mitigation through replacement of the resource or similar resource on the site, restoration of former natural amenities to the site, or other reasonable measures to protect or enhance the natural features of the land.
- (Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2006-21, § 3, 9-26-06; Ord. No. 2010-04, § 1, 5-25-10)

ARTICLE 4. - ACCESSORY USES AND STRUCTURES

Sec. 6-170. - General requirements.

Accessory uses and structures shall comply with the following standards and all other applicable regulations of this ordinance:

- (1) No accessory use or structure shall be constructed or established on any lot prior to the time of construction of the principal use to which it is accessory.
- (2) The accessory use or structure shall be incidental to and customarily associated with the principal use or structure except in the case of a detached accessory dwelling unit, as provided elsewhere in this ordinance.
- (3) The accessory use or structure shall be subordinate in area, extent, and purpose to the principal use or structure served.
- (4) The accessory use or structure shall contribute to the comfort, convenience, or necessity of the occupants of the principal use or structure served, except in the case of a detached accessory dwelling unit, as provided elsewhere in this ordinance. In no case shall an accessory structure be utilized as an independent residence, either permanently or temporarily, except as provided elsewhere in this ordinance.
- (5) The accessory use or structure shall be located on the same zoning lot as the principal use or structure, except for accessory off-street parking and loading facilities, subject to the provisions of Chapter 8, Off-Street Parking and Loading.
- (6) The accessory use or structure shall not be injurious to the use and enjoyment of surrounding properties.
- (7) An accessory structure, when it is capable of storing one or more motorized vehicles, shall be provided with a driveway in compliance with the provisions of Chapter 8, Off-Street Parking and Loading.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2009-12, § 2, 10-27-09)

Sec. 6-180. - Residential accessory buildings.

- (A) *In general.* In all residential districts, the design and construction of any garage, carport, or storage building shall be similar to or compatible with the design and construction of the principal building. The exterior building materials, roof style, and colors shall be similar to or compatible with the principal building. All new single family residential construction, whether attached or detached units, shall require the construction of at least a single stall garage. In no case shall a single family use, whether detached or attached, with a garage be permitted to eliminate the garage or to provide less than a one stall garage on the property, either through conversion, demolition or other means of destruction.
- (B) *Attached structures.* An accessory structure shall be considered attached, and an integral part of, the principal structure when it is connected by an enclosed passageway. Such structures shall be subject to the following requirements:
- (1) The structure shall meet the required setbacks for a principal structure, as established for the zoning district in which it is located.
 - (2) In no case shall the total floor area of an attached garage, carport, or other accessory structure exceed the ground floor area of the principal building located on the same lot.
 - (3) The structure shall not exceed the height of the principal building to which it is attached.
- (C) *Detached structures.* Detached accessory structures shall be permitted in residential districts in accordance with the requirements shown in Table 6-1 and as follows:
- (1) Detached accessory structures shall be located to the side or rear of the principal building, and are not permitted within the front yard or within a corner side yard. When such structure is located in a side yard, the required setback shall be the same as that for the principal structure.
 - (2) The maximum size may be increased by up to twenty-five (25) percent upon approval of a conditional use permit, provided that lot coverage requirements are satisfied.
 - (3) Structures with a corrugated metal exterior finish shall not be permitted.
 - (4) Garages, when accessed from and situated perpendicular to a public alley, shall maintain a setback of at least twenty (20) feet from said alley right-of-way.
 - (5) Maximum lot coverage for detached structures is regulated under Section 10-130. For those properties that are exempted under Section 10-130, no more than thirty (30) percent of the rear yard area may be covered by accessory structures.
 - (6) Distance between structures shall be measured from wall to wall.

Table 6.2. Requirements for detached accessory structures, residential districts.

Use	One or two-family residential use	Other multi-family residential use	Permitted non-residential use
Number of Structures Allowed	2	2	2
Maximum	864 sq. ft.	300 sq. ft./unit	1,000 sq. ft.

Size—1st structure			
Maximum Size—2nd structure	120 sq. ft.	250 sq. ft.	250 sq. ft.
Maximum Height	16 feet	16 feet	20 feet
Maximum Side Wall Height	9 feet*	9 feet*	9 feet*
Required Setbacks			
Side	5 feet	10 feet	15 feet
Rear	5 feet	10 feet	15 feet
Between structures	10 feet	10 feet	10 feet

* See Section 6-190.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2001-24, § 1, 1-8-02; Ord. No. 2009-12, § 2, 10-27-09; Ord. No. 2010-04, § 2, 5-25-10)

Sec. 6-190. - Increase in wall height.

The maximum side wall height for a detached garage in a residential district may be increased up to twelve (12) feet provided that the maximum building height provision is satisfied and that an additional setback of two (2) feet is provided from side and rear lot lines for each additional foot of side wall height over nine (9) feet.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2001-24, § 1, 1-8-02)

Sec. 6-200. - Non-residential accessory buildings.

Accessory buildings permitted in non-residential zoning districts shall meet the following requirements:

- (1) Gate houses, guard shelters, structures for parking attendants, and transformer buildings may be located in a front or side yard at least five (5) feet from any property line.

- (2) All other commercial, industrial, or agricultural accessory buildings shall conform to all applicable setback and lot coverage requirements for principal buildings.
- (3) No accessory building in a non-residential district shall exceed the height or floor area of the principal building, except that agricultural buildings where a farm residence also exists are exempt from this provision.
- (4) Separation of accessory structures from the principal structure and other accessory structures shall meet applicable building code requirements.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-210. - Private swimming pools.

All private residential swimming pools, both above the ground and in the ground, that are capable of holding water at a depth of more than thirty (30) inches and have a surface area greater than one hundred fifty (150) square feet, are subject to the following standards:

- (1) The pool is not operated as a business or private club, except when allowed as a permitted home occupation.
- (2) The pool, including any related walks, paved areas, or other structures shall not be located in a front yard, and must be set back at least five (5) feet from any property line.
- (3) The pool, or the rear yard, or the entire property, shall be enclosed by a wall or fence or combination thereof which is at least four (4) feet in height, with a self-closing gate capable of being secured with a lock so as to prevent uncontrolled access by children from the street or adjacent properties. A cover capable of being locked, but not easily penetrated, when the subject is not in use may be substituted for fencing.
- (4) If the only access to a pool is through a principal or accessory structure, all points of access shall be made lockable.
- (5) Required fencing shall be of durable wood, masonry, or metal, and shall be so designed as to discourage climbing. Building walls may contribute to enclosure requirements.
- (6) In the case of aboveground pools, sides that are vertical or slanted outward may contribute to required fencing, provided all points of access are controlled to prevent access by children, including the removal of all ladders and/or stairs whenever the pool is not in use. A cover capable of being locked, but not easily penetrated, when the subject is not in use may be substituted for fencing.
- (7) Existing pools, as defined by this ordinance, shall comply with all provisions of this ordinance within one year of the effective date of this ordinance.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-03, § 1, 2-12-02)

Sec. 6-220. - Travel trailers and other recreational vehicles.

Travel trailers and other similar recreational vehicles may be parked or stored on any property within the city only under the following conditions:

- (1) At no time shall a travel trailer or recreational vehicle be used as a residence on any site, except as expressly provided within this section.

- (2) Unoccupied vehicles may be stored within buildings or displayed for sale in a commercial district where such a use is permitted.
- (3) One (1) unoccupied travel trailer or similar recreational vehicle may be stored on a year-round basis within a building or in a rear yard no less than three (3) feet from the property line.
- (4) Travel trailers may be used as on-site offices in conjunction with construction work, provided that they shall be removed upon completion of construction. Such vehicles may be occupied twenty-four (24) hours a day for on-site security but shall not be used as a residence.
- (5) One (1) travel trailer or similar recreational vehicle may be used as a temporary residence for no more than fourteen (14) days per calendar year, provided it is placed on a lot occupied by a principal building, and has access to sanitary sewer and water facilities.
- (6) Travel trailers and similar recreational vehicles may be parked, stored, and utilized as a seasonal residence within an approved recreational vehicle park.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-230. - Antennae, satellite dishes, wind energy conversion systems, solar energy systems, and towers.

- (A) *Purpose.* This section is established for the purpose of providing for the appropriate location and development of antennae, satellite dishes, towers, wind energy conversion systems, and solar energy systems which are often needed to serve the residents and businesses within the city, to reduce potential negative visual impacts of such facilities, to maximize the use of existing towers and structures, and to provide restrictions which do not conflict with any federal statute or FCC rule or regulation. Towers and antennae provided for use by a political subdivision shall be exempt from the regulations identified in this section.
- (B) *Building mounted antennae and satellite dishes.* Building mounted antennae and satellite dishes shall be permitted in all zoning districts subject to the following requirements:
- (1) The height of any building mounted antenna or satellite dish, including its support structure, shall not exceed twenty (20) feet above the highest point of the roof.
 - (2) Accessory equipment associated with a building mounted antenna or satellite dish shall be located within the building or with a roof or ground enclosure that is constructed of materials and color scheme compatible with the principal structure.
 - (3) Building mounted satellite dishes located in any residentially zoned district shall not be larger than forty (40) inches in diameter.
 - (4) Building mounted satellite dishes and antennae located in any residentially zoned district shall not be used for commercial purposes.
- (C) *Public utility tower mounted antennae.* Public utility tower mounted antennae shall be permitted in all zoning districts in which the public utility tower is located, subject to the following requirements:
- (1) The height of any antennae mounted to a public utility tower shall not exceed twenty (20) feet above the highest point of the public utility tower.
 - (2) Accessory equipment associated with the antennae shall be located within an enclosure which shall not be greater in area than four hundred (400) square feet and shall be designed and constructed of material and color scheme compatible accessory structures on surrounding properties.
 - (3)

A freestanding tower for the purpose of elevating an antenna shall be permitted provided that it is located within the base area of the public utility tower and directly surrounded by its support structure.

- (D) *Freestanding satellite dishes.* Freestanding satellite dishes shall be permitted in all zoning districts, subject to the following requirements:
- (1) Freestanding satellite dishes that are permanently installed shall be located in the rear yard.
 - (2) Accessory equipment associated with a freestanding satellite dish shall be located within the principal structure or within an enclosure which is constructed of materials and color scheme compatible with the principal building or within an equipment encasement not exceeding ten (10) feet by ten (10) feet in area and five (5) feet in height.
 - (3) Satellite dishes and accessory equipment enclosures shall meet the setback requirements for accessory structures as set forth elsewhere in this ordinance.
 - (4) Satellite dishes and accessory equipment enclosures shall not be located within any utility or drainage easement.
 - (5) Freestanding satellite dishes located in any residentially zoned district shall not be used for commercial purposes.
- (E) *Freestanding towers and antennae.* Freestanding towers and antennae shall be permitted in all zoning districts, subject to the following requirements:
- (1) Freestanding towers and antennae in residential zoning districts. Freestanding towers and antennae shall be permitted as an accessory use in residential zoning districts, subject to the following requirements:
 - (a) The combined height of a freestanding tower and any antenna mounted thereto shall not exceed sixty (60) feet in height, measured from ground elevation of the tower to the highest point of the tower, including any antenna mounted thereto.
 - (b) Permanent platforms or structures, exclusive of antennae, that increase off-site visibility are prohibited.
 - (c) No more than one freestanding tower shall be permitted on any one residential lot.
 - (d) All setback requirements for accessory structures shall be met, provided the minimum setback distance from a residential structure shall be equal to the permissible height of the tower.
 - (e) The tower shall be located in the rear yard and shall be self-supporting through the use of a design that uses an open frame or monopole configuration.
 - (f) No tower shall be used for commercial purposes, except when an antenna is mounted on a city water reservoir tank or tower.
 - (2) Freestanding towers and antennae in non-residential zoning districts. Freestanding towers and antennae shall be permitted as a conditional use in non-residential zoning districts, subject to the following requirements:
 - (a) The combined height of a freestanding tower and any antenna or satellite dishes mounted thereto shall not exceed:
 - (i) One hundred (100) feet in height, measured from ground elevation of the tower to the highest point of the tower, including any antenna or satellite dish mounted thereto.

- (ii) One hundred twenty-five (125) feet, measured from ground elevation of the tower to the highest point of the tower, including any antenna or satellite dish mounted thereto, provided the tower is designed to accommodate the applicant's antennae and at least one (1) additional comparable antennae for other communication providers, accept antennae mounted at varying heights, and allow the future rearrangement of antennae upon the tower.
 - (iii) One hundred fifty (150) feet, measured from ground elevation of the tower to the highest point of the tower, including any antenna or satellite dish mounted thereto, provided the tower is designed to accommodate the applicant's antennae and at least two (2) additional comparable antennae for other communication providers, accept antennae mounted at varying heights, and allow the future rearrangement of antennae upon the tower.
- (b) Any equipment building or structure shall meet the setbacks required for a principal building within the zoning district in which the building is located.
- (c) The minimum setback distance of the tower from any property line of a lot within a residential use district shall be equal to two (2) times the height of the tower or three hundred (300) feet, whichever is greater.
- (d) The tower shall be self-supporting through the use of a design that uses an open frame or monopole configuration.
- (e) Permanent platforms or structures, exclusive of antennae, that increase off-site visibility are prohibited.
- (f) Existing vegetation on the site shall be preserved to the greatest possible extent.
- (g) Accessory equipment associated with freestanding towers and antennae shall be located within an equipment building constructed of materials and color scheme compatible with the principal building and/or surrounding buildings or within an equipment encasement not exceeding ten (10) feet by ten (10) feet in area and five (5) feet in height.
- (h) No new tower shall be permitted unless the City Council finds that the equipment planned for the proposed tower cannot be accommodated at any preferred co-location site. The City Council may find that a preferred co-location site cannot accommodate the planned equipment for the following reasons:
 - (i) The planned equipment would exceed the structural capacity of the preferred co-location site, and the preferred co-location site cannot be reinforced, modified, or replaced to accommodate the planned equipment or its equivalent at a reasonable cost, as certified by a qualified radio frequency engineer.
 - (ii) The planned equipment would interfere significantly with the usability of existing or approved equipment at the preferred co-location site, and the interference cannot be prevented at a reasonable cost, as certified by a qualified radio frequency engineer.
 - (iii) A preferred co-location site cannot accommodate the planned equipment at a height necessary to function reasonably, as certified by a qualified radio frequency engineer.
 - (iv) The applicant, after a good-faith effort, is unable to lease, purchase, or otherwise obtain space for the planned equipment at a preferred co-location site.

(F)

Wind energy conversion systems. Wind energy conversion systems up to 40 kW shall be permitted in all zoning districts except the CBD, Central Business District, subject to the following requirements:

- (1) The system shall not exceed fifty-six (56) feet in height.
 - (2) All setback requirements for principal structures, as required for the zoning district in which the structure is to be located, shall be met, provided the minimum setback distance from any property line of a residential district or use shall be equal to two (2) times the total height of the system. A minimum setback distance from any other uses property line shall be a minimum of 1.25 time the total height of the system.
 - (3) All systems shall have a manual and an automatic speed control device as part of the design.
 - (4) All systems shall comply with the Minnesota Pollution Control Agency's Noise Pollution Section (NPC 1 and NPC 2), as amended.
 - (5) Any wind energy conversion system that utilizes a propeller shall have neither a blade rotation diameter of greater than thirty-five (35) feet nor a blade arc less than twenty (20) feet above the ground.
 - (6) All freestanding ground systems shall be constructed using a monopole or lattice tower type construction. In no case shall guy wires be permitted.
 - (7) The majority of the utility connections shall be located underground.
 - (8) A visible exterior disconnect is required, per the National Electrical Code.
 - (9) All WECS shall be UL listed or certified by an equal agency recognized by the State of Minnesota.
 - (10) Building and Electrical permits shall be required for all WECS.
 - (11) All WECS that remain nonfunctional or inoperative for a continuous period of twelve (12) months shall be deemed abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained. Removal includes the entire structure, including but not limited to the foundation, transmission equipment, structure, and any associated accessory structures. Any owner that has not removed the system within these twelve (12) months shall be notified by the Zoning Administrator in writing and given thirty (30) days to comply with the removal. Upon failure to comply with the notice within the specified time period, the Zoning Administrator is authorized to cause removal of such system, and assign any expenses incidental to the removal of the same to the property owner.
- (G) *Solar energy systems.* Solar energy systems shall be permitted in all zoning districts. A property is permitted to have up to four (4) square feet of solar panels before the following standards are required to be met. All panels and/or systems with over four (4) square feet of solar panels are subject to the following requirements:
- (1) A maximum of one hundred twenty (120) square feet of solar panels are permitted on a property. A system over one hundred twenty (120) square feet in size may be permitted by conditional use.
 - (2) All roof-mounted systems shall meet the following requirements:
 - a. A roof-mounted system on a peaked roof shall not extend more than five (5) feet above the peak of that section of the roof. The height of the system shall be measured from the roof peak to the highest extent the system is capable of reaching.
 - b.

A roof-mounted system on a flat roof shall not extend more than twelve (12) feet above the average height of that section of the roof. The height of the system shall be measured from the roof surface to the highest extent the system is capable of reaching.

- c. In no case shall a system extend past the wall line of a structure.
 - d. All roof-mounted systems within the Heritage Preservation District shall have a Certificate of Appropriateness issued by the Heritage Preservation Commission prior to the issuance of a building permit.
- (3) All ground-mounted systems shall meet the following requirements:
- a. A ground system shall not extend over ten (10) feet in height in all residential zoning districts. An institutional use may apply for a conditional use permit to allow for a taller structure. The height of the system shall be measured from the ground surface to the highest extent the system is capable of reaching.
 - b. A ground system shall not extend over fifteen (15) feet in height in all other zoning districts. A taller system may be permitted by conditional use. The height of the system shall be measured from the ground surface to the highest extent the system is capable of reaching.
 - c. All ground systems shall meet the setbacks required of an accessory structure. The setbacks shall be measured from the property line to the closest extent the system is capable of reaching.
 - d. All ground systems within residential zoning districts shall be located in a side or rear yard. Church and school uses shall be exempt from this requirement provided the lot exceeds one (1) acre is [in] size.
 - e. A ground system shall not be located within a drainage and utility easement.
 - f. Ground systems shall not be permitted within the Heritage Preservation District.
- (4) The majority of all associated utilities shall be installed underground.
- (5) A visible exterior disconnect shall be provided per the National Electrical Code.
- (6) All solar energy systems shall be UL listed or certified by an equal agency recognized by the State of Minnesota.
- (7) Building and electrical permits shall be required for all systems over four (4) square feet in size.
- (8) A property owner who has installed or intends to install a solar energy system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easements and shall record the easement with the Rice County Recorder. If no such easement is negotiated and recorded, the owner of the solar energy system shall have no right to prevent the construction of structures, planting of trees, or any other items that may affect the performance of the solar energy system permitted by this ordinance [section] on nearby properties on grounds that the construction would cast shadows on the solar energy system.
- (9) All solar energy systems, unless it is an integral part of the structure, that remain nonfunctional or inoperative for a continuous period of twelve (12) months shall be deemed abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained. Removal includes the entire structure, including, but not limited to, the foundation, transmission equipment, structure, and any associated accessory structures. Any owner that has not removed the system within these twelve (12) months shall be notified by the

Zoning Administrator in writing and given thirty (30) days to comply with the removal. Upon failure to comply with the notice within the specified time period, the Zoning Administrator is authorized to cause removal of such system, and assign any expenses incidental to the removal of the same to the property or the property owner.

- (H) *General standards.* All antennae, satellite dishes, towers, wind energy conversion systems, and solar energy systems shall be subject to the following additional requirements:
- (1) Location and color shall be in a manner to minimize off-site visibility to the greatest possible extent.
 - (2) Building permits shall be required for the installation of building-mounted satellite dishes in excess of five (5) feet in diameter, and all towers and wind energy conversion systems. All such structures shall be designed and installed in compliance with pertinent building codes and other regulations.
 - (3) No signs, other than public safety warning or equipment information, shall be affixed to any portion of the structure.
 - (4) No artificial illumination, except when required by law or by a governmental agency to protect the public's health and safety, shall be utilized.
 - (5) The placement of transmitting, receiving, and switching equipment shall be integrated within the site, being located within an existing structure whenever possible. Any new accessory equipment structure shall be attached to the principal building, if possible, and be constructed of materials and a color scheme compatible with the principal structure and/or surrounding area, or within an equipment encasement not exceeding ten (10) feet by ten (10) feet in area and five (5) feet in height.
 - (6) Accessory equipment or buildings shall be screened in accordance with the provisions required within Chapter 4, Site Plan Review.
 - (7) Towers, and any equipment attached thereto, shall be unclimbable by design for the first twelve (12) feet or be completely surrounded by a six-foot-high security fence with a lockable gate.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2011-05, 6-14-11; Ord. No. 2011-11, 9-27-11)

Editor's note— Ord. No. 2011-05, adopted June 14, 2011, changed the title of § 6-230 from "Antennae, satellite dishes, wind energy conversion systems, and towers" to "Antennae, satellite dishes, wind energy conversion systems, solar energy systems, and towers". This historical notation has been preserved for reference purposes.

ARTICLE 5. - TEMPORARY USES

Sec. 6-240. - Permitted temporary uses and structures.

The following temporary uses and structures shall be permitted in all zoning districts, except as otherwise specified below, provided such temporary use or structure shall comply with the regulations of the zoning district in which it is located and all other applicable regulations of this ordinance.

- (1) *Garage sales.* Garage sales shall be limited to a total of ten (10) days of operation per calendar year at any residential location.
- (2) *Construction sites.* Storage of building materials and equipment or temporary buildings for construction purposes may be located on the site under construction for the duration of the construction or a period of one (1) year, whichever is less. The City Planner may grant extensions to

this time limit for good cause shown.

- (3) *Amusement events.* Temporary amusement events, including the erection of tents for such events, may be allowed as a temporary use for a maximum of fifteen (15) days per calendar year. In residential districts, such temporary amusement events shall be located on institutional and public property only.
- (4) *Promotional activities involving outdoor sales and display.* Promotional activities including outdoor sales and display may be allowed as a temporary use in non-residential districts for a maximum of thirty (30) days per calendar year. Such sales and display may also be conducted within a tent or other temporary structure.
- (5) *Seasonal outdoor sale of agricultural products.* The seasonal outdoor sale of agricultural products, including but not limited to produce, plants, and Christmas trees, may be allowed as a temporary use. In no case, however, shall the public right-of-way or any public property be utilized for the sale and display of such items.
- (6) *Additional temporary uses.* In addition to the temporary uses and structures listed above, the City Planner may allow other temporary uses and structures for a maximum of fifteen (15) days per calendar year, provided that the proposed temporary use or structure is substantially similar to a temporary use or structure listed above.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 6. - FENCES

Sec. 6-250. - Fence location and height.

Fences may be erected, placed, or maintained in any yard along or adjacent to a lot line, in accordance with the requirements identified below. The owner shall be responsible for properly locating all property lines before construction of any fence.

- (1) No fence shall exceed six (6) feet in height in residential districts or twelve (12) feet in nonresidential districts, nor be less than three (3) feet in height. In the case of grade separation such as the division of properties by a retaining wall, fence height shall be determined based on measurement from the average point between highest and lowest grade.
- (2) Any fence extending into a front building setback area, a corner side building setback area, or within a required sight distance triangle shall not exceed three (3) feet in height, except as provided under [subsection] (3) or (4) below.
- (3) Any fence within a front yard or corner side yard may be increased to a maximum height of four (4) feet if open, decorative, ornamental fencing materials that are less than fifty (50) percent opaque are used.
- (4) Any fence meeting the height requirements of [subsection] (1) may be permitted in a corner side yard for a total of fifty (50) percent of that lot line's length, provided fence sections are not more than twenty (20) feet continuous and contain a minimum of a ten-foot break between fence sections. In no case may these sections be permitted within any portion of a sight distance triangle.
- (5) A rear yard of a through-lot shall be permitted to construct a fence up to the property line in compliance with the height requirements of [subsection] (1).

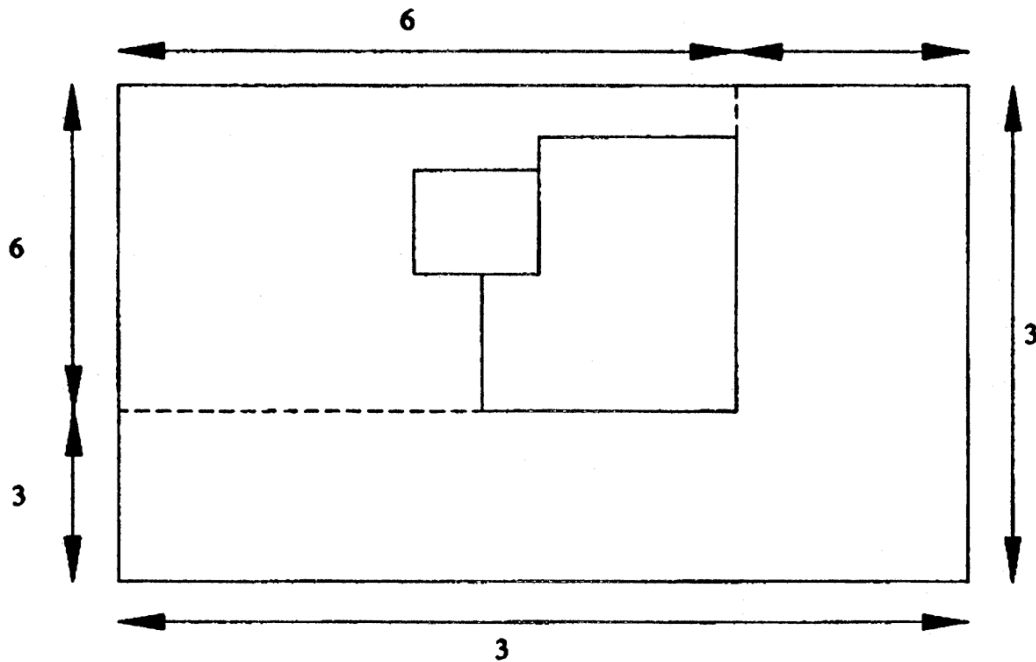


Figure 6-2. Maximum Fence Height, Residential Districts

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2008-09, § 2, 5-13-08; Ord. No. 2010-04, § 3, 5-25-10; Ord. No. 2011-06, 6-14-11)

Sec. 6-260. - Fence materials and maintenance.

- (1) All walls and fences shall be durable, weather-treated, and kept in a condition so as not to become a private or public nuisance.
- (2) Barbed wire and electric wire fencing may be used only for agricultural purposes, retention of livestock, industrial storage areas when not visible from a public right-of-way, and when necessary for security purposes at correctional and other similar facilities.
- (3) All fence posts and supporting members shall be erected so that the finished side or sides of the fence face the adjacent property or public right-of-way.
- (4) Slats shall not be permitted within a chain link fence.
- (5) Metal wall or roof panels may be permitted as a fence material by conditional use.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2008-09, § 2, 5-13-08; Ord. No. 2011-06, 6-14-11)

ARTICLE 7. - HOME OCCUPATIONS

Sec. 6-270. - Purpose.

Home occupation regulations are established to ensure that home occupations will not adversely affect the character and livability of the surrounding neighborhood and that a home occupation remains accessory and subordinate to the principal residential use of the dwelling. The regulations recognize that many types of home occupations can be conducted with little or no effect on the surrounding neighborhood.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-280. - Standards.

- (A) *General.* All permitted home occupations shall be allowed as an accessory use to a dwelling subject to the following standards:
- (1) Machine shops, body shops, repair of internal combustion engines (other than small engine repair), welding, manufacturing, or any other objectionable use as determined by the city council shall not be permitted as a home occupation.
 - (2) The home occupation shall be clearly incidental and subordinate to the residential use of the dwelling.
 - (3) Exterior alterations or modifications that change the residential character or appearance of the dwelling, any accessory buildings, or the property itself shall be prohibited.
 - (4) Exterior display or storage of equipment or materials is prohibited.
 - (5) Signage is permitted as allowed in Chapter 9, Signs, for the zoning district in which the home occupation is located.
 - (6) There shall be no indication of offensive noise, vibration, smoke, dust, odors, heat, or glare at or beyond the property line.
 - (7) Shipment and delivery of products, merchandise, or supplies shall be limited to between 8:00 a.m. and 6:00 p.m. and shall occur only in single rear axle straight-trucks or smaller vehicles normally used to serve residential neighborhoods.
- (B) *Type I home occupations.* Type I home occupations shall include but are not limited to: art or photo studio; tailoring; secretarial service; consulting services; and professional offices, none of which shall involve regularly scheduled client visits.
- (1) Only persons residing on the premises may be engaged in the conduct of the home occupation.
 - (2) Home occupations shall be limited to the performance of services only. In person retail sales from the premises are prohibited.
 - (3) Accessory structures and may not be used as part of the home occupation.
 - (4) There shall be no separate business entrance.
 - (5) Infrequent client visits shall be permitted by appointment only, and shall be limited to five (5) per week.
 - (6) The operation of the home occupation, as it is apparent to adjacent residential uses, shall begin no earlier than 7:00 a.m. and end no later than 9:00 p.m.
- (C) *Type II home occupations.* Type II home occupations shall include all of the above home occupations that exceed Type I home occupation standards and meet the Type II home occupations requirement, such uses as hair-styling and tanning salons or other uses that generate regular customer visits to the premises, and small engine repair uses.
- (1) Only persons residing on the premises may be engaged in the conduct of the home occupation. Those employed indirectly as part of the home occupation may be allowed, but shall not report to work at the premises on a daily basis.
 - (2) Home occupations, including but not limited to hair-styling and tanning salons, may provide no more than one (1) station.
 - (3)

The required off-street parking area provided for the principal use shall not be reduced or made unusable by the home occupation.

- (4) The operation of the home occupation, as it is apparent to adjacent residential uses, shall begin no earlier than 7:00 a.m. and end no later than 9:00 p.m.
- (5) The home occupation shall not generate excessive customer or client traffic that is detrimental to the character of surrounding properties or the neighborhood.
- (6) Client visits to the premises shall be limited to three (3) clients on the premises at any one (1) time and the maximum number of clients visits per day shall be no more than that day's number of operating hours multiplied by two (2).
- (7) Accessory structures and/or attached garages may be used as part of the home occupations, provided that no more than thirty (30) percent of the structure is dedicated specifically to such use.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-06, § 1, 3-26-02)

Sec. 6-290. - Licensing.

Each Type II home occupations shall be required to obtain a home occupation certificate from the City Planner, subject to payment of a filing fee as established by resolution of the City Council. Issued home occupation certificates are not transferable. The certificate shall be renewed biannually. The certificate shall also be renewed if the home occupation is transferred to a new owner or operator, if the character or intensity, or if the location of the home occupation changes. All home occupation owners shall be required to complete a questionnaire describing its operations, to be kept on file with the city.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-06, § 1, 3-26-02)

Sec. 6-300. - Modifications.

Modifications from the above regulations may be approved by the City Council in individual cases if the modification is in accordance with the purposes set forth herein. Additional requirements or conditions may be added as deemed necessary to ensure that the home occupation will not have an adverse impact on the character of the surrounding residential neighborhood or on adjacent residential uses.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-301. - Inspection.

The city hereby reserves the right to inspect the premises in which a home occupation is being conducted to ensure compliance with the provisions of this Chapter or any conditions additionally imposed.

(Ord. No. 2002-06, § 1, 3-26-02)

ARTICLE 8. - DETACHED ACCESSORY DWELLING UNITS

FOOTNOTE(S):

--- (2) ---

Editor's note—Ord. No. 2009-12, § 2, adopted Oct. 27, 2009, renumbered the former article 8 as article 9 and enacted a new article 8 as set out herein.

Sec. 6-305. - Detached accessory dwelling units.

Detached accessory dwelling units shall be permitted as a conditional use in the R-1A, R-2, and R-3 zoning districts, subject to the following requirements:

- (a) The lot upon which the detached accessory dwelling is located shall meet the minimum per unit lot size requirements for the underlying zoning district as described in Table 10-2.
- (b) The detached accessory dwelling unit shall have a minimum of three hundred (300) square feet of habitable floor area and a maximum of eight hundred sixty-four (864) square feet of habitable floor area. The maximum size of an accessory dwelling unit structure may, upon approval of a conditional use permit, be increased by up to twenty-five (25) percent if the additional square footage is for the purpose of providing a minimum of a single stall garage.
- (c) The detached accessory dwelling unit shall be required to have its own separate kitchen and bathroom facilities.
- (d) The detached accessory dwelling unit structure shall be counted as one of the two (2) accessory structures permitted on a residential lot as provided in Table 6-1.
- (e) The detached accessory dwelling unit and property as a whole shall comply with all provisions governing residential accessory uses and structures as provided in Article 4, Chapter 6 of this ordinance.
- (f) One of the residential units on a property with an accessory dwelling unit shall be owner occupied as defined in Chapter 1 of this ordinance.
- (g) At no time shall the accessory dwelling unit be under separate ownership from the principal structure.
- (h) The detached accessory dwelling unit shall have the same street address as the principal dwelling unit, and using alphabetical letters for each unit, starting with "A" as the designation for the principal dwelling unit.
- (i) Off street parking shall be provided as required in section 8-200
- (j) Municipal water and sewer shall be connected to the detached accessory dwelling unit using the same service as the principal dwelling. Such water and sewer service shall not be a separate service from the main and shall not be metered separately.
- (k) The detached accessory dwelling unit shall be registered with the city as follows:
 - (1) The property owner shall verify annually in a letter to the zoning administrator that one of the dwelling units on the property is owner occupied.
 - (2) The detached accessory dwelling unit shall be registered with the city's rental registration program. As required by the program, the registration shall be renewed and the detached accessory dwelling unit inspected on a biennial basis.

(Ord. No. 2009-12, § 2, 10-27-09)

ARTICLE 9. - GENERAL PERFORMANCE STANDARDS

FOOTNOTE(S):

--- (3) ---

Editor's note—See note at article 8

Sec. 6-310. - Purpose.

Performance standards are established to minimize conflicts among land uses, to preserve the use and enjoyment of property, and to protect the public health, safety and welfare. These standards shall apply to all uses of land or structures and are in addition to any requirements applying to specific zoning districts.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-320. - In general.

No use or structure shall be operated or occupied so as to constitute a dangerous, injurious, or noxious condition because of fire, explosion or other hazard, noise, vibration, smoke, dust, fumes, odor or other air pollution, light, glare, heat, cold, dampness, electrical disturbance, liquid or solid refuse or waste, water or soil pollution, or other substance or condition. No use or structure shall unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities. In addition, no use or structure shall be operated or occupied in a manner not in compliance with any performance standard contained in this ordinance or with any other applicable regulation.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-330. - Review by other agencies.

In determining compliance with the performance standards of this section, the City Planner may refer any matter to such governmental agencies or other entities as deemed necessary to obtain their review and comments as to such compliance.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-340. - Lighting.

(A) *In general.* No use or structure shall be operated or occupied as to create light or glare in such an amount or to such a degree or intensity as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.

(B) *Specific standards.* All uses shall comply with the following standards except as otherwise provided in this section:

- (1) Lighting fixtures shall be effectively shielded and arranged so as not to shine directly on any residential property. Lighting fixtures not of a cutoff type shall be subject to the following:
 - (a) Maximum initial lumens generated by each fixture shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb).
 - (b) Mounting heights of such fixtures shall not exceed fifteen (15) feet.
- (2) Lighting shall not create a sensation of brightness that is substantially greater than ambient lighting conditions so as to cause annoyance, discomfort, or decreased visual performance or visibility.
- (3)

Lighting shall not directly or indirectly cause illumination or glare in excess of one-half (½) foot-candle measured at the closest residential property line and five (5) foot-candles measured at the street curb line or non-residential property line nearest the light source.

- (4) Lighting shall not create a hazard for vehicular or pedestrian traffic.
- (5) Lighting of building facades or roofs shall be located, aimed, and shielded so that light is directed only onto the facade or roof.
- (6) Lighting shall be maintained stationary and constant in intensity and color, and shall not be of a flashing, moving, or intermittent type.

(C) *Exceptions.* The uses listed below shall be exempt from the provisions of this section as follows:

- (1) Publicly controlled or maintained street lighting and warning and emergency or traffic signals.
- (2) Athletic fields and outdoor recreation facilities serving or operated by an institutional or public use that otherwise meets all of the requirements of this ordinance shall be exempt from the requirements of Sections 6-340(B)(1) through (B)(4) due to their unique requirements for nighttime visibility and limited hours of operation.
- (3) Neon signs, theater marquee lights, and decorative lighting.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-350. - Glare and heat.

- (A) *In general.* No use or structure shall be operated or occupied as to create glare or heat from high temperature processes such as welding or metallurgical refining in such an amount or to such a degree or intensity as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.
- (B) *Specific standard.* Uses producing glare or heat shall be performed within a completely enclosed building in such manner as to make such glare or heat completely imperceptible from any point along the property line.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-360. - Vibration.

- (A) *In general.* No use or structure shall be operated or occupied as to vibration in such an amount or to such a degree or intensity as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.
- (B) *Specific standards.* All uses shall comply with the following standards:
 - (1) On property within or adjacent to any non-industrial zoning district, uses creating vibration shall be conducted in such a manner as to make such vibration completely imperceptible from any point along the property line.
 - (2) On all other property, uses creating vibration shall comply with the performance standards identified in Table 6-2 and shall be conducted in such a manner as to make such vibration completely imperceptible from any point along a non-industrial zoning district boundary line. Vibration shall be measured at any point along a property line with a three (3) point component measuring system recognized as a standard for such purpose and shall be expressed as displacement in inches.

Table 6-2. Maximum permitted vibration.

Frequency in Cycles per Second	Maximum Vibration Displacement in Inches
Under 10	.0008
10—19	.0005
20—29	.0002
30—39	.0002
40 and over	.0001

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-370. - Noise.

- (A) *In general.* No use or structure shall be operated or occupied as to create noise in such an amount or with such recurrence or at such time of day as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.
- (B) *Specific standards.* All uses shall comply with the standards governing noise as regulated by the Minnesota Pollution Control Agency.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-380. - Odor emissions.

- (A) *In general.* No use or structure shall be operated or occupied as to create odor in such an amount or to such degree as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.
- (B) *Specific standards.* All uses shall comply with the standards governing odor emissions as regulated by the Minnesota Pollution Control Agency and with the requirements identified as follows:
- (1) Venting of odors, gas, and fumes shall directed away from residential uses.
 - (2) On property within or adjacent to any non-industrial zoning district, uses producing odorous matter in such quantities as to be readily detectable so as to cause annoyance or discomfort from any point along the property line shall be prohibited.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-390. - Air emissions.

- (A) *In general.* No use or structure shall be operated or occupied as to create the emission of smoke, particulate matter, noxious gas, or other air emission in such an amount or to such degree as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property

by any person of normal sensitivities, or otherwise as to create a public nuisance.

- (B) *Specific standards.* All uses shall comply with the standards governing air emissions as regulated by the Minnesota Pollution Control Agency.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-400. - Explosive and flammable materials.

- (A) *In general.* No use or structure involving the manufacture, storage, or use of explosive or flammable materials shall be operated or occupied as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.
- (B) *Specific standards.* All uses involving the manufacture, storage, or use of explosive or flammable materials shall comply with all pertinent regulations, including but not limited to the Minnesota Building Code and Minnesota Uniform Fire Code, and shall meet the requirements identified as follows:
- (1) *Safety devices.* All uses involving the manufacture, storage, or use of explosive or flammable materials shall employ best management practices and the provision of adequate safety devices to guard against the hazards of fire and explosion and adequate fire-fighting and fire-suppression devices standard in the industry.
 - (2) *Explosive or blasting agents.* The manufacture, storage, or use of any explosive or blasting agent, as defined by the Uniform Fire Code, shall be prohibited in any non-industrial zoning district.
 - (3) *Flammable liquids and gases.*
 - (a) *In general.* The storage of any flammable liquid or gas shall be subject to the requirements established under the Uniform Fire Code and review by the State Fire Marshal.
 - (b) *Distance from residential zoning districts.* Storage of flammable liquids or gases in excess of one hundred twenty (120) gallons but not more than five hundred (500) gallons shall be located no closer than fifty (50) feet from the nearest residential zoning district boundary, and if outside and above-ground, shall be located no closer than one hundred (100) feet from the nearest residential zoning district boundary. Storage of flammable liquids or gases in excess of five hundred (500) gallons but not more than two thousand seven hundred fifty (2,750) gallons shall be located no closer than one hundred fifty (150) feet from the nearest residential zoning district boundary, and if outside and above-ground shall be located no closer than three hundred (300) feet from the nearest residential zoning district boundary. Storage of flammable liquids or gases in excess of two thousand seven hundred fifty (2,750) gallons shall be located no closer than three hundred (300) feet from the nearest residential zoning district boundary.
 - (c) *Decreasing minimum distance.* A decrease in the minimum setback, established above, shall only be allowed through approval of a conditional use permit, in accordance with the provisions established in Chapter 2, Administration and Enforcement.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-410. - Hazardous materials.

- (A) *In general.* No use or structure involving hazardous materials shall be operated or occupied as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.

(B) *Specific standards.* All uses shall comply with the standards governing hazardous materials as regulated by the Minnesota Pollution Control Agency.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-420. - Direct discharge of waste.

(A) *In general.* No use or structure shall be operated or occupied as to discharge waste material in such an amount as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.

(B) *Specific standards.* All uses shall comply with the standards governing waste discharge as regulated by the Minnesota Pollution Control Agency.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 6-430. - Water pollution.

(A) *In general.* No use or structure shall be operated or occupied as to create water pollution in such an amount as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.

(B) *Specific standards.* All uses shall comply with the standards governing water pollution as regulated by the Minnesota Pollution Control Agency.

(Ord. No. 99-20, § 1, 11-23-99)

CHAPTER 7. - SPECIFIC DEVELOPMENT STANDARDS

Sec. 7-10. - Purpose.

Specific development standards are established to provide supplemental regulations to address the unique characteristics of certain land uses.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 7-20. - Applicability.

The standards in this chapter apply to the uses listed below whether the uses are permitted by right or by conditional use in the applicable zoning district. The standards identified within this chapter shall apply in addition to all other applicable regulations of this ordinance.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 7-30. - Development standards.

Adaptive reuses of institutional or public buildings.

- (1) The city council shall find before granting a conditional use permit for an adaptive reuse that the long-term benefits of the proposed adaptive reuse outweigh any negative impacts on the neighborhood of the proposed project and on the city, as compared with the alternative of having the structures demolished, remaining vacant, or underutilized.
- (2) The proposed adaptive reuse must be residential, commercial, institutional, or a combination of such uses.

- (3) Densities greater than would be allowed in the underlying zoning district may be approved, at the discretion of the city council.
- (4) The proposed adaptive reuse shall not cause traffic volumes to exceed the capacities for which the adjacent streets have been designed.
- (5) The proposed adaptive reuse must not generate daily semi-truck traffic on local residential streets.
- (6) Improvements to reduce the impact of driveways/access points on the traffic flow of adjacent streets have been identified where needed.
- (7) The proposed reuse includes adequate amounts of on-site parking and loading areas to meet the requirements of Section 8-200 of this Code; where required parking cannot be provided on-site, reasonable provision for off-site parking shall be required.
- (8) Screening must be provided to sufficiently protect the privacy of residents in the surrounding residential areas from the impact of off-street parking, loading, and driving areas, noise or glare exceeding permissible standards, potential safety hazards, or to subdue differences in architecture and bulk between adjacent land uses.
- (9) There shall be no exterior storage of goods or equipment except for properly screened trash containers.
- (10) Hours of operation shall be as identified by the applicant in the conditional use permit application and agreed to by the city council.
- (11) Exterior renovation or remodeling of the structure must endeavor to maintain existing architectural features so as to not alter the character of the neighborhood.
- (12) The requirements for institutional signage within a residential district shall be used in the evaluation of signage for the site. Consideration shall be given to reusing the existing, historical signage on the site and designing any additional signage to complement the existing residential district.

Adult entertainment use.

- (1) The use shall be located at least seven hundred fifty (750) radial feet (measured from the nearest corner of the property line) from any of the following:
 - (a) Any residentially zoned property or residential use.
 - (b) A licensed day care center.
 - (c) A public or private educational facility classified as an elementary, junior high or middle school, or senior high.
 - (d) A public library.
 - (e) A public park, playground, or other public recreational facility.
 - (f) A religious institution.
 - (g) Another adult entertainment use.
 - (h) An on-sale liquor, wine, or beer establishment.
- (2) No more than one adult entertainment use shall be located upon the property.
- (3) Signage shall be generic in nature, shall only identify the name of the business that is being conducted on the premises, and shall not contain material classified as advertising.

- (4) An adult entertainment use lawfully operating as a conforming use is not rendered nonconforming by the subsequent location of any use listed above within seven hundred fifty (750) feet, provided that if the adult entertainment use of the premises is abandoned for a period of ninety (90) days or more, it shall be deemed discontinued and subsequent use of the premises for adult entertainment will be required to meet the separation requirement.

Aggregate mining operation as an interim use. Any operation, including gravel storage areas, shall be located at least one thousand (1,000) feet from a residential district boundary or use; and shall meet the following submittal requirements and standards as part of an interim use permit application:

- (1) A site and vicinity plan that includes the following shall be provided:
 - (a) A description of natural features, including wetlands, water bodies and major topographic features located on the property and within three hundred fifty (350) feet of the property.
 - (b) A description of the proposal, including type and amount of material to be removed, overview of planned daily operations including equipment and vehicles; and discussion of how the proposed operations compare to land uses within one thousand (1,000) feet of the site.
 - (c) A description of any potential environmental hazard due to existing or proposed land uses, including but not limited to, soil, water, air, noise, and light.
 - (d) Grading plans showing land contours prior to excavation, at maximum excavation, and as proposed after completion of reclamation activities.
 - (e) Stormwater management and erosion control plans.
- (2) An air quality plan, as approved by the Minnesota Pollution Control Agency, shall be submitted with the interim use permit application.
- (3) A dust management plan, as approved by the Minnesota Pollution Control Agency, shall be submitted with the interim use permit application. Access drives and roads within the property shall be sprayed with dust suppressants as recommended by the Minnesota Pollution Control Agency, as needed to control fugitive dust. The streets used for access into the site shall also be cleaned at appropriate intervals consistent with City Standards, or as otherwise determined through the interim use permit.
- (4) A sound attenuation plan describing sources of sound and indicating conformance with all applicable sound and noise regulations. The maximum noise level at the perimeter of the site shall comply with the limits or standards established by the Minnesota Pollution Control Agency and the U.S. Environmental Protection Agency.
- (5) A vibration-dampening plan describing sources of vibration and indicating conformance with all applicable vibration regulations.
- (6) A traffic plan describing the number of daily truck trips the proposal will generate and the principal access routes to the facility, including a description of the facility's traffic impact on the surrounding area. Traffic through local residential streets shall be prohibited unless specifically allowed through the interim use permit.
- (7) A site reclamation/rehabilitation plan shall be submitted which provides for the orderly and continuing rehabilitation of all disturbed land. Such plan shall illustrate the following:
 - (a)

Proposed contours of the site after completion of each stage of reclamation and proposed overall final site contours upon closing of the site. Final proposed contours shall relate to the planned future land use for the property as designated in the City's Land Use Map.

- (b) A revegetation plan showing the type, quantity and location of plantings for areas where revegetation is proposed or required.
 - (c) Areas designated for storage of topsoil, overburden, mined materials or other materials to be stored or stockpiled on the site.
 - (d) A schedule setting forth the timetable for excavation and reclamation of the site.
 - (e) Criteria and standards that will be used to achieve final rehabilitation as well as intermittent slope stabilization.
- (8) All slopes shall be maintained in a safe manner, and shall not exceed two (2) feet vertical to one (1) foot horizontal. Slopes may be increased at the request of the proposer in conjunction with approval of the interim use permit, provided the proposer can demonstrate through engineering data that the slopes can and will be maintained in a safe manner and will not have adverse impact on adjacent land uses or property.
- (9) All operations shall be limited to the hours between 7:00 a.m. and 7:00 p.m., Monday through Saturday. All other times of operation shall be prohibited. The Council, at its discretion, may restrict any or all operations on legal holidays.
- (9) Security fencing, (exclusive of barbed wire) shall be installed and maintained along the perimeter of the entire property in accordance with the standards set forth in section 6-250 of this ordinance.
- (10) No part of the reclaimed site that is designated by the City's Land Use Map for uses other than open space or agriculture shall be at an elevation lower than the minimum required for gravity connection to planned sanitary sewer and storm sewer.
- (11) Site reclamation shall begin after excavation of twenty-five (25) percent of the total area to be mined or four (4) acres, whichever is less. Excavation and reclamation shall occur on a phased basis.
- (12) Security in the form of a cash escrow, letter of credit, or performance bond shall be submitted to insure that reclamation improvements are completed in a timely manner, according to the approved phasing plan for the project. The dollar amount of such security shall be determined in conjunction with the interim use permit and shall be based on the reclamation phasing plan and the estimated costs associated with each phase of reclamation.
- (13) The interim use permit shall be valid for a period not to exceed two (2) years, or as otherwise provided in the approved interim use permit. Prior to expiration of the interim use permit, the property owner/operator may apply for renewal of an approved interim use permit according to the procedures as set forth in Chapter 2, Article 8 of this ordinance.

Agricultural produce sales.

- (1) The majority of product sold on the property shall be grown or raised on the property.
- (2) No sales or display shall take place on any street right-of-way.
- (3) Any temporary structure placed on the property for such sales must be removed at the end of the selling season.

- (4) Any permanent structure shall not exceed four thousand (4,000) square feet in floor area.
- (5) If deemed necessary by the City Planner, off-street parking may be required. Any permanent structure shall be provided with a permanent parking area meeting the requirements of Chapter 8, Off-Street Parking and Loading.
- (6) All structures, including temporary structures, shall meet the minimum setback requirements of the zoning district in which the use is located.

Airport.

- (1) Effective buffering shall be provided to reduce ground and landing noise.
- (2) Adequate fencing, control, and protection shall be provided to prevent unauthorized access into landing field areas.
- (3) All landing fields and operating facilities shall be designed, operated, and maintained in compliance with federal and state laws and regulations.
- (4) Open storage is screened and landscaped from view of abutting residential districts or uses, in accordance with the standards identified in Chapter 4, Site Plan Review.
- (5) Accessory commercial uses may be permitted in compliance with the following:
 - (a) The use is totally enclosed within a structure.
 - (b) The use is intended to serve and support airport users and personnel, and will not attract customers from the general public or the community as a whole.
 - (c) The use is located at least two hundred (200) feet from any abutting residential district boundary or residential use.
 - (d) The addition of an accessory commercial use or change in an existing use shall require site plan approval.
- (6) If the airport use is terminated, all accessory commercial activities shall cease and further development shall conform to the "O" and "TUD" District regulations.

Ambulance facility.

- (1) Vehicle washing bays shall drain to the public sanitary sewer system.
- (2) Vehicle maintenance shall be conducted within a fully enclosed building.
- (3) There shall be no major vehicle repair or body work conducted on site.
- (4) Use of sirens with egress from the site shall be only as required by state statutes.
- (5) Maneuvering of ambulance or other commercial vehicles must be fully accommodated on site, and shall not interfere with vehicle parking.
- (6) Off-street parking shall be subject to the requirements of Section 8-200 of this Code.
- (7) Residential quarters for essential overnight personnel are allowed as a permitted accessory use.

Animal kennel, animal shelter.

- (1) All buildings occupied by animals and areas used for animal holding, feeding, or exercise shall be located at least one thousand (1,000) feet from any residential or commercial use or district.

- (2) A minimum lot area of two (2) acres shall be provided.

Auction establishment.

- (1) *Commercial districts.*

- a. An arterial or collector street of sufficient capacity to accommodate the traffic that the use will generate shall serve the site.
- b. The facility's appearance shall be designed to be compatible with surrounding land uses and is subject to city approval.
- c. Merchandise shall be limited to common household items. The sale of more than five (5) vehicles, large equipment or machinery (excluding common lawn care and snow removal implements), and other commercial or industrial merchandise shall be prohibited.
- d. All sales and storage of merchandise shall be completely within an enclosed building, except in the event of the limited sale of vehicles and/or common lawn care and snow removal equipment. Any vehicle or lawn care or snow removal equipment to be viewed and/or sold outside of the building shall be located in a designated area, which shall be hard surfaced, and which is not needed to meet the parking requirements for such use. No such merchandise shall be stored outside on the property for more than seventy-two (72) hours prior to the date of sale.

- (2) *Industrial Districts.*

- a. An arterial or collector street of sufficient capacity to accommodate the traffic that the use will generate shall serve the site.
- b. The facility's appearance shall be designed to be compatible with surrounding land uses and is subject to city approval.

Automobile convenience facility.

- (1) Fuel pumps shall be installed on pump islands.
- (2) No vehicular sales or service other than dispensing of motor fuel is permitted.
- (3) A car wash facility, either attached or detached from the principal structure, shall be permitted as an accessory use except in the C-1, Neighborhood Commercial District. Such use shall meet the standards identified for a car wash elsewhere in this chapter.
- (4) There shall be no exterior storage or sales of goods or equipment, except where specifically allowed elsewhere in this ordinance.
- (5) Only one such operation shall be permitted per C-1, Neighborhood Commercial District.
- (6) A minimum of two (2) access points for vehicular traffic shall be provided. The access points shall create a minimum of conflict with through traffic movement.
- (7) The facility's appearance shall be designed to be compatible with surrounding residential land uses, if any, and is subject to city approval.
- (8) Canopies covering pump islands shall be required to meet established building setbacks for the zoning district in which it is located.
- (9) Additional conditions may be established to control noise during the operation of the facility, including controls of hours of operation.

Automobile repair, major.

- (1) All vehicles awaiting repair or pickup shall be stored on the site within enclosed buildings or defined parking spaces in compliance with Chapter 8, Off-Street Parking and Loading.
- (2) All vehicles parked or stored on site shall display a current license plate with a current license tab. Outside storage of automotive parts or storage of junk vehicles shall be prohibited, unless in compliance with the standards for vehicle storage. (see Vehicle storage).
- (3) All repairs shall be performed within a completely enclosed building.
- (4) Fuel pumps, if provided, shall be installed on pump islands.
- (5) Venting of odors, gas, and fumes shall be directed away from residential uses. All storage tanks shall be equipped with vapor-tight fittings to preclude the escape of gas vapors.
- (6) Additional conditions may be established to control noise during the operation of the facility, including controls of hours of operation.

Automobile repair, minor.

- (1) All vehicles awaiting repair or pickup shall be stored on the site within enclosed buildings or defined parking spaces in compliance with Chapter 8, Off-Street Parking and Loading.
- (2) All vehicles parked or stored on site shall display a current license plate with a current license tab. Outside storage of automotive parts or storage of junk vehicles shall be prohibited, unless in compliance with the standards for vehicle storage. (see Vehicle storage).
- (3) All repairs shall be performed within a completely enclosed building.
- (4) Fuel pumps shall be installed on pump islands.
- (5) Venting of odors, gas, and fumes shall be directed away from residential uses. All storage tanks shall be equipped with vapor-tight fittings to preclude the escape of gas vapors.
- (6) Additional conditions may be established to control noise during the operation of the facility, including controls of hours of operation.

Automobile, recreational vehicle or other equipment sales and rental, including both new and used equipment.

- (1) When an outside sales area is adjacent to a residential district or residential use, a six-foot (6) foot fence shall be provided towards compliance with the provisions of Chapter 4, Site Plan Review.
- (2) Any structures used principally for sales or service shall be connected to municipal water and sewer.

Automobile rental. See Automobile sales.

Bars and liquor establishments. All regulations established in Chapter 4, City Code of Ordinances, regarding the sale of alcoholic beverages shall be met.

Bed and breakfast home.

- (1) The building is a certified state or national historic site, or is listed in the City of Faribault Inventory of Historic Sites for its historic or architectural significance.
- (2) The facility shall be owner occupied and managed.

- (3) No more than one (1) non-resident employee shall be employed in the operation.
- (4) The total number of guest rooms shall be limited to five (5) in the R-3 district and to eight (8) in the R-4 and CBD districts. All guest rooms shall be located within the principal structure.
- (5) Food service shall be limited to breakfast and separate kitchen or cooking facilities shall not be available for guests.
- (6) In residential districts, no other commercial enterprise, excluding home occupations conducted in compliance with the provisions established elsewhere in this ordinance, shall be permitted on the property.
- (7) Any restoration and/or additions to the structures shall be subject to review by the Historic Preservation Commission.
- (8) The facility shall meet all applicable housing, building, and fire codes and is licensed as required by the State of Minnesota.
- (9) Parking required for the use shall be in addition to that required for the principal residential use of the property.

Brewery.

- (1) On property within or adjacent to any non-industrial zoning district, uses producing odorous matter in such quantities as to be readily detectable so as to cause annoyance or discomfort from any point along the property line are prohibited. The use must comply with the standards governing odor emissions as regulated by the law. An air quality plan approved by the Minnesota Pollution Control Agency may be required.
- (2) On property within or adjacent to any non-industrial zoning district, uses producing amplified sound in such quantities as to be readily detectable so as to cause annoyance or discomfort from any point along the property line are prohibited. The use must comply with the standards governing amplified sound as regulated by the law.
- (3) Outdoor storage may be allowed as an accessory use provided that the standards for such use, as identified in Chapter 7, Specific Development Standards, are met.
- (4) The city may permit an open air patio area as an accessory use to a brewery with a taproom provided it meet the standards identified for in Chapter 7, Specific Development Standards in "Outdoor eating, drinking, or smoking enclosure as an accessory use to a bar, restaurant, club, or other assembly use with liquor sales."
- (5) All litter found on the exterior of the property must be regularly removed and properly disposed. Appropriate receptacles for rubbish, garbage, cigarette paraphernalia, etc. must be provided.
- (6) A parking plan for the site must be approved as part of the conditional use permit request. The parking plan must include designated pedestrian routes to ensure safe pedestrian travel while on the property, as well as food truck or food delivery vehicle parking if such accessory use is requested. Required parking and loading spaces shall be located on the same lot or development site as the use served. Required parking and loading spaces and the driveways providing access to them shall not be used for storage, display, sales, rental or repair of motor vehicles or other goods, or for the storage of inoperable vehicles or snow.

- (7) In cases where future potential uses of a building may generate additional parking demand, the city may require the parking plan for the site show how the anticipated parking demand will be met. The city may permit the additional land area that would be required for anticipated parking to be placed in reserve as landscaped open space until needed.
- (8) A traffic plan describing the number of daily truck trips the proposal will generate and the principal access routes to the facility, including a description of the facility's traffic impact on the surrounding area. Traffic through local residential streets shall be prohibited unless specifically allowed by the traffic plan. The parking plan must show semi-truck loading, unloading, temporary, and overnight parking.
- (9) Any retail sales of alcoholic beverages may only occur during the hours permitted by law and ordinance. No sales or display shall take place on any street right-of-way.
- (10) On property within or adjacent to any non-industrial zoning district, the maximum number of barrels of malt liquor brewed annually may not exceed twenty thousand (20,000).

Campgrounds.

- (1) An arterial or collector street of sufficient capacity to accommodate the traffic that the use will generate shall serve the site.
- (2) No more than five (5) percent of the area of the site is covered by buildings or structures.
- (3) All driveway areas serving the site shall be paved with concrete or bituminous surface. Parking spaces at individual campsites may consist of a crushed rock or gravel surface.
- (4) A minimum setback of one hundred (100) feet is provided between the use and any abutting residential use or district.
- (5) Plans for utilities and waste disposal shall require review and approval by the City Engineer.

Car wash.

- (1) Stacking shall be provided in accordance with Section 8-270, with such area designed to facilitate adequate on-site circulation.
- (2) Water from the car wash shall not drain across any sidewalk or into a public right-of-way, subject to the approval of the city engineer.
- (3) Vacuum and drying facilities shall be located in an enclosed structure or located away from any residential use to minimize the impact of noise.

Child care center, preschool, or early childhood learning center, in commercial districts.

- (1) A fence at least five (5) feet in height shall surround all play areas. Such play areas shall not be permitted between the principal structure and a public or private street.
- (2) All necessary permits and/or licenses shall be obtained from the Minnesota Department of Public Welfare and any other applicable state agency.
- (3) When a child care facility is proposed in a church or school building originally constructed for use as a church or school, the use shall be treated as a permitted accessory use.

Child care center, preschool, or early childhood learning center, in residential districts.

- (1) A fence at least five (5) feet in height shall surround all play areas. Such play areas shall not be permitted between the principal structure and a public or private street.
- (2) Building setbacks shall be a minimum of twenty-five (25) feet.
- (3) The city may require a minimum lot size of ten thousand (10,000) square feet in areas where a concentration of childcare providers already exists.
- (4) The city may prohibit a child care facility to be located within one thousand three hundred twenty (1,320) feet of an existing child care facility, a residential care facility, or a correctional residential care facility.
- (5) All necessary permits and/or licenses shall be obtained from the Department of Public Welfare and any other applicable state agency.
- (6) When a child care facility is proposed in a church or school building originally constructed for use as a church or school, the use shall be treated as a permitted use.

Club, lodge. If liquor sales, see Bars and liquor establishments.

Coffee shop with limited entertainment.

- (1) Music or amplified sounds shall not be audible from adjacent residential properties.
- (2) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter.

Commercial riding stable.

- (1) The site shall be at least five (5) acres in size.
- (2) All buildings occupied by animals and areas used for animal holding, grazing, or exercise shall be located at least one thousand (1,000) feet from any residential, commercial, or industrial use or district.

Community center. See Recreational buildings.

Concrete, asphalt, and rock crushing facility. Any facility, including gravel storage areas, shall be located at least one thousand (1,000) feet from any residential district boundary, and shall meet the following submittal requirements and standards as part of the conditional use permit application:

- (1) A site and vicinity plan that includes the following shall be provided:
 - (a) A description of natural features, including wetlands, water bodies and major topographic features located on the property and within three hundred fifty (350) feet of the site.
 - (b) A description of the proposal including type and amount of material to be removed, overview of planned daily operations including equipment and vehicles, and discussion of how the proposed operations compare to land uses within three hundred fifty (1,000) feet of the site.
 - (c) A description of any potential environmental hazard due to existing or proposed land uses, including soil, water and air contamination.
- (2) An air quality plan, as approved by the Minnesota Pollution Control Agency, shall be submitted with the conditional use permit application.

- (3) A dust management plan as approved by the Minnesota Pollution Control Agency shall be submitted with the conditional use permit application . Access drives and roads within the property shall be sprayed with dust suppressants as recommended by the Minnesota Pollution Control Agency, as needed to control fugitive dust. The streets used for access into the mine shall also be cleaned at appropriate intervals consistent with City Standards, or as otherwise determined through the conditional use permit.
- (4) A sound attenuation plan describing sources of sound and indicating conformance with all applicable sound and noise regulations. The maximum noise level at the perimeter of the site shall comply with the limits or standards established by the Minnesota Pollution Control Agency and the U.S. Environmental Protection Agency
- (5) A vibration-dampening plan describing sources of vibration and indicating conformance with all applicable vibration regulations.
- (6) A drainage plan for stormwater management and runoff.
- (7) A landscape plan meeting the standards of Chapter 4, Site Plan Review.
- (8) A traffic plan describing the number of daily truck trips the proposal will generate and the principal access routes to the facility, including a description of the facility's traffic impact on the surrounding area. Traffic through local residential streets shall be prohibited unless specifically allowed through the conditional use permit.

Contractor office and showroom. All storage of equipment, materials, and supplies shall be entirely within an enclosed building or in accordance with the requirements for outdoor storage (see Outdoor storage area).

Correctional residential care facility.

- (1) The facility shall not be located in a two-family or multifamily dwelling unless it occupies the entire structure.
- (2) The facility is located on a lot meeting the minimum lot size for a single-family dwelling plus an area of three-hundred (300) square feet for each resident above the first six (6) residents. To meet this requirement, a maximum number of residents may be specified as a condition of the conditional use permit.
- (3) A minimum separation distance of one thousand three hundred twenty (1,320) feet shall be provided between correctional residential care facilities, day care facilities serving thirteen (13) or more, and residential care facilities, regardless of the licensing status of such facilities.
- (4) If the size, location, licensing, or purpose of the facility changes, a new conditional use permit may be required.
- (5) All necessary permits and/or licenses shall be obtained from the Department of Public Welfare, Department of Corrections, or any other pertinent state agency.
- (6) The safety and security of the facility and of area residents shall be satisfactorily addressed.

Dwelling as part of a mixed use structure, CBD District.

- (1) The residential use is secondary to the ground floor commercial use.
- (2)

The maximum number of units allowed shall be the lesser of the area of the parcel divided by two thousand (2,000), times the number of floors in the building above ground floor or the number of units satisfying the following area requirements:

- a. Efficiency and one-bedroom units (square feet)600
 - b. Two-bedroom units (square feet)700
 - c. Three-bedroom units and above (square feet)900
- (3) A minimum of one parking space shall be provided per residential unit within four hundred (400) feet of the most commonly used entrance to the unit. Such space shall be under private ownership or lease and shall be dedicated solely for the use of the residence.

Dwelling in conjunction with a business in commercial or industrial districts.

- (1) The applicant must demonstrate to the satisfaction of the City Council that the dwelling is necessary to the proper conduct of the business.
- (2) If located in a separate building, the dwelling shall meet the setback requirements of the zoning district where it is located.

Farm and construction equipment sales.

- (1) No sales or display areas shall be located on a side abutting any residential district or use.
- (2) Outdoor sales or display areas shall be located and designed so as not to interfere with circulation of parking, loading, and access aisles.
- (3) Minimum building size shall be no less than twenty (20) percent of the lot area occupied by the use.
- (4) Junk vehicles, implements, and equipment shall be prohibited.
- (5) Exterior display areas for the farm implements shall be permitted to be gravel.
- (6) All exterior storage areas shall be subject to the standards for an outdoor storage area listed in Section 7-30, Specific Development Standards.

Firearms dealer.

- (1) No firearms or ammunition shall be displayed in window areas or any areas where they can be viewed from the public right-of-way.
- (2) The use shall meet the required security standards mandated by Minnesota Statutes.

Firing range. Firing ranges shall be located in completely enclosed buildings that are adequately soundproofed.

Funeral home. An arterial or collector street of sufficient capacity to accommodate the traffic that the use will generate serves the site.

Golf course. See Outdoor recreational area.

Government buildings and structures (other than those used primarily as offices).

- (1)

When a jail is located within the building or structure evidence of all necessary permits and/or licenses required by the State of Minnesota, including but not limited to those from the Department of Corrections and the Department of Health, shall be provided prior to occupancy of the building.

- (2) When vehicle maintenance and repairs are conducted on the property, All vehicles awaiting repair or pickup shall be stored on the site within enclosed buildings or defined parking spaces in compliance with Chapter 8, Off-Street Parking and Loading.
- (3) Outside storage of automotive parts or storage of junk vehicles shall be prohibited, unless in compliance with the following standards for vehicle storage:
 - A. All vehicle storage shall take place in side or rear yard areas. In no case shall a vehicle storage area extend into the front yard beyond the principal building.
 - B. A fence with a minimum height of six (6) feet shall be provided around the perimeter of the entire storage area.
 - C. Vehicle storage areas visible from residential uses, residential zoning districts, or public streets shall be screened in compliance with the screening requirements established in Chapter 4, Site Plan Review.
 - D. All vehicles, except those being impounded for law enforcement purposes, that are parked or stored on site shall display a current license plate with a current license tab.
 - E. Provisions shall be made to contain leakage from stored vehicles.

Heliport.

- (1) All heliports and helicopter flyways shall conform to all applicable Federal Aviation Administration regulations.
- (2) The helicopter-landing pad shall be covered with a dust-free surface.
- (3) Security measures, including fencing and screening, shall be provided where necessary to protect non-authorized persons from entering area.
- (4) The use shall be permitted only as an accessory to another principal use, and shall not occupy more than twenty-five (25) percent of the total site area of the development.

Home day care facility.

- (1) A fence constructed of masonry brick, painted or treated wood or metal, at least five (5) feet in height shall surround all play areas. Such play areas shall not be permitted between the principal structure and a public or private street.
- (2) All necessary permits and/or licenses shall be obtained from the Department of Public Welfare and any other applicable state agency.

Hospital.

- (1) An arterial or collector street of sufficient capacity to accommodate the traffic that the use will generate shall serve the site.
- (2) A heliport may be permitted accessory to a hospital, meeting the additional requirements for heliports.

Indoor recreational facility.

- (1) An arterial or collector street of sufficient capacity to accommodate the traffic that the use will generate shall serve the site.
- (2) To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be compatible with those used in the immediate neighborhood.
- (3) The lot area is equal to least four times the area of the building foundation.
- (4) Each side yard is a minimum of twenty-five (25) feet.
- (5) Off-street parking may be provided on the site or on an abutting site, which may be separated from the site by a public street or alley.

Laundry, self-service or commercial. Venting of odors, gas, and fumes shall be directed away from residential uses.

Limited industrial production and processing, wholesaling operations and services, in a commercial district.

- (1) Vehicular access points shall create a minimum of conflict with through traffic movement.
- (2) Equipment or materials shall be completely enclosed in a permanent structure, with no outside storage.
- (3) The hours of operation will not have an adverse impact on adjacent property owners.

Nightclub.

- (1) Music or amplified sounds shall not be audible from adjacent residential properties.
- (2) All regulations established in Chapter 4, City Code of Ordinances, regarding the sale of alcoholic beverages shall be met.
- (3) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for the purpose of removing any litter.

Nursing home, senior housing in commercial districts.

- (1) An arterial or collector street of sufficient capacity to accommodate the traffic that the use will generate serves the site.
- (2) Elevator service is provided to each floor level.
- (3) Landscaped open space is easily accessible to residents for outdoor seating and recreation.
- (4) Adequate provision is made for access to shopping, recreation, and health care facilities.
- (5) The site meets the lot area and dimensional standards for the R-4 District.

Offices in residential or C-1 districts.

- (1) The office serves the general community rather than a larger region.
- (2) An arterial or collector street of sufficient capacity to accommodate the traffic that the use will generate serves the site.

- (3) The architectural appearance and plan of the building and site shall be compatible with other buildings in the immediate area, and shall not constitute a blighting influence within a reasonable distance of the lot. The design of the facility shall be subject to city approval.
- (4) There shall be no exterior storage of goods or equipment except for properly screened trash containers.

Outdoor eating, drinking, or smoking enclosure as an accessory use to a bar, restaurant, club, or other assembly use with liquor sales.

- (1) Any structure shall be located on the subject property contiguous to the principal building and shall conform to all zoning and building codes and state statutes, and shall be subject to the same setbacks as the principal building.
- (2) Any structure shall be subject to review and approval by the Development Review Committee, and if in the Historic Preservation District, shall be approved by the Heritage Preservation Commission.
- (3) The primary access to the area shall be from the principal building; no other access or egress shall be allowed other than required emergency exits.
- (4) The area shall be defined or constructed so as to prohibit the free passage of any person or substance from the area.
- (5) The area shall have a permanent surface of concrete, asphalt, wood, or other fabricated construction material.
- (6) The area may have a roof and/or partial walls, but must be less than fifty (50) percent enclosed as defined by state statute. All enclosures must be constructed of materials compatible with the principal structure as defined elsewhere in this ordinance.
- (7) The area shall be located no closer than two hundred (200) feet to a residential district boundary or use and shall be screened in compliance the provisions of Chapter 4, Site Plan Review. Areas which are located closer than two hundred (200) feet may be permitted by conditional use permit, in accordance with the provisions of Chapter 2, Article 7 of this ordinance.
- (8) An employee shall be assigned to supervise the area during all hours of operation.
- (9) Amplified sound shall not be permitted within the outdoor enclosure when it is audible from a residential district boundary or use.
- (10) Appropriate receptacles for rubbish, garbage, cigarette paraphernalia, etc. must be provided.
- (11) The premises, all adjacent streets, sidewalks, alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for the purpose of removing litter.

Outdoor recreation area, including golf courses, swimming pools, athletic fields, and similar facilities.

- (1) A minimum fifty (50) foot setback area, maintained as open space, shall be provided along the perimeter of the site wherever it abuts a residential district boundary.
- (2) An arterial or collector street of sufficient capacity to accommodate the traffic that the use will generate serves the site.
- (3) The site shall be designed in such a way as to minimize the effects of lighting and noise on surrounding properties.

- (4) Ease of access to the site by automobile, transit, bicycles, and pedestrians shall be considered as a factor in the review of any development proposal.

Outdoor sales and display area.

- (1) Temporary outdoor sales and display areas shall meet the following standards:
 - (a) All goods and materials stored shall be located on a bituminous or concrete surface.
 - (b) The sales display area shall be maintained in an orderly fashion, with all display items consisting solely of products sold, distributed, or related to products sold or distributed within the principal structure by the occupant thereof.
 - (c) The outdoor sales display area shall not reduce the amount of available parking provided at the site, as required in Chapter 8, Off-Street Parking and Loading; unless it is demonstrated on an annual basis that additional parking within three hundred (300) feet of the principal use is provided, or that use of the parking area for outdoor sales and display does not create a parking shortage or access issues on site.
 - (d) A site plan showing the location and parameters of the outdoor sales and display area, shall be submitted for approval by staff prior to erecting any related structures, stocking of the area, or opening of an outdoor sales area.
 - (e) The outdoor sales and display area shall not exceed ten (10) percent of the square footage of the principal building.
 - (f) The outdoor sales and display area shall be well defined, as provided on the approved site plan, and shall not interfere with vehicular or pedestrian access or traffic.
 - (g) The outdoor sales and display area shall be limited to two (2) occurrences per year, provided outdoor sales and display does not occur for more than one hundred eighty (180) days in any calendar year.
- (2) Permanent outdoor sales and display areas shall meet the following standards:
 - (a) The outdoor sales and display area shall be approved as part of the site plan for the principal use, and shall be immediately adjacent to, and integrally designed as part of the principal structure and use.
 - (b) The outdoor sales and display area shall be accessible directly from the principal building, and may also be accessed from the outside parameters of the sales and display area.
 - (c) The exterior parameters of the outdoor sales and display area shall be well defined, preferably with fencing, walls, or landscaping.

Outdoor sales display area.

- (1) The sales display area shall be located no closer than twenty (20) feet from any residential district boundary or residential use.
- (2) *[Reserved.]*
- (3) All goods and materials stored shall be located on a paved surface.
- (4) The sales display area shall be maintained in an orderly fashion, with all display items consisting solely of products sold or distributed within the principal structure by the occupant thereof.

- (5) The outdoor sales display area shall not reduce the amount of parking provided at the site, as required in Chapter 8, Off-Street Parking and Loading.

Outdoor smoking areas.

- (1) Smoking areas that use public sidewalks shall be subject to approval by the City and shall be subject to an agreement with the City regarding use and maintenance of the area.
- (2) Appropriate receptacles for rubbish, garbage, cigarette paraphernalia, etc. must be provided.
- (3) The smoking area, all adjacent streets, sidewalks, alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for the purpose of removing litter.

Outdoor storage area.

- (1) Outdoor storage areas shall be placed to the rear or side of the principal structure and shall meet the setback requirements established within the individual zoning districts.
- (2) The storage area shall be fenced around its perimeter with a minimum six (6) foot chain link fence and shall be screened in compliance with the provisions of Chapter 4, Site Plan Review.
- (3) All goods and materials stored shall be located on a paved or gravel surface.
- (4) The outdoor storage area shall be maintained in an orderly fashion.
- (5) The height of materials stored, excluding operable vehicles and equipment, shall not exceed the height of the perimeter fence, with the exception that the height of materials may be increased to two (2) times the fence height when the stored material meets building setback requirements.
- (6) The outdoor storage area shall not reduce the amount of parking provided at the site, as required in Chapter 8, Off-Street Parking and Loading.

Parking facilities and ramps.

- (1) Parking ramps shall comply with the setback requirements for principal structures.
- (2) Parking ramps shall utilize exterior facade building materials that are compatible with surrounding buildings.
- (3) Ramps and other parking facilities shall be periodically inspected and maintained by the owner to ensure structural integrity and public safety.

Pet store. Animals shall be housed only within enclosed buildings.

Production of stone or clay and concrete, such as cement, bricks, tile and concrete blocks, in industrial park and light industrial districts. Any facility in an I-P or I-1 zoning district that processes raw materials to produce an end product consisting of stone, clay, and concrete products such as cement, bricks, tile or concrete blocks shall meet the following standards as part of a conditional use permit:

- (1) All raw materials handling and storage shall occur completely within an enclosed building.
- (2) All production processes shall occur completely within an enclosed building.
- (3)

Outdoor product storage and product handling areas shall be maintained in a neat and orderly manner, according to an approved site plan for such exterior operations, and loading areas shall be provided according to the requirements of Chapter 8, Off-Street Parking and Loading.

- (4) Exterior storage areas shall comply with the outdoor storage provisions of this appendix, except that the height of stored products shall not exceed the height of the perimeter fence.
- (5) On-site sales, including exterior sales and display of the finished product may be allowed as part of the conditional use permit, subject to the outdoor sales and display provisions of this chapter.

Refuse disposal and incineration facility. See Waste transfer or disposal facility.

Religious institutions in residential districts.

- (1) An arterial or collector street of sufficient capacity to accommodate the traffic that the use will generate shall serve the site.
- (2) The lot area is equal to least four times the area of the building foundation.
- (3) To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be compatible with those used in the immediate neighborhood.
- (4) Each side yard is a minimum of twenty-five (25) feet.
- (5) Off-street parking may be provided on the site or on an abutting site, which may be separated from the site by a public street or alley.

Relocation of a dwelling previously occupied in another location.

- (1) The dwelling in its proposed location is compatible with other adjacent dwellings in terms of height and size of structure.
- (2) The architectural features of the dwelling and any accessory structures shall be compatible with the architectural style and features of adjacent dwellings and those in the same neighborhood. Such features as porches, dormers, pillars and columns, window style, entrance location, and roof pitch and style shall be considered in determining the appropriateness of the dwelling and any accessory structure. This subsection is not intended to apply strict architectural standards, rather, that the dwelling being moved or relocated be compatible with the neighborhood as interpreted by the City Planner.
- (3) Garages and other accessory structures, whether attached or detached, shall be located in a manner similar to those on other adjacent residential properties and properties in the same neighborhood.
- (4) A site plan, with a survey, must be submitted showing the final grading elevations for the proposed parcel. The on-site grading improvements and utility service extensions must be completed prior to the placement of the dwelling on the lot.
- (5) All required improvements and building code requirements shall be met within one (1) year of the placement of the dwelling.

Relocation of a new dwelling.

- (1)

The dwelling in its proposed location is compatible with other adjacent dwellings in terms of height and size of structure.

- (2) The architectural features of the dwelling and any accessory structures shall be compatible with the architectural style and features of adjacent dwellings and those in the same neighborhood. Such features as porches, dormers, pillars and columns, window style, entrance location, and roof pitch and style shall be considered in determining the appropriateness of the dwelling and any accessory structure. This subsection is not intended to apply strict architectural standards, rather, that the dwelling being moved or relocated be compatible with the neighborhood as interpreted by the city planner.
- (3) Garages and other accessory structures, whether attached or detached, shall be located in a manner similar to those on other adjacent residential properties and properties in the same neighborhood.
- (4) A site plan, with a survey, must be submitted showing the final grading elevations for the proposed parcel. The on-site grading improvements and utility service extensions must be completed prior to the placement of the dwelling on the lot.
- (5) All required improvements and building code requirements shall be met within one (1) year of the placement of the dwelling.

Residential care facility serving more than six persons.

- (1) On-site services shall be for residents of the facility only.
- (2) The facility shall not be located in a two-family or multifamily dwelling unless it occupies the entire structure.
- (3) The minimum lot area required for a residential care facility shall be determined as follows:
 - a. Residential districts. The facility shall have a minimum lot size equal to the minimum lot area for a single-family residence in the specific zoning district, plus three hundred (300) square feet for each resident over the first six (6). To meet this requirement, the number of allowed residents may be limited.
 - b. Commercial districts. The facility shall have a minimum lot size equal to the minimum lot area for the specific zoning district, plus three hundred (300) square feet for each resident over the first six (6). To meet this requirement, the number of allowed residents may be limited.
- (4) A minimum separation distance of one thousand three hundred twenty (1,320) feet shall be provided between residential care facilities serving more than six (6) residents, home day care or child care facilities serving thirteen (13) or more, and correctional residential care facilities, regardless of the licensing status of such facilities. This requirement shall not apply to residential care facilities located in R-4, High Density Residential Districts.
- (5) To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be harmonious with other buildings in the neighborhood.
- (6) An appropriate transition area between the residential care facility use and adjacent property shall be provided by landscaping, screening, and other site improvements consistent with the character of the neighborhood.

- (7) If the size, location, licensing, or purpose of a facility with a conditional use permit changes, a new conditional use permit shall be required.
- (8) All necessary permits and/or licenses shall be obtained from the Department of Public Welfare or any other pertinent state agencies.

Restaurant, drive-through.

- (1) The use shall be located only on sites having direct access to arterial or collector streets or service roads.
- (2) The public address system, if provided, shall not be audible from any residential parcel.
- (3) Stacking shall be provided in compliance with Section 8-260 and shall be located within applicable parking lot setbacks.
- (4) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for the purpose of removing any litter.

Restaurant with general entertainment.

- (1) Music or amplified sounds shall not be audible from adjacent residential properties.
- (2) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for the purpose of removing any litter.

Schools (K—12) in residential districts.

- (1) An arterial or collector street of sufficient capacity to accommodate the traffic that the use will generate shall serve the site.
- (2) The lot area shall equal at least four times the area of the building foundation.
- (3) To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be compatible with those used in the immediate neighborhood.
- (4) Each side yard shall be a minimum of twenty-five (25) feet.
- (5) Off-street parking may be provided on the site or on an abutting site, which may be separated from the site by a public street or alley.

Scrap/salvage yard, metal milling facility.

- (1) A salvage dealer's license is obtained as specified in Chapter 14, City Code of Ordinances.
- (2) A fence with a minimum height of six (6) feet shall be provided around the perimeter of the storage area. Such fence shall apply towards the screening requirements established in Chapter 4, Site Plan Review.
- (3) No vehicles or vehicle parts may be placed within the public right-of-way or on public property.

Single-family detached dwelling in R-4 district. The residence is compatible with general development patterns in the immediate area or is necessary to the conduct of the principal use, such as a multi-family development or residential institution.

Stockyard, or animal slaughter facility. All slaughter and processing activities shall take place within a completely enclosed building with adequate soundproofing and odor control.

Truck and trailer sales and service.

Commercial districts.

- (1) Truck and trailer sales and service may be permitted in the C-2 (highway commercial) district on properties that have frontage road access to Interstate 35, with approval of a conditional use permit.
- (2) The property shall be located on streets of sufficient capacity and design to accommodate trucks and trailers.
- (3) Effective buffering and screening shall be provided from adjacent properties. A minimum of a six-foot privacy fence is required to screen from residential properties.
- (4) The property shall be maintained in a clean and orderly fashion. Outdoor storage of parts or damaged trucks is prohibited.
- (5) Additional conditions may be established as part of the conditional use permit to control noise, appearance, and negative impacts to adjacent properties, including hours of operation.

Vehicle storage.

- (1) No inoperable vehicle shall be stored outside a building in any residential district or in the C-1 district.
- (2) Not more than five (5) inoperable vehicles may be stored outside at any one time at a property located in a commercial or industrial district, excluding the C-1 district, provided that no one vehicle may be stored in excess of thirty (30) days in a calendar year. Vehicle storage in excess of these prescribed limits shall classify the use as a salvage yard.
- (3) All vehicle storage shall take place in side or rear yard areas. In no case shall a vehicle storage area extend into the front yard beyond the principal building.
- (4) A fence with a minimum height of six (6) feet shall be provided around the perimeter of the storage area. Such fence shall apply towards the screening requirements established in Chapter 4, Site Plan Review.
- (5) No vehicles or vehicle parts may be placed within the public right-of-way or on public property.

Veterinary clinic. All activity shall take place within a completely enclosed building with soundproofing and odor control. Outdoor kennels shall be prohibited.

Warehousing and Storage as a conditional use, CBD.

- (1) The architectural appearance of the building and site shall not be dissimilar to existing adjacent buildings or the general area so as to cause impairment to property values or constitute or encourage a blighting influence within the area.
- (2) Warehousing and storage uses shall not be located in the storefront of a building, which shall be defined as that area of the building at street level that fronts on a public right-of-way (not including an alley), and shall consist of the first 20' back from the wall of the building at street level that fronts on the public right-of-way (not including an alley). In the case of a corner building, both sides of the

building at street level that fronts on a public right-of-way (not including an alley) shall be considered a storefront. Where there are no window openings in the street level of a wall that fronts on a public right-of-way, such frontage shall not be considered a store front.

- (3) Warehousing and storage uses shall be separated from the storefront area of the building by a wall which extends from floor to ceiling, a minimum of 24" above the height of a standard door, the entire width of the building or area to be used for storage. For the purposes of this section, a wall shall be constructed of dry-wall, plaster, stone, brick or other masonry material, or other similar material to provide adequate physical and visual separation between the use in the front of the building and the warehousing and storage use.
- (4) Additional conditions may be established to ensure compatibility of the warehousing or storage use with surrounding uses.
- (5) Existing warehousing and storage uses shall comply with all provisions of this section within one year of the effective date of this section.

Waste hauler.

- (1) No waste shall be stored or maintained on site.
- (2) At no time shall a vehicle used in the operation of waste hauling be parked within a residential area for a period exceeding three (3) hours.

Waste transfer or disposal facility. The use shall be located at least one thousand (1,000) feet from any residential district. The facility shall provide the following as part of the conditional use permit application:

- (1) A vicinity plan that includes the following:
 - (a) A description of natural features, including wetlands, water bodies and major topographic features located within three hundred fifty (350) feet of the site.
 - (b) A description of the proposal and how it compares to land uses within three hundred fifty (350) feet of the site.
 - (c) A description of any potential environmental hazard due to existing or proposed land uses, including soil, water and air contamination.
- (2) An air quality plan describing stationary and mobile source air emissions, their quantities and composition, and indicating conformance with all applicable air quality regulations.
- (3) A dust management plan describing dust emission sources, their quantity and composition, and how dust will be collected, managed and disposed of, and indicating conformance with all applicable dust emission regulations.
- (4) A sound attenuation plan describing sources of sound and indicating conformance with all applicable sound and noise regulations.
- (5) A vibration dampening plan describing sources of vibration and indicating conformance with all applicable vibration regulations.
- (6) A drainage plan for stormwater management and runoff.
- (7) A landscape plan meeting the standards of Chapter 4, Site Plan Review.
- (8)

A traffic plan describing the number of truck trips the proposal will generate and the principal access routes to the facility, including a description of the facility's traffic impact on the surrounding area.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2001-15, § 1, 8-28-01; Ord. No. 2002-13, § 1, 6-25-02; Ord. No. 2002-16, § 1, 8-13-02; Ord. No. 2003-11, § 1, 10-14-03; Ord. No. 2003-032, § 1, 11-25-03; Ord. No. 2004-14, § 1, 6-8-04; Ord. No. 2005-24, § 1, 9-13-05; Ord. No. 2005-25, § 1, 9-27-05; Ord. No. 2005-33, § 1, 12-13-05; Ord. No. 2007-22, § 1, 1-8-08; Ord. No. 2007-23, § 1, 1-8-08; Ord. No. 2008-15, § 1, 6-24-08; Ord. No. 2008-09, § 3, 5-13-08; Ord. No. 2010-06, § 1, 5-25-10; Ord. No. 2013-005, § 1, 8-13-13; Ord. No. 2013-008, § 3, 11-13-13; Ord. No. 2013-009, § 8, 11-26-13)

CHAPTER 8. - OFF-STREET PARKING AND LOADING

ARTICLE 1. - GENERAL PROVISIONS

Sec. 8-10. - Purpose.

Parking and loading regulations are established to alleviate or prevent congestion of the public right-of-way, to provide for the parking and loading needs of uses and structures, to enhance the compatibility between parking and loading areas and their surroundings, and to regulate the number, design, maintenance, and location of required off-street parking and loading spaces, and access driveways and aisles.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 8-20. - Change of use.

When the use of a building or site is changed or the intensity of use is increased through the addition of dwelling units, gross floor area, capacity, or other unit of measurement used for determining parking and loading requirements, parking and loading facilities shall be provided for such change or intensification of use as specified in Table 8-3.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 8-30. - Existing facilities.

Existing parking and loading facilities shall not be reduced below the requirements for a similar new use or, if less than the requirements for a similar new use, they shall not be reduced further.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 8-40. - Use.

Required parking and loading spaces and the driveways providing access to them shall not be used for storage, display, sales, rental or repair of motor vehicles or other goods, or for the storage of inoperable vehicles or snow. Additionally, no fee shall be charged for any required parking space.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 8-50. - Location.

Required parking and loading spaces shall be located on the same lot or development site as the use served except under the following provisions:

- (1) Reasonable and improved access shall be provided from the off-site parking facilities to the use being served.
- (2) Off-site parking for multiple-family dwellings shall be located no more than one hundred (100) feet from any normally used entrance of the use being served.
- (3) Off-site parking for non-residential uses shall be located no more than three hundred (300) feet from the main entrance of the principal use being served.
- (4) The site used for off-site parking shall be under the same ownership as the principal use being served or the use of the parking facilities shall be protected by a recorded instrument acceptable to the city.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 8-60. - Calculation of requirements.

Calculating the number of parking spaces required shall be in accordance with the following:

- (1) *Gross floor area.* The term "gross floor area" (GFA) for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor dimensions of the building, structure, or use times the number of floors, minus ten (10) percent.
- (2) In churches and other places of public assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each twenty-four (24) inches of such seating shall be counted as one seat for the purpose of this chapter.
- (3) In cases where parking requirements are based on "capacity" of persons, capacity shall be based on the maximum number of persons that may occupy a place, as determined by the Building Code. Maximum capacity shall be posted within the establishment. Both indoor and outdoor seating is included in maximum capacity.
- (4) When calculating the number of off-street parking spaces results in a fraction, each fraction of one-half ($\frac{1}{2}$) or more shall require another space.
- (5) Except in shopping centers or where joint parking requirements have been approved, if a structure or site contains two or more uses, each use shall be calculated separately in determining the total off-street parking spaces required.
- (6) In cases where future potential uses of a building may generate additional parking demand, the city may require a proof of parking plan for the site, showing how the anticipated parking demand will be met. The city may permit the additional land area that would be required for anticipated parking to be placed in reserve as landscaped open space until needed.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 2. - PARKING AREA DESIGN AND MAINTENANCE

Sec. 8-70. - Submission of parking plan.

Any application for a building permit or zoning certificate requiring or including the provision of off-street parking shall include a parking plan. Said plan shall be drawn to scale and fully dimensioned, showing parking facilities to be provided in compliance with this ordinance. Design of such facilities, in addition to requirements shown below, is also subject to the standards identified in Chapter 4, Site Plan Review.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 8-80. - Access to parking spaces.

Each required off-street parking space shall open directly to an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to the parking space, as shown in Table 8-2, except where accessory to residential uses of up to four (4) units, the requirements of Table 8-2 do not apply.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2001-24, § 1, 1-8-02)

Sec. 8-90. - Maneuvering area.

All parking areas except those serving single and two-family dwellings on local streets shall be designed so that cars shall not be required to back into the street. If deemed necessary for traffic safety, turn-around areas may be required.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 8-100. - Surfacing.

- (A) All off-street parking areas, all access drives leading to such parking areas or garages, and all other areas upon which motor vehicles may be located, except as otherwise stated below, shall be surfaced with a dustless all-weather hard surface material capable of carrying a wheel load of four thousand (4,000) pounds.
- (B) All industrial off-street parking areas, all access drives leading to such parking areas, and all other areas upon which motor vehicles may be located shall be surfaced with a dustless all-weather hard surface material capable of carrying a wheel load of four thousand (4,000) pounds.
- (C) Acceptable surfacing materials shall include asphalt, concrete, brick, cement pavers or similar material installed and maintained per industry standards.
- (D) Crushed rock shall not be considered an acceptable surfacing material on any public, employee, or resident off-street parking areas, or access drives leading to such parking areas or garages, except as provided for elsewhere in this section.
- (E) Within all industrial zoning districts, loading areas are allowed to have a Class II (one hundred (100) percent crushed) aggregate base. Access drives that serve loading areas shall be hard surfaced with either bituminous or concrete within the required front or corner side building setback. A dust control plan shall be submitted and approved by the city.
- (F) Within all industrial zoning districts, internal yard areas are allowed to have a Class II (one hundred (100) percent crushed) aggregate surface. Such internal yard areas shall be located to the side or rear of the principal building. The internal yard area shall be clearly separated from public areas by fencing or other acceptable means. Access drives that serve loading areas shall be hard surfaced with either bituminous or concrete within the required front or corner side building setback. A dust control plan shall be submitted and approved by the city.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2001-24, § 1, 1-8-02; Ord. No. 2008-09, § 4, 5-13-08)

Sec. 8-110. - Curbing.

- (A) Except for one-family to four-family residential uses, all public, employee, or multifamily residential off-street parking areas, all access drives leading to such parking areas, landscaped islands, and all other areas upon which motor vehicles may be located shall have a continuous, poured concrete curbing around the perimeter.
- (B) Within all industrial zoning districts, loading areas shall not be required to have a continuous, poured concrete curb. Access drives that serve loading areas and are located within the required front or corner side building setback shall have a continuous, poured concrete curbing.
- (C) Within all industrial zoning districts, internal yard areas are not required to provide a continuous, poured concrete curb. Access drives that serve loading areas and are located within the required front or corner side building setback shall have a continuous, poured concrete curbing.
- (Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2008-09, § 4, 5-13-08)

Sec. 8-120. - Lighting.

Lighting used to illuminate an off-street parking area shall comply with the performance standards identified in Section 6-340. The height of parking lot light poles or standards shall be no less than twelve (12) feet and no more than the maximum height established for structures in the zoning district where the lights will be installed.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 8-130. - Required setbacks, screening, and landscaping.

Required setbacks for parking, loading, and driving areas are specified within the individual zoning district chapters. Landscaping and screening requirements for parking and driving areas are identified in Chapter 4, Site Plan Review.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 8-140. - Curb cut requirements.

Requirements for curb cut openings are shown in Table 8-1. For the purposes of measuring distance between curb cuts and between curb cuts and street intersection, such distance is determined based on where the curblines intersect.

Table 8-1. Curb cut requirements.

Use	Residential	Commercial	Industrial	Other uses
Curb cuts				
Maximum width	32 feet	32 feet*	32 feet*	32 feet*
Minimum distance between	-	25 feet	50 feet	25 feet

curb openings				
Minimum distance from intersection	30 feet or 2/3 lot width	50 feet	100 feet	50 feet

* See section 23-439

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 8-150. - Increased curb cut width.

Upon written approval of the City Engineer, curb cut width may be increased to fifty (50) feet in cases where it is necessary to facilitate vehicle maneuvering onto and off the site, provided that the overall driveway width does not exceed forty (40) percent of the lot width.

(Ord. No. 99-20, § 1, 11-23-99)

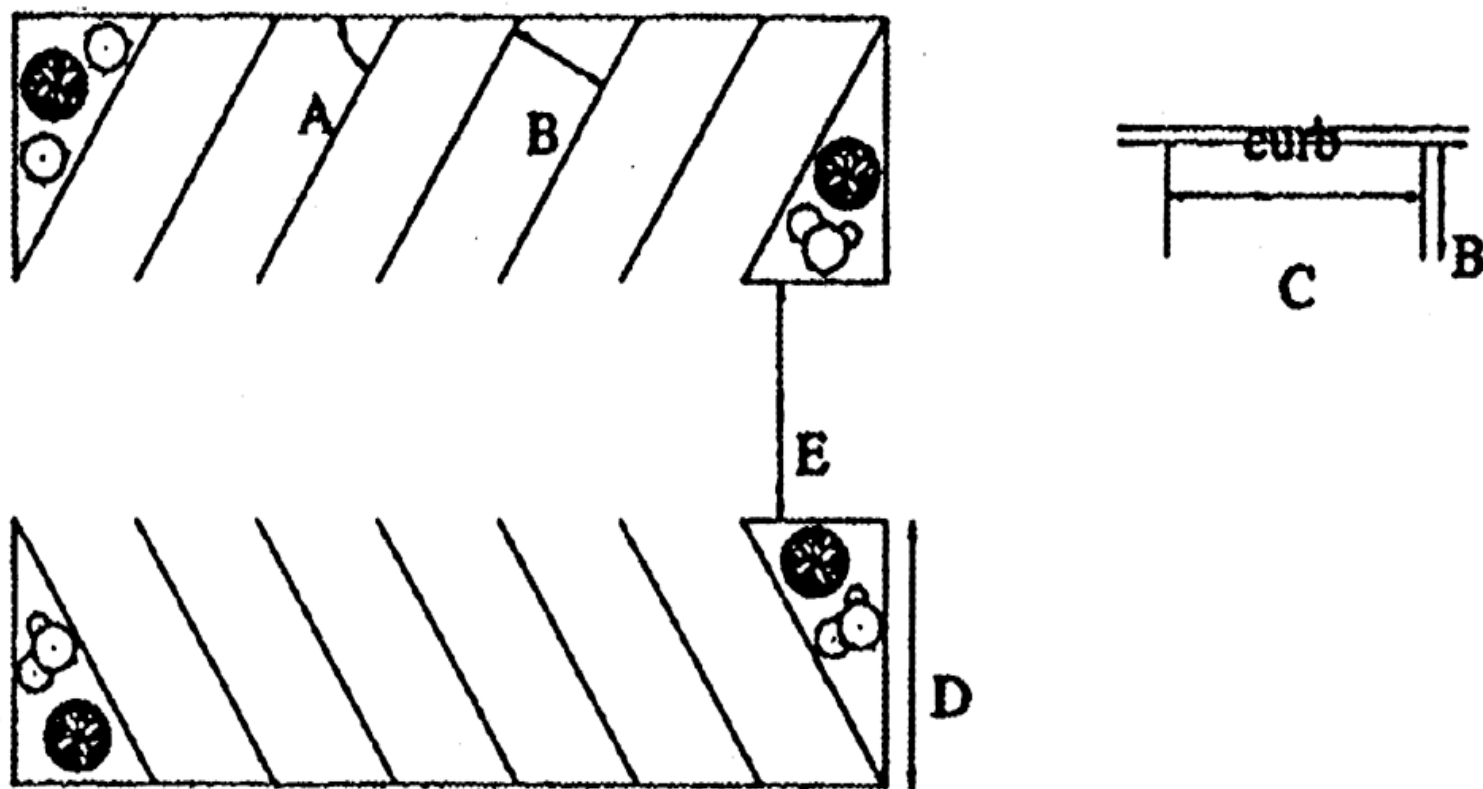
Sec. 8-160. - Marking of parking spaces.

All parking areas containing four (4) or more spaces or containing angled parking shall have the parking spaces and aisles clearly marked on the pavement, using paint or other approved marking devices approved by the City Planner. Such markings shall be maintained in a clearly legible condition.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 8-170. - Size.

The minimum dimensions for required parking spaces are shown in Figure 8-1 and Table 8-2. Minimum dimensions are exclusive of access drives or aisles, ramps, or columns. In no case shall any part of the public right-of-way contribute towards required stall size. Ninety degree (90°) parking spaces that use a curb overhang over a landscaped area or a minimum seven (7) foot wide sidewalk may be reduced to eighteen (18) feet in length.



Parking Space and Aisle Demensions

Table 8-2. Minimum parking space and aisle dimensions.

Angle (A)	Width (B)	Curb length (C)	Stall depth (D)	1-way aisle width (E)	2-way aisle width (F)
0° (parallel)	9'	22'	9'	12'	22'
45°	9'	12'	18'	9'	12'
60°	9'	9' 10"	19' 10"	18'	24'
90°	9'	9'	20'	20'	24'

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 8-180. - General maintenance.

Parking areas and driveways shall be kept free of dirt, dust, and debris and the pavement shall be maintained in good condition. In winter months, required parking areas shall be cleared of snow within twenty-four (24) hours of the end of any snowfall event.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 8-190. - Accessible parking.

Accessible parking spaces for the disabled shall be provided as required by the State Building Code.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 3. - SPECIFIC OFF-STREET PARKING REQUIREMENTS

Sec. 8-200. - Specific off-street parking requirements.

(A) *In general.* Accessory, off-street parking shall be provided as specified in Table 8-3 except as otherwise specified in this chapter. When a particular use specifies an "x" under the Notes column, such use is subject to specific standards as identified in Section 8-200(C) below.

Table 8-3. Specific off-street parking requirements.

Use	Minimum spaces required	Notes
Residential uses		
Dwellings		
Single-family	2 per unit	
Duplex	2 per unit	
Multi-family/Detached Accessory Dwelling Unit		
1-bedroom unit or less	1 per unit	
2-bedroom or larger unit	2 per unit	
Nursing home, senior housing	1 per every 2 units	x
Manufactured home park	2 per unit	
Congregate living		

Residential care facility	1 per employee plus 1 per 6 residents	x
Dormitories	Determined by staff based on parking study	x
Commercial uses		
Auction Establishments	20 spaces plus 1 space per 200 sf of public assembly space over the first 2,000 sf	
Farm and construction equipment sales	1 per 300 sq. ft. GFA of office or sales area plus 1 per 1,000 sq. ft GFA of service area and 1 per 3,000 sq. ft. GFA of storage area	
Retail sales and services		
Ambulance facility	1 per 300 sq. ft. of net floor area	x

General retail sales and services	1 per 300 sq. ft. GFA plus 1 per 1,000 sq. ft. of outside sales/display area	
Barber shop/beauty salon	2 per station plus 2 per 3 employee	x
Bank or financial institution	1 per 300 sq. ft. GFA plus 6 stacking spaces for each drive-thru lane	
Building material sales	1 per 300 sq. ft. GFA plus 1 per 1,000 sq. ft. of outside sales/display area	
Child care center	1 per 2 employees plus 1 drop-off space for each 5 enrollees	x
Funeral home	1 per each 5 seats plus 1 per 250 sq. ft. of non-seating area	
Greenhouse, lawn and garden supplies	1 per 300 sq. ft. GFA plus 1	

	per 1,000 sq. ft. of outside sales/display area	
Performing, visual, or martial arts school	30% of building capacity	
Recreational vehicle sales and service	1 per 300 sq. ft. GFA plus 1 per 1,000 sq. ft. of outside sales/display area	
Shopping center	1 per 300 sq. ft. GFA Veterinary clinic 6 per veterinarian	
Offices	1 per 300 sq. ft. GFA	
Automobile services		
Automobile convenience facility	1 per 300 sq. ft. GFA	
Automobile rental	1 per 300 sq. ft. GFA plus adequate space for rental vehicles	
Automobile repair	3 per service bay and one per	x

	employee	
Automobile sales	1 per 300 sq. ft. GFA	
Automobile service station	1 per 300 sq. ft. GFA plus 2 per service bay	x
Car wash	2 spaces per facility plus adequate stacking	
Food and beverages		
Bar, nightclub, liquor establishment	30% of building capacity	
Coffee shop with limited entertainment	30% of building capacity	
Liquor store, off-sale	1 per 300 sq. ft. GFA Restaurant, drive-through 1 per 40 sq. ft. of dining area plus 6 stacking spaces per drive -up lane	
Restaurant	30% of building	

	capacity	
Bakery and other take-out food store	1 per 100 sq. ft. of customer area	
Recreation, entertainment and lodging		
Auditorium or theater	1 per each 4 seats	
Bowling alley	5 per lane plus 30% of building capacity for related uses	
Golf course	5 per hole plus 30% of building capacity for related uses	
Hotel, motel	1 per rental unit plus 30% of building capacity for dining or meeting rooms	
Indoor recreational facility	1 per 150 sq. ft. of rink, court, or other recreation area	
Outdoor recreational area	Determined	x

	by staff based on parking study	
Sports and health facility	Sum of requirements for component uses	
Swimming pool	1 per 100 sq. ft. of pool area	
Health/medical facilities		
Medical/dental office	1 per 300 sq. ft. GFA	
Laboratory	1 per 300 sq. ft. GFA	
Hospital	Determined by staff based on parking study	x
Institutional and public uses		
Educational facilities		
Early childhood education center	1 per employee plus 1 drop- off space per 5 enrollees	x
Schools, vocational or business	Determined by staff based on parking study	x

Schools, K-12	1 per classroom plus 1 per 5 students of legal driving age based on building capacity	
College/university	Determined by staff based on parking study	x
Social, cultural, charitable, and recreational facilities		
Stadiums, arenas	30% of facility capacity	
Cemetery	10 per interment, based on maximum number per hour	
Clubs and Lodges	30% of building capacity	
Community center	Determined by staff based on parking study	x
Religious institutions		
Place of assembly	1 per 4 seats based on	

	capacity of main assembly area	
Convent or monastery	1 per 3 beds	
Production, processing, and storage		
Limited production and processing	1 per 1,000 sq. ft. GFA plus 1 per 2,000 sq. ft. GFA in excess of 20,000 sq. ft. or 2 per 3 employees	x
Concrete, asphalt, gravel facility	2 per 3 employees	x
Contractor office and showroom	1 per 300 sq. ft. GFA of office, sales or display area plus 1 per 3,000 sq. ft. GFA of storage area	
Furniture moving and storage	1 per 300 sq. ft. GFA of office or sales area plus 1 per 3,000 sq. ft. GFA of storage area	

Industrial machinery and equipment, sales, service, and rental	1 per 300 sq. ft. GFA of office or sales area plus 1 per 1,000 sq. ft. GFA of service area and 1 per 3,000 sq. ft. GFA of storage area	
Laundry, commercial	1 per 300 sq. ft. GFA	
Packaging of finished goods	1 per 1,000 sq. ft. GFA plus 1 per 2,000 sq. ft. GFA in excess of 20,000 sq. ft. or 2 per 3 employees	x
Printing and publishing	1 per 1,000 sq. ft. GFA plus 1 per 2,000 sq. ft. GFA in excess of 20,000 sq. ft. or 2 per 3 employees	x
Self-service storage facility	1 per 300 sq. ft. GFA of office or sales area plus 1 per	

	3,000 sq. ft. GFA of storage area	
Wholesaling, warehousing, and distribution	1 per 300 sq. ft. GFA of office or sales area plus 1 per 3,000 sq. ft. GFA of storage area	
Other out-of-doors industrial activity	2 per 3 employees	x
Public service and utilities		
Communication facilities	Determined by staff based on parking study	x
Governmental buildings and structures	Based on type of use	x
Public utility buildings and structures	Based on type of use	x
Street and equipment maintenance facility	1 per 300 sq. ft. GFA of office or sales area plus 1 per 3,000 sq. ft. GFA of storage area	
Other public service/utility uses	Determined by staff	x

	based on parking study	
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- (B) *Special considerations for parking requirements.* Certain types of uses, due to their unique characteristics, require additional considerations to be made in determining parking requirements, as follows:
- (1) Senior housing. When senior housing may convert to general housing at some point in time, proof of additional parking shall be required.
 - (2) Residential care facilities. For facilities that serve six (6) or fewer residents, and have no employees, the single-family dwelling parking requirement of two (2) spaces shall be required. For facilities that allow residents to own/operate vehicles, an additional one (1) space per two (2) residents shall be required. Garage stalls shall not be counted towards satisfaction of required parking.
 - (3) Preschools and day care facilities. On-street drop-off spaces may be utilized to meet requirements subject to approval by the City Engineer.
 - (4) Auto repair and service facilities. Service bays shall not contribute to the satisfaction of required parking.
 - (5) Employee counts. When parking requirements are to be determined by employee counts, such calculation shall be based on the maximum number of employees on the premises at any one time.
 - (6) Governmental and public uses. Parking requirements for governmental and other similar public uses shall be based on the type of use and the requirements established for such use.
 - (7) Ambulance facilities. For the purposes of this use, net floor area shall be the total floor area of the facility minus the garage/storage area of the facility. In addition to the off-street parking requirements, all ambulance facilities shall provide one indoor and one outdoor parking space for each commercial vehicle used in the operation of the facility.
 - (8) *Business vehicles.* In addition to the requirements in Table 8-3, one (1) parking space shall be provided for each commercial vehicle or vehicle necessary for the operation of the use that is maintained on the premises.
 - (9) *Reduction in required parking.* In all industrial zoning districts only, the city may allow a reduction in the number of required parking stalls when the use can demonstrate, in documented form, a need which is less than required. In such cases, future parking sufficient in quantity to meet the ordinance requirement shall be shown on the approved site plan. The city may require the additional land that is necessary to meet the required parking standard to be placed in reserve for parking development should the use change or parking provided be determined inadequate. If at any time the city determines parking to be inadequate, the city may require construction of any or all of the additional parking held in reserve.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-13, § 1, 6-25-02; Ord. No. 2002-16, § 1, 8-13-02; Ord. No. 2003-10, § 1, 5-27-03; Ord. No. 2004-14, § 1, 6-8-04; Ord. No. 2008-09, § 4, 5-13-08; Ord. No. 2008-15, § 1, 6-24-08; Ord. No. 2009-12, § 3, 10-27-09)

Sec. 8-210. - Exemptions.

Properties existing prior to adoption of this ordinance and located within the CBD, Central Business District, are exempt from the provisions of this section. Any development or redevelopment of a cleared site within the CBD, Central Business District, shall require the provision of on-site parking equal to one-half (½) the stalls required in Table 8-3.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 8-220. - Shared parking.

The city may approve the use of a required off-street parking area for more than one principal use on the same or an adjacent development site if the following conditions are met:

- (1) *Entertainment uses.* Up to fifty (50) percent of the parking facilities required for a theater, bowling alley, bar, nightclub, or tavern may be supplied by off-street parking facilities provided for primarily daytime uses, as specified below.
- (2) *Nighttime or Sunday Uses.* Up to fifty (50) percent of the off-street parking facilities required for any use specified below as primarily daytime uses may be supplied by the parking facilities provided for the following nighttime or Sunday uses: auditoriums incidental to a public or parochial school, churches, bowling alleys, theaters, bars, nightclubs, or taverns (excluding those with restaurants) or multi-family apartments.
- (3) *School auditorium and church uses.* Up to eighty (80) percent of the parking facilities required by this section for a church or an auditorium incidental to a public or parochial school may be supplied by the parking facilities provided by uses specified below as primarily daytime uses.
- (4) *Daytime uses.* For the purpose of this section the following uses are considered as primarily daytime uses: banks, offices, retail stores, personal service shops, service and repair shops, manufacturing, wholesale, and similar uses.
- (5) The use for which application is being made for joint parking shall be located within three hundred (300) feet of the use providing the parking facilities.
- (6) The applicant shall show that there is no substantial conflict in the principal operating hours of the buildings or uses for which joint parking is proposed.
- (7) A legally binding instrument, executed by the parties concerned, for joint use of off-street parking facilities shall be approved by the City Attorney and filed with the Rice County Recorder's Office within sixty (60) days after approval of the joint parking use.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 8-230. - Valet parking.

Up to fifty (50) percent of the off-street parking for restaurants, hotels, theaters, and other similar establishments may be fulfilled by maintaining a valet parking service for customers. The valet service shall provide service to and from the main entrance. A passenger loading area, as approved by the City Engineer, shall be provided near the main entrance. The parking area shall be located no farther than eight hundred (800) feet from the main entrance. Parking areas used exclusively for valet parking need not be striped.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 8-240. - Bicycle parking.

- (A) *In general.* A minimum of four (4) bicycle parking spaces may be provided in lieu of not more than one (1) required automobile parking space.
- (B) *Location.* Bicycle parking spaces and racks shall be located in a convenient and visible area no farther from the principal entrance to the building served than the closest automobile parking space. With the permission of the City Engineer, bicycle parking may be located in the public right-of-way.
- (C) *Covered spaces.* If accessory automobile parking spaces are covered, bicycle parking spaces shall also be covered.
- (D) *Design.* Bicycle parking shall consist of a bike rack designed so that the bicycle frame can be locked to the rack and shall be subject to approval by the City Planner.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 8-250. - Parking in residential districts.

The following standards pertain to the parking of vehicles, including recreational vehicles such as travel trailers, motor homes, camping trailers, boats, and other similar items, within a residential district:

- (1) Off-street parking for one to four-family residential uses shall be provided in the rear yard, side yard, garage or carport, upon a well-defined driveway, or in an area not to exceed twelve (12) feet in width on one (1) side of a front yard driveway.
- (2) Parking areas shall be used for vehicles only and shall not contain any outdoor storage or sales of goods or materials, commercial repair work, or other similar uses.
- (3) Recreational vehicles shall be permitted to be parked within side or rear yards provided that such vehicle is parked no closer than three (3) feet from any lot line.
- (4) Parking of any vehicle specifically utilized as part of a waste hauling operation shall not be permitted on any residential lot.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 8-260. - Parking of commercial vehicles in residential districts.

The standards in this section shall apply to the following types of vehicles: commercial trucks, tractors, vans, pickups or any vehicle required to be registered as a "Y"-type vehicle (vehicles with a carrying capacity of one (1) ton or more; and any commercial trailer or other machinery capable of being trailed behind a vehicle. Regulation of on-street parking is controlled by Chapter 15 of the City Code.

- (1) Engines of commercial vehicles may not run continuously. A thirty (30) minute engine warm-up time shall be permitted immediately prior to the commercial vehicle and/or any other motorized equipment leaving the premises. The warm-up period shall begin no earlier than 6:00 a.m. and end no later than 10:00 p.m. This provision does not authorize the violation of any applicable noise standard, law or regulation.
- (2) The vehicle shall be parked only upon a paved off-street parking area or pad constructed in accordance with the off-street parking requirements of this ordinance.
- (3) An exemption from requirement (2) above may be granted for one (1) vehicle per property only under the following circumstances:

- (a) The vehicle is used for a home occupation registered with the city and in existence prior to December 1, 1989; and
- (b) The property registered for the home occupation has insufficient room in the front yard area to accommodate at least one (1) lane into a garage or driveway area in addition to the required parking pad.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2004-05, § 7, 6-8-04)

ARTICLE 4. - DRIVE-IN AND DRIVE-THROUGH FACILITIES

Sec. 8-270. - Drive-in and drive-through stacking requirements.

Drive-in and drive-through facilities shall provide adequate stacking space for vehicles based on the requirements shown in Table 8-4. Stacking spaces shall require a minimum pavement width of twelve (12) feet, a length of twenty (20) feet per vehicle, and shall be exclusive of any other required aisles or parking spaces.

Table 8-4. Stacking requirements for drive-in and drive-through facilities.

Use	Minimum number of stacking spaces
Financial institution w/drive-up teller	6 spaces per window or kiosk
Financial institution w/drive-up ATM	2 spaces per window or kiosk
Car wash - self service	4 spaces per bay at entrance 1 space per bay at exit
Car wash - automatic	3 spaces per bay at entrance door and 2 per bay in entrance lane 1 space per bay at exit
Drive-through restaurant	4 spaces behind menu board 4 spaces behind first window
Gas stations	2 spaces per pump
Other drive-up uses	2 spaces per window

(Ord. No. 99-20, § 1, 11-23-99; 2006-16, § 1, 7-11-06)

ARTICLE 5. - OFF-STREET LOADING

Sec. 8-280. - Requirements.

Off-street loading space shall be provided for any non-residential use which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, and which will have a gross floor area of five thousand (5,000) square feet or more, according to the following minimum standards:

- (1) The off-street loading requirement for buildings with less than twenty thousand (20,000) square feet GFA may be satisfied by the designation of a loading zone area on the site. This loading zone area shall be separate from any required off-street parking area, and access to it shall not conflict with automobile or pedestrian circulation within the site.
- (2) Buildings with 20,001 to 50,000 square feet of GFA shall provide one (1) loading space.
- (3) Buildings with 50,001 to 100,000 square feet of GFA shall provide two (2) loading spaces.
- (4) Buildings with 101,000 or more square feet of GFA shall provide one (1) additional loading space per additional 300,000 sq. ft. GFA.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 8-290. - Size and location.

In addition to the design guidelines specified in Section 4-80, off-street loading areas shall be subject to the following standards:

- (1) Semi-trailer spaces shall be at least fifty-five (55) feet in length, ten (10) feet in width and fourteen (14) feet in height plus necessary additional maneuvering space.
- (2) Spaces shall be at least fifty (50) feet from the property line of any residential property or residentially-zoned property.
- (3) All loading spaces and driveways shall be surfaced with a dustless all-weather material meeting the standards for off-street parking areas and driveways.
- (4) All loading spaces shall be provided in a location where it is not necessary to utilize the public right-of-way for access to such space.

(Ord. No. 99-20, § 1, 11-23-99)

CHAPTER 9. - SIGNS

ARTICLE 1. - GENERAL PROVISIONS

Sec. 9-10. - Purpose.

This chapter is established to allow effective signage appropriate to the planned character of each zoning district, to promote an attractive environment by minimizing visual clutter and confusion, to minimize adverse effects on nearby property, and to protect the public health, safety, and welfare.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 9-20. - Scope of regulations.

The sign regulations set forth in this chapter shall apply to all structures and all land uses, except as otherwise provided in this ordinance. All signs allowed by this chapter shall be limited to on-premise signs, except where otherwise specifically noted.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 9-30. - Exemptions.

The following signs shall be exempt from the regulations of this chapter, provided, however, that the general sign regulations established in Section 9-70 are met:

- (1) Real estate signs, not exceeding thirty-two (32) square feet in area for commercial, industrial, and multi-family residential properties and twelve (12) square feet in area for single and two-family residential properties, advertising only the sale, rental, or lease of the premises upon which said signs are located, provided that:
 - (a) Only one (1) such sign is displayed per street frontage.
 - (b) The maximum height shall not exceed eight (8) feet for commercial, industrial, and multi-family residential properties and four (4) feet for single and two-family residential properties.
 - (c) The sign is set back at least ten (10) feet from the curb or edge of pavement.
 - (d) The sign shall be removed within seven (7) days after the completion of the advertised sale or lease.
- (2) Residential and professional nameplates, not to exceed three (3) square feet in area, indicating the name of the occupant or occupants and the name of a permitted business or home occupation.
- (3) Agricultural product signs advertising seasonal produce, located on property within the Open-Space/Agricultural District, provided that:
 - (a) Only one (1) such sign is displayed per street frontage.
 - (b) The maximum size shall be thirty-two (32) square feet in area and eight (8) feet in height.
 - (c) Signs shall be removed at the end of the produce season.
- (4) Garage sale signs, not to exceed four (4) square feet in area, provided that:
 - (a) One (1) on-site sign and three (3) off-premise signs, with permission of the property owner, shall be allowed.
 - (b) No such sign shall be placed within the public right-of-way or located on any other public property.
 - (c) All such signs shall be removed within one (1) day following the sale.
- (5) Construction or development signs, not to exceed sixty-four (64) square feet in area or eight (8) feet in height denoting the architect, engineer, or contractor for a project under construction, excluding any work being done at a single or two (2) family residential lot, provided that only one such sign shall be permitted per street frontage. Such signs shall be removed within ten (10) days after completion of the project.
- (6) Construction signs for work being conducted at a single or two-family residential lot, not to exceed fifteen (15) square feet in area or seven (7) feet in height, denoting the architect, engineer, or contractor for a project under construction, provided that only one (1) such sign shall be allowed per lot. Such signs shall be removed within ten (10) days after completion of the project.
- (7) Governmental signs, including but not limited to, traffic control and other regulatory purpose signs, street signs, informational signs, danger signs, and railroad crossing signs.
- (8) Official public notices or signs required by local, state, or federal regulations.

- (9) Memorial signs or tablets, names of buildings and date of erection, when cut into any masonry surface or when constructed of bronze or other incombustible material.
- (10) Interior signs.
- (11) Window signs, provided that no more than fifty (50) percent of an individual window is covered with signs or painting.
- (12) Official government flags, emblems, or temporary displays of a patriotic, religious, charitable, or other civic character may be displayed provided that such signs are not placed in the public right-of-way and are non-illuminated.
- (13) Informational signs, not exceeding six (6) square feet in area or five (5) feet in height, if freestanding, displayed strictly for the direction, safety, or convenience of the public, including signs which identify restrooms, parking area entrances or exits, freight entrances, addresses, or similar information. Informational signs that have a business logo over twenty-five (25) percent of the total sign area shall be considered part of the overall sign area calculation for the property.
- (14) Political campaign signs in accordance with Minnesota Statute 211B.045, provided that no such sign be located within one hundred (100) feet from any polling site or be placed within the public right-of-way.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2007-10, § 2, 11-13-07; Ord. No. 2009-10, § 2, 8-11-09)

Sec. 9-40. - Permits.

- (A) *Permit required.* It shall be unlawful for any person to erect, build, construct, attach, hang, place, suspend, affix, structurally alter, or relocate any sign within the city, without first obtaining a permit from the Zoning Administrator and making payment of a fee in the amount established by City Council resolution.
- (B) *Application for sign permit.* An application for a sign permit shall be filed with the Zoning Administrator on an approved form and shall be accompanied by such information as may be required to ensure compliance with the provisions of this chapter, including but not limited to, the following:
 - (1) A drawing showing the proposed location of the sign for which the permit is being requested and the location of all existing signage on the premises.
 - (2) A drawing indicating the size, color, content, and materials of the sign, as well as the method of construction and attachment to the building or to the ground.
 - (3) Engineering data showing the structure is designed to accommodate dead load and wind pressure, in any direction, in the amount required within this chapter, when specifically requested by the Zoning Administrator.
- (C) *Issuance and duration of permit.* Upon the filing of a completed application for a sign permit, the Zoning Administrator shall examine all accompanying drawings and supplemental data to determine compliance with the requirements of this chapter. Upon approval, the sign permit shall remain valid for a period of one hundred twenty (120) days. If no work is commenced within such time period, a new permit shall be required even if no changes have been made to the original sign plan.
- (D) *Permit revocable at any time.* All rights and privileges acquired under the provisions of this chapter are mere licenses revocable for cause at any time by the Zoning Administrator. If a permit is revoked or canceled, the applicant shall not be entitled to a refund of required permit fees.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 9-50. - Insurance requirements.

Every person regularly engaged in the business of erecting advertising and business signs in the city shall file a certificate of insurance with the Zoning Administrator before any sign permits are issued. This certificate shall verify a liability insurance policy issued by an insurance company authorized to do business in the State of Minnesota.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 9-60. - Removal of certain signs.

Any business sign in the city which no longer advertises or identifies a bona fide business conducted or product sold on the premises shall be removed by the property owner within ninety (90) days from the date of vacancy. Any business that has not removed the sign within ninety (90) days shall be notified by the zoning administrator in writing and given thirty (30) days to comply. Additionally, support posts and frames that no longer contain signage must be removed by the property owner within twenty-four (24) months after written notification from the zoning administrator, provided the structure is in good condition. Upon failure to comply with the notice within the specified time period, the zoning administrator is authorized to cause removal of such sign and support structures, and assign any expenses incidental to the removal of the same to the property owner.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2009-10, § 2, 8-11-09)

Sec. 9-65. - Sign enforcement.

Enforcement of the regulations and sign standards herein, shall conform to Article 12, Chapter 2 of the Faribault Unified Development Ordinance.

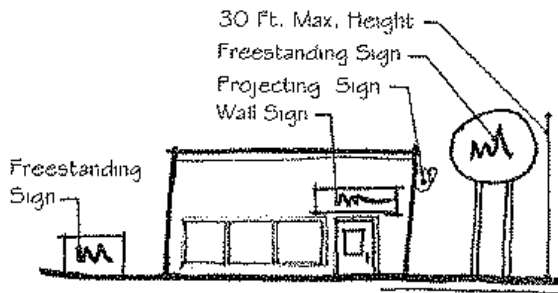
(Ord. No. 2009-10, § 2, 8-11-09)

Sec. 9-70. - General sign standards.

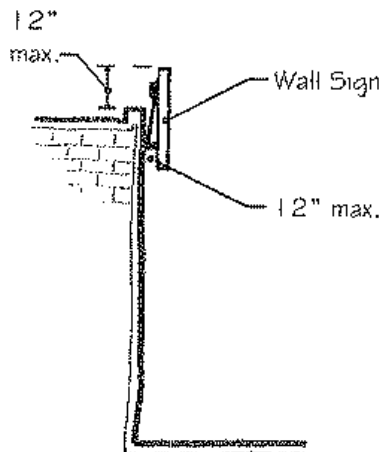
- (A) *Unsafe and unlawful signs.* If the zoning administrator shall find that any sign regulated under this chapter is unsafe or insecure, or has been constructed or erected in violation of the provisions of this chapter, a written notice shall be given to the property owner. In the event the property owner fails to remove or alter the sign so as to comply with the standards set forth in this chapter within thirty (30) days after such notice, the sign in violation may be removed by the zoning administrator, with costs assigned to the property owner. The zoning administrator shall refuse to issue a permit under this chapter for any sign that would pose an immediate peril to persons or property.
- (B) *Construction requirements.* All signs shall be constructed and maintained in accordance with the applicable provisions of the Uniform Building and Electrical Codes. Permanent freestanding signs shall have self-supporting structures erected on and permanently attached to a concrete foundation. Wall signs shall be placed on walls that are designed and constructed with sufficient strength to support such signage.
- (C) *Mounting of signs.* All signs shall be securely mounted or displayed in one of the following manners:
- (1) Flat against a building or wall.
 - (2) Back-to-back in pairs or otherwise arranged in such a manner that the back of the signs will be screened from public view.
 - (3)

Otherwise mounted so that the backs of all signs showing to public view, including all parts of the sign structure, shall be painted a dark or neutral color.

- (D) *Maintenance and repair.* All signs shall be kept in good repair and free from peeling paint, rust damaged or rotted supports, framework or other material, broken or missing faces or missing letters.
- (E) *Intensity of light.* No sign shall be either directly or indirectly illuminated in such a manner as to affect adversely the use and enjoyment of nearby property or to obscure the vision of motorists. All signs shall be subject to the standards for lighting and glare, as specified in Section 6-340
- (F) *Safety obstructions.* No sign in the city shall be placed or installed that obstructs access to fire escapes or required windows, doors, exits or standpipes. Additionally, no sign shall be placed within the twenty-five (25) foot sight distance triangle required at all intersections including driveways and alleys.
- (G) *Sign design standards.* All signs shall adhere to the following design standards:



Sign Types



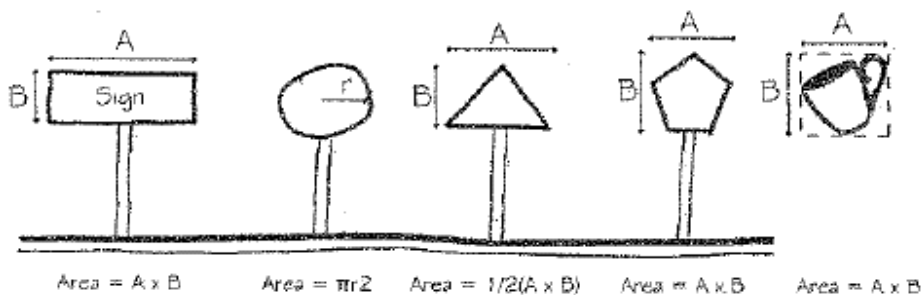
- (1) The size and location of wall signs shall be reviewed in terms of their relationship to the building entry, height of sign fascia, size of wall where the sign is to be installed, the signs relationship to other signs on the building and visibility from the street, sidewalk or parking lot.
- (2) On multi-tenant-properties and in unified developments wall signs shall be evaluated for compatibility with the comprehensive sign plan, the building fascia and neighboring signs in terms of size, color lighting, style and quality.
- (3) The depth of wall signs on multi-tenant buildings shall be consistent.

- (4) Freestanding signs shall be of a style, material and design compatible with the primary building.
 - (5) The base or support elements of freestanding signs shall be constructed of similar building materials as the principal structure. Landscaping shall be required at the base to enhance such signs.
 - (6) Freestanding signs shall be sited so that they integrate with the location of street trees and other site landscaping, and to minimize obscuring the view of adjacent freestanding signs.
- (H) *Sign bonus.* All buildings within commercial and/or industrial districts may be allowed a sign bonus as outlined below. In cases where a sign bonus is requested, a comprehensive sign plan shall be required prior to issuing of a sign permit.
- (1) An increase of up to ten (10) percent in the total allowable sign area on a wall may be allowed through a sign area transfer. A transfer shall only be permitted if the sign area of one of the remaining walls is reduced by twenty (20) percent. A maximum of two (2) sign area transfers shall be allowed per building.
 - (2) An off-premise sign may be allowed within a unified commercial or industrial development provided that the total allowable sign area and number of freestanding signs for all properties within the development is not exceeded.
 - (3) In addition to the allowable freestanding signs, properties that have over one-thousand (1,000) lineal feet of street frontage on a single street shall be allowed an additional freestanding sign to be used within that additional one thousand (1,000) lineal feet of street frontage.
- (I) *Comprehensive sign plan.*
- (1) Buildings with multiple tenants, properties with multiple buildings, and unified developments with multiple lots shall be required to submit a comprehensive sign plan.
 - (2) A comprehensive sign plan shall be of sufficient detail to allow determination that all signs within the development will meet the requirements of this ordinance.
 - (3) No sign permit shall be issued for an individual sign except upon determination that such sign is consistent with the comprehensive sign plan for the development and the provisions of this ordinance.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2009-10, § 2, 8-11-09)

Sec. 9-80. - Computations.

- (A) *Computation of sign face area.* The area of a sign face shall be based on the outer dimensions of the sign elements. Where the sign is not in the shape of a rectangle, square, triangle, or circle, the sign face area shall be determined by calculating the area of an imaginary rectangle drawn around the sign.



- (B) *Back-to-back signs.* When the faces of a back-to-back sign are parallel or within thirty-five (35) degrees of parallel, the sign face area shall be determined on the basis of only one (1) side of such sign. If the sign faces are not within thirty-five (35) degrees of parallel, the sign face area shall be determined on the basis of the sum of the areas of each sign face.
- (C) *Multiple-framed signs.* For freestanding and projecting signs that contain multiple frames on a single structure and oriented in the same direction, the sign face area shall be determined on the basis of the sum of the areas of each cabinet.
- (D) *Awnings and canopies.* When signs are incorporated into awnings or canopies, the sign area shall be determined by computing the area of an imaginary rectangle drawn around the sign.
- (E) *Computation of sign height.* The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of the existing grade prior to construction or the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2009-10, § 2, 8-11-09)

Sec. 9-90. - Prohibited signs.

The following signs shall be prohibited in all zoning districts, except as otherwise specified in this chapter:

- (1) Signs which resemble or which interfere to any degree with the effectiveness of a traffic-control device, sign, or signal; which obstruct or interfere with a motorist's view of approaching, merging, or intersecting traffic for a distance not to exceed five hundred (500) feet; or which has distracting flashing or moving lights so designed or lighted as to create a traffic hazard.
- (2) Signs placed or maintained on natural features, fences, or utility poles.
- (3) Portable or changeable copy signs, except where specifically allowed elsewhere in this ordinance.
- (4) Flashing signs or lights that intermittently go on and off, including any sign located within a building and readily visible from the outside. Electronic message boards, in accordance with the standards set forth in subsection 9-120(2)(d) and subsection 9-130(5) of this ordinance, shall be exempt from this section.
- (5) A sign, excluding those located wholly within a building, which moves or creates the illusion of movement in any manner.
- (6) Roof signs.
- (7) Audible signs.
- (8) Signs painted directly on the surface of a building.
- (9) Any sign which contains information, whether written or graphic, that is obscene in nature.
- (10) All signs not expressly permitted or exempted under this chapter.
- (11) Expired business signs as described in section 9-60
- (12) Signage that is temporarily attached or affixed to trucks, semi-trucks or tractors or automobiles that are parked stationary for more than forty-eight (48) hours.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2004-24, § 2, 10-12-04; Ord. No. 2007-10, § 2, 11-13-07; Ord. No. 2009-10, § 2, 8-11-09)

ARTICLE 2. - REGULATIONS BY ZONING DISTRICT

Sec. 9-100. - Purpose.

For the purpose of this chapter, signs are regulated according to the zoning district in which the property where the sign is to be located exists. No sign shall be erected unless it is permitted in the district or specifically exempted elsewhere in this chapter.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2004-24, § 2, 10-12-04)

Sec. 9-110. - Open Space-Agricultural District and Transitional Urban Development District.

In the Open Space-Agricultural and Transitional Urban Development District, only the following signs shall be permitted:

- (1) Any sign exempted under Section 9-30
- (2) A permanent business identification sign indicating the name and type of business conducted on the premises, provided that:
 - (a) One (1) freestanding sign shall be allowed per street frontage, with the maximum size not to exceed fifty (50) square feet in area or twelve (12) feet in height.
 - (b) One (1) wall-mounted sign may be placed on the principal building, not to exceed ten (10) percent of the signable area up to a maximum of one hundred twenty (120) square feet.
 - (c) An electronic message board, in conjunction with an identification sign for a public recreation use shall be allowed, provided that the overall size requirements are satisfied and that all of the following standards are met:
 - (1) Electronic message board displays shall not move or change except to transition from one (1) message to another or from one (1) message segment to another by using one (1) of the following transition modes, as defined in Chapter 1 of this ordinance:
 - a) Fade mode
 - b) Dissolve mode
 - c) Scroll mode
 - (2) The sign shall be a minimum distance of fifty (50) feet radially from a residential use.
 - (3) The electronic message board shall not exceed 50% of the allowable sign area of 50 square feet per face.
 - (4) If the sign is within two hundred (200) feet of a residential use and is visible from a residential use, the sign shall not be illuminated between 11:00 p.m. and 5:00 a.m.
 - (5) An electronic message board shall not be permitted to transition using the travel mode, as defined in Chapter 1 of this ordinance.
 - (6) Modes which cause the message to flash or appear to flash are prohibited
 - (7) The sign may only be used to promote activities, products, or services pertaining to the subject property; time and temperature; or other public service oriented messages.

- (8) The sign shall not exceed a maximum illumination of five thousand (5,000) nits (candelas per square meter) during daylight hours and a maximum of five hundred (500) nits (candelas per square meter) from dusk to dawn as measured at the sign's face at maximum brightness.

(3) Temporary signs as provided for under Section 9-190

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2006-19, § 1, 8-8-06; Ord. No. 2007-10, § 2, 11-13-07)

Sec. 9-120. - Residential districts.

In any residential district, only the following signs shall be permitted:

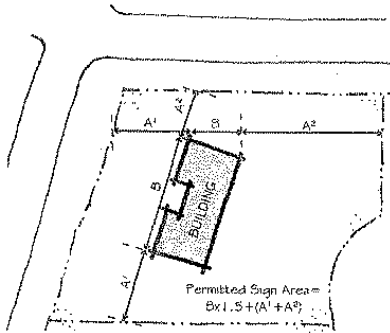
- (1) Any sign exempted under Section 9-30
- (2) Signs, on parcels with a lot area of 20,000 square feet or more, identifying a church, school, hospital, other institution, or offices in a R-2, R-3, or R-4 district provided that:
 - (a) One freestanding sign shall be allowed per street frontage, with a maximum size not to exceed fifty (50) square feet in area and eight (8) feet in height per face.
 - (b) One wall-mounted sign may be placed on the principal building, not to exceed ten (10) percent of the signable area up to a maximum of one hundred twenty (120) square feet.
 - (c) Such sign shall be solely for the purpose of displaying the name of the institution or association and its activities or services.
 - (d) A bulletin board, in conjunction with an identification sign shall be allowed, provided that the overall size requirements are satisfied. A bulletin board may be an electronic message board provided, however, that all of the following standards are met:
 - (1) Electronic message board displays shall not move or change except to transition from one (1) message to another or from one (1) message segment to another by using one (1) of the following transition modes, as defined in Chapter 1 of this ordinance:
 - a) Fade mode.
 - b) Dissolve mode.
 - c) Scroll mode.
 - (2) The sign shall be a minimum distance of fifty (50) feet radially from a residential use.
 - (3) The electronic message board shall not exceed fifty (50) percent of the allowable sign area of fifty (50) square feet per face.
 - (4) If the sign is within two hundred (200) feet of a residential use and is visible from a residential use, the sign shall not be illuminated between 10:00 p.m. and 6:00 a.m.
 - (5) An electronic message board shall not be permitted to transition using the travel mode, as defined in Chapter 1 of this ordinance.
 - (6) Modes which cause the message to flash or appear to flash are prohibited
 - (7) The sign may only be used to promote activities, products, or services pertaining to the subject property; time and temperature; or other public service oriented messages.
 - (8) The sign shall not exceed a maximum illumination of five thousand (5000) nits (candelas per square meter) during daylight hours and a maximum of five hundred (500) nits (candelas per square meter) from dusk to dawn as measured at the sign's face at maximum brightness.

- (e) Such signs shall be set back at least ten (10) feet from any property line.
- (f) Landscaping shall be provided around the base of the monument sign.
- (3) Signs, on parcels with a lot area less than 20,000 square feet, identifying a church, school, hospital, other institution, or offices in a R-2, R-3, or R-4 district provided that:
 - (a) One freestanding monument sign shall be allowed per lot, with a maximum size not to exceed thirty-two (32) square feet in area and six (6) feet in height.
 - (b) One wall-mounted sign may be placed up on the principal building, not to exceed ten (10) percent of the signable area up to a maximum of fifty (50) square feet.
 - (c) Such sign shall be solely for the purpose of displaying the name of the institution or association and its activities or services.
 - (d) Such signs shall be set back at least ten (10) feet from any property line.
 - (e) Landscaping shall be provided around the base of the monument sign.
- (4) Residential identification signs for a multi-family development, provided that:
 - (a) One freestanding sign shall be allowed per street frontage, with a maximum size not to exceed fifty (50) square feet in area and eight (8) feet in height.
 - (b) One wall-mounted sign may be placed on the principal building, not to exceed ten (10) percent of the signable area up to a maximum of one hundred twenty (120) square feet.
 - (c) The sign shall indicate only the name and address of the building or property management agency.
- (5) Subdivision identification signs, provided that:
 - (a) One freestanding sign shall be allowed at each major street entrance to the subdivision, with a maximum size not to exceed thirty-two (32) square feet in area and five (5) feet in height.
 - (b) The sign shall be architecturally designed to be a permanent part of a residential neighborhood.
 - (c) The sign shall indicate the name of the development only.
- (6) Temporary signs as provided for under Section 9-190

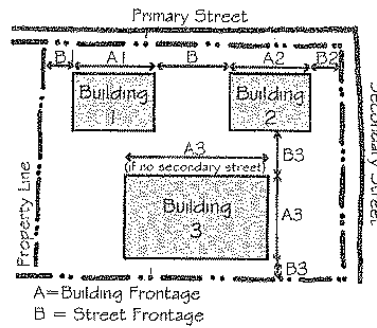
(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2003-032, § 2, 11-25-03; Ord. No. 2007-10, § 2, 11-13-07)

Sec. 9-130. - Commercial Districts.

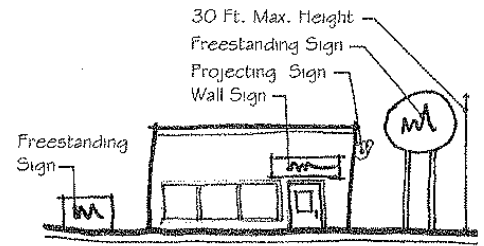
In any commercial district, excluding the Downtown Sign District, only the following signs shall be permitted:



Sign Area Calculation

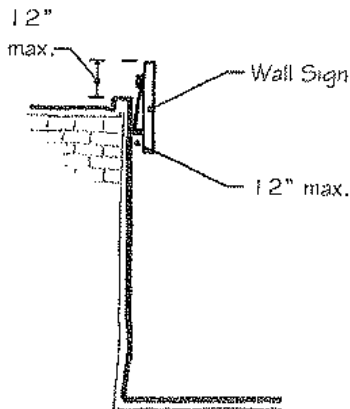


Sign Area Calculation for Multiple Building Properties



Sign Types

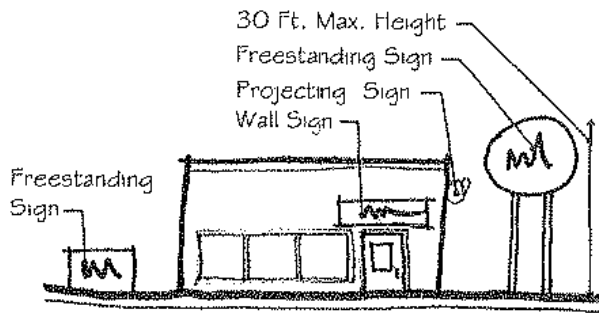
- (1) All signs permitted within residential districts, as specified in Section 9-120
 - (2) Freestanding signs, wall signs, canopy signs, awning signs, projecting signs, and hanging signs.
- The overall area of all signs shall not exceed one and one-half (1½) square feet of signage for each lineal foot of building frontage plus one additional square foot of signage for each lineal foot of street frontage.
- a. No sign shall be located within a public easement area or within the public right-of-way.
 - b. All signs shall adhere to the following standards:
 1. Wall signs.



Wall Sign Design

- i. Wall signs shall not project more than twelve (12) inches from the wall or parapet to which it is attached.
 - ii. Wall sign calculations shall not exceed ten (10) percent of the wall area as determined by the height and width of each wall. (Height × width = wall area). Wall signs may be allowed a sign area bonus transfer as provided in Section 9-70(H)(1).
 - iii. Wall signs shall not extend more than twelve (12) inches above the parapet line of the building.
- 2.

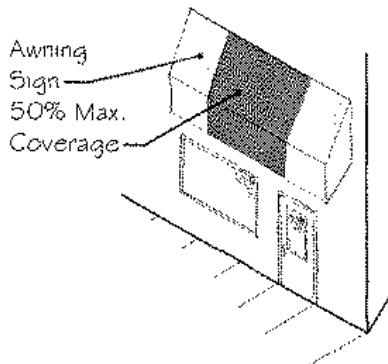
Freestanding Signs. One freestanding sign shall be allowed per street frontage, except as provided is Section 9-70(H). All freestanding signs shall be located a minimum of five (5) feet from a property line.



Sign Types

- i. Where a pylon sign element is twenty (20) feet above the natural grade or higher, the sign element may encroach up to four (4) feet into the required setback.
- ii. Freestanding signs shall not exceed thirty feet (30) in height. The sign elements shall not exceed one hundred twenty (120) square feet in total.
- iii. For freestanding signs located within the Interstate Highway Oriented Business Area, the height shall not exceed fifty-five (55) feet and the area of the sign element shall not exceed three hundred and fifty (350) square feet.
- iv. A multi-tenant freestanding sign shall not exceed three hundred and fifty square feet (350) of sign elements.

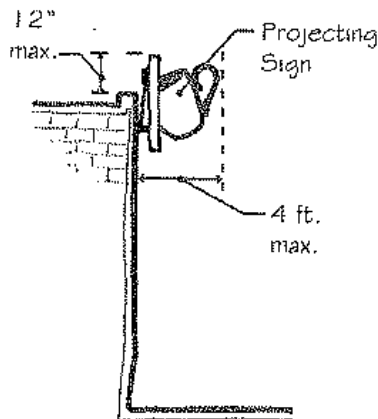
3. Awning signs.



Awning Sign Design

- i. Awning signs shall not project more than four (4) feet from the wall to which it is attached.
- ii. Awning signs shall not exceed fifty (50) percent of the awning surface.
- iii. Awning signs shall be eight (8) feet above the minimum ground floor elevation of a building. Awning signs shall not exceed a height of fifteen (15) feet.

4. Projecting signs.



Projecting Sign Design

- i. Projecting signs, including the support structure, shall not extend more than four (4) feet from the vertical surface to which it is attached.
 - ii. Projecting signs shall not exceed twelve (12) square feet in surface area per face.
 - iii. Projecting signs shall be a minimum of eight (8) feet above the ground floor elevation.
 - iv. Projecting signs shall not exceed a height of fifteen (15) feet above the ground floor elevation.
 - v. Projecting signs shall be securely fastened.
5. Hanging signs.
- i. Hanging signs shall not exceed twelve (12) square feet in surface area per face.
 - ii. Hanging signs shall be a minimum of eight (8) feet above the ground floor elevation.
 - iii. Hanging signs shall not exceed a height of fifteen (15) feet above the ground floor elevation.
 - iv. Hanging signs shall be securely fastened.
6. Canopy signs.
- i. Canopy signs shall be permitted on all four (4) sides of a canopy structure. A continuous sign band shall be permitted for all canopies. Sign bands shall be no more than two and one-half (2½) feet in height.
- (3) Temporary signs as provided for under Section 9-190
- (4) Electronic message boards, provided, however, that all of the following standards are met:
- (a) Electronic message board displays shall not move or change except to transition from one message to another or from one message segment to another by using one of the following transition modes:
 - 1) Fade Mode
 - 2) Dissolve Mode

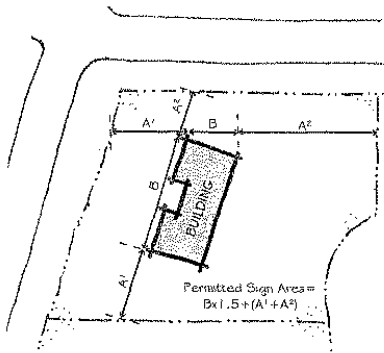
3) Scroll Mode

- (b) The sign shall be a minimum distance of fifty (50) feet radially from a residential district or use.
- (c) The sign shall not exceed twenty-five (25) percent of the allowable sign area or exceed forty (40) square feet per face, whichever is less.
- (d) If the sign is within two hundred (200) feet of a residential district and is visible from a residential use, the sign shall not be illuminated between 11:00 p.m. and 5:00 a.m.
- (e) An electronic message board shall not be permitted to transition using travel mode, as defined in Chapter 1 of this ordinance.
- (f) Modes which cause the message to flash or appear to flash are prohibited.
- (g) The sign may only be used to promote activities, products, or services pertaining to the subject property; time and temperature; or other public service oriented messages.
- (h) The sign shall not exceed a maximum illumination of five thousand (5,000) nits (candelas per square meter) during daylight hours; and a maximum of five hundred (500) nits (candelas per square meter) from dusk to dawn as measured at the sign's face at maximum brightness.
- (i) Existing electronic message board signs shall meet the requirements of (a) and (d)—(h) within ninety (90) days of the effective date of this ordinance.

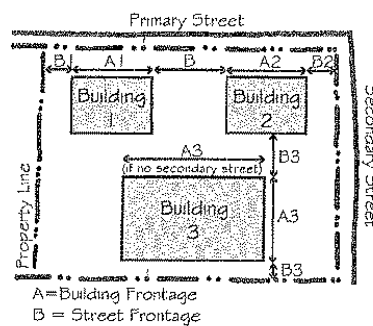
(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2004-24, § 2, 10-12-04; Ord. No. 2007-10, § 2, 11-13-07; Ord. No. 2009-10, § 2, 8-11-09)

Sec. 9-140. - Industrial Districts.

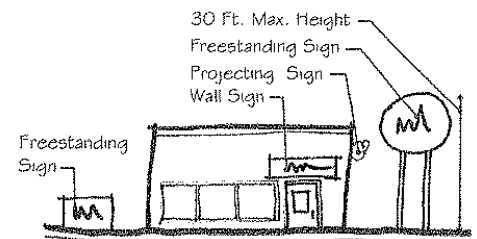
In any industrial district only the following signs shall be permitted:



Sign Area Calculation



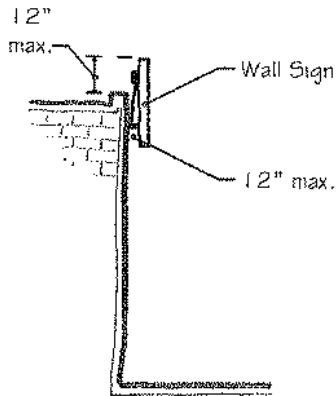
Sign Area Calculation for Multiple Building Properties



Sign Types

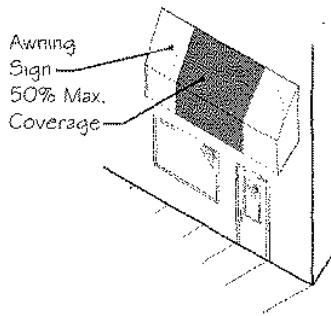
- (1) All signs permitted within residential districts, as specified in Section 9-120
- (2) Freestanding signs, including monument and pylon signs, wall signs, canopy signs, awning signs or projecting and hanging signs.
 - a. The overall area of all signs shall not exceed one and one-half (1½) square feet of signage for each lineal foot of building frontage plus one additional square foot of signage shall be permitted for each lineal foot of street frontage.
 - b. No sign shall be located within an easement area or within the public right-of-way.
 - c. All signs shall adhere to the following standards:

1. Wall signs.



Wall Sign Design

- i. Wall signs shall not project more than twelve (12) inches from the wall or parapet to which it is attached.
 - ii. Wall sign calculations shall not exceed ten (10) percent of the wall area as determined by the height and width of each wall. (Height × width = wall area). Wall signs may be allowed a sign area bonus transfer as provided in Section 9-70(H)(1).
 - iii. Wall signs shall extend more than twelve (12) inches above the parapet line of the building.
2. Freestanding signs. One freestanding sign shall be allowed per street frontage, except as provided is Section 9-70(H). All freestanding signs shall be located a minimum of five (5) feet from a property line.
- i. Where a pylon sign element is twenty (20) feet above the natural grade or higher, the sign element may encroach up to four (4) feet into the required setback.
 - ii. The sign element shall be a minimum of ten (10) feet in height above the finished grade. Pylon signs shall not exceed thirty feet (30) in height. The sign elements shall not exceed one hundred twenty (120) square feet in total.
 - iii. For pylon signs located within the Interstate Highway Oriented Business Area, the height shall not exceed fifty-five (55) feet and the area of the sign element shall not exceed three hundred and fifty (350) square feet.
 - iv. A multi-tenant pylon sign may not exceed three hundred and fifty square feet (350) of sign elements.
3. Awning signs.



Awning Sign Design

- i. Awning signs shall not project more than four (4) feet from the wall to which it is attached.
 - ii. Awning signs shall not exceed fifty (50) percent of the awning surface.
 - iii. Awning signs shall be eight (8) feet above the minimum ground floor elevation of a building. Awning signs shall not exceed a height of fifteen (15) feet.
4. Canopy signs.
 - i. Canopy signs shall be permitted on all four (4) sides of a canopy structure. A continuous sign band shall be permitted for all canopies. Sign bands shall be no more than two and one-half (2½) feet in height.
- (3) Temporary signs as provided for under Section 9-190
- (4) Electronic message boards, provided, however, that all of the following standards are met:
 - (a) Electronic message board displays shall not move or change except to transition from one message to another or from one message segment to another by using one of the following transition modes:
 - 1) Fade mode.
 - 2) Dissolve mode.
 - 3) Scroll mode.
 - (b) The sign shall be a minimum distance of fifty (50) feet radially from a residential district or use.
 - (c) The sign shall not exceed twenty-five (25) percent of the allowable sign area or exceed forty (40) square feet per face, whichever is less.
 - (d) If the sign is within two hundred (200) feet of a residential district and is visible from a residential use, the sign shall not be illuminated between 11:00 p.m. and 5:00 a.m.
 - (e) An Electronic message board shall not be permitted to transition using travel mode, as defined in Chapter 1 of this ordinance.
 - (f) Modes which cause the message to flash or appear to flash are prohibited.
 - (g) The sign may only be used to promote activities, products, or services pertaining to the subject property; time and temperature; or other public service oriented messages.

- (h) The sign shall not exceed a maximum illumination of five thousand (5,000) nits (candelas per square meter) during daylight hours; and a maximum of five hundred (500) nits (candelas per square meter) from dusk to dawn as measured at the sign's face at maximum brightness.
- (i) Existing electronic message board signs shall meet the requirements of (a) and (d)—(h) within ninety (90) days of the effective date of this ordinance.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2009-10, § 2, 8-11-09)

Sec. 9-150. - Downtown Sign District.

- (A) *Established.* The Downtown Sign District is established in an effort to protect the unique architectural character and historic value of the city's downtown by placing additional regulations on signs to be placed within the district. Signage shall be designed to enhance and complement the historic character of buildings within the district.
- (B) *District boundaries.* The provisions of this section shall apply to those properties identified on the Downtown Sign District Map, incorporated herein by reference.
- (C) *Sign Standards:* Prior to issuance of a permit for a new sign, the replacement of an existing sign, or the re-facing or repainting of an existing sign or sign area within the Downtown Sign District, the applicant shall complete a sign permit application. Signs within the Downtown Sign District shall be subject to the following guidelines:
 - (1) *Size, building frontages of forty-four (44) feet or less.* Buildings or portions thereof under separate management or control shall not have exterior signs on the premises with a surface area exceeding two (2) square feet per lineal foot of building frontage or eighty-eight (88) square feet, whichever is less, for each frontage. The surface area of all such signs shall not exceed, in the aggregate, eighty-eight (88) square feet on any single building frontage. Building frontage shall be calculated only on the public street to which said building is addressed or has direct access.
 - (2) *Size, building frontages of over forty-four (44) feet.* Buildings or portions thereof under separate management or control shall not have exterior signs on the premises with a surface area exceeding two (2) square feet per lineal foot of building frontage or one hundred twenty-five (125) square feet, whichever is less, for each frontage. The surface area of all such signs shall not exceed, in the aggregate, one hundred twenty-five (125) square feet on any single building frontage. Building frontage shall be calculated only on the public street to which said building is addressed or has direct access.
 - (3) *Number.* Buildings or portions thereof under separate management or control are allowed not more than two (2) signs except as provided for a multiple-occupancy building, as provided in Subsection 9-150(C)(6).
 - (4) *Projection.* Buildings or portions thereof under separate management or control are allowed one (1) projecting sign per each adjacent public right-of-way, subject to the following requirements:
 - (a) Each sign shall not exceed seven and one-half (7.5) square feet in surface area per face.
 - (b) Projecting signs may not extend more than four (4) feet from the wall including supporting structure.
 - (c) The maximum height above the ground floor elevation of the building shall be twelve (12) feet.
 - (d) The minimum height above the ground floor elevation of the building shall be eight (8) feet.

- (e) The style of the projecting sign shall be compatible with the architectural style of the building period.
 - (f) Signs shall be securely fastened to the building, avoiding damage to the structure, including the stone or brick.
- (5) *Window signs.* No sign shall be permanently affixed to a window surface, except that the name, monogram, logo, address, hours of operation, and telephone number of the person or firm occupying the premises may be allowed. Such signs shall be included in the total allowable sign area for the building, as determined in Subsections 9-150(C)(1) and (2). Any window display that is temporarily affixed upon a window surface that indicates a product or service provided on the premises may be permitted, subject to the provisions of Subsection 9-30(11) and Section 9-190
- (6) *Joint identification signs.* In a multiple-occupancy building, each tenant may have one (1) wall or window business sign, provided that the total surface area shall not exceed that allowed under Subsections 9-150(C)(1) and (2). In addition, the building owner may provide a sign directory, not to exceed 15 square feet, listing the building name and the name of the businesses within the building. A signage plan for the entire building shall be submitted and approved.
- (7) *Freestanding, pylon signs.* Freestanding or pylon signs shall be permitted, as one (1) of the two (2) permitted signs provided that the area of the sign is no greater than one-third (1/3) of the total allowable square footage for signage on the property, up to a maximum of seventy-five (75) square feet.
- (8) *Sign Shape.* Signs shall be compatible with the architectural details of the building such as stone arches, glass transom panels, decorative brick or tile work. Edges of signs shall include a raised border that sets the sign apart from the building surface or hanging space. Individual raised or recessed letters set onto the sign area surface are required.
- (9) *Colors.* Sign colors shall coordinate with the building facade to which the sign is attached. Recommended colors are those included in the Faribault Heritage Preservation District Color Palette adopted by reference herein. No more than three (3) colors, excluding shades and gradients, shall be used for sign letters. Fluorescent colors are prohibited.
- (10) *Materials.* All signs shall be constructed of wood, metal, stone, glass, masonry, or tile; or material with a similar appearance to the materials as listed herein.
- (11) *Placement.* Signs shall be placed so they do not destroy or obscure architectural details such as stone arches, glass transom panels, or decorative brick or tile work. No sign shall completely cover design elements.
- (12) *Lettering.* Lettering styles shall be legible. Each sign shall contain no more than two (2) lettering styles, and the lettering shall occupy no more than sixty (60) percent of the total sign area.
- (13) *Illumination.* External illumination of signs is permitted by incandescent or fluorescent light, but shall emit continuous white light that prevents direct light from shining onto the ground or street while in operation. The use of internally lit signs, such as but not limited to backlit plastic, is not permitted. Neon signs shall be prohibited, except upon proof of historic accuracy and appropriateness.
- (14) *Sidewalk Signs.* A-Frame or Sandwich Board signs are permitted subject to the provisions of Section 9-190 of this ordinance.
- (15)

Historic building signs. Existing permanent historic nameplates or letters located on buildings shall be reviewed and approved by the Heritage Preservation Commission when changed or painted. Such signs are not subject to the sign area requirements of this chapter, and shall not be included in the calculation of total sign area for the property.

- (16) *Awning signs.* Signage placed on an awning or wall-mounted canopy is allowed, provided it does not extend more than four (4) feet above or one (1) foot below such structure, and is a minimum of (8) feet above the ground floor elevation of the building.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2006-12, § 1, 6-27-06)

ARTICLE 3. - BILLBOARDS

Sec. 9-160. - Billboards permitted.

- (A) *In general.* Freestanding billboards are permitted subject to the requirements of this section. In no case shall a billboard sign be placed on the roof or wall of a building structure.
- (B) *Location.* Billboard signs shall be permitted only on parcels zoned "C-2," "C-3," "I-1," "I-2," or "I-P" which are adjacent to the right-of-way of Interstate 35, Highway 21, Highway 48, and Highway 60 West of Highway 21.
- (C) *Maximum size and height.* Billboard sign structures shall not contain more than two (2) signs per face, nor shall the sum of such sign or signs exceed a length of fifty-five (55) feet or a surface area of seven hundred fifty (750) square feet. A billboard sign structure shall not exceed thirty (30) feet in height. An interstate highway oriented billboard sign structure shall not exceed fifty-five (55) feet in height.
- (D) *Setback requirements.* Billboard sign structures must maintain a twenty-five (25) foot minimum front setback off the property line. Where an adjacent building structure within the same block has a front setback different than those required, the minimum front setback shall be the average of the required setback and the actual setback of the adjacent structure. Billboard sign structures shall not be set back from the interstate right-of-way more than one hundred (100) feet as measured from the portion of the sign furthest from the right-of-way.
- (E) *Distance from other uses and from other similar structures.* No billboard sign structure shall be permitted within one hundred (100) feet of an adjoining residential district boundary line or any public park, school, library, church, or government building. All billboard sign structures located adjacent to Interstate 35 shall be spaced at least seven hundred fifty (750) feet from any other billboard sign structure. Billboard sign structures in all other permitted locations shall be located at least two thousand (2000) feet from any other billboard sign structure.
- (F) *Billboard construction and maintenance.* Billboard support structures shall be steel monopole or I-beam construction and shall be painted in earth tones, such as rust, brown, or gray, unless constructed of a material designed to be unpainted and to oxidize naturally. Billboards shall be maintained in good, upright condition and sign faces shall be kept free of sagging, peeling, or torn copy.
- (G) *Landscaping.* The area around the base of billboards in all areas shall be landscaped and maintained in a neat and orderly fashion, including regular mowing as needed. An applicant for a sign permit for a billboard shall submit a landscape plan with the application which will identify the kinds of vegetation, masonry, or other material to be installed around the base and how the area will be maintained.
- (H)

State statutes. All billboard sign structures shall also be subject to the provisions of the "Minnesota Outdoor Advertising Control Act," which appears in Chapter 173, Minnesota Statutes.

- (l) *Digital billboards.* The City of Faribault recognizes that digital billboards are a cost-effective means for providing information to the public. The city sees merit in allowing new technologies so that messages of all kinds can be quickly and easily updated. The city also sees advantages in being able to provide public service messages through digital billboard technology for the greater good of the City of Faribault as a whole and its visitors. By placing certain requirements and restrictions on digital billboards to minimize potential driver distraction and the impacts to nearby residential properties, these signs can serve a greater public purpose. Digital billboards shall be subject to the following standards:
- (1) Digital billboards shall be subject to all other billboard provisions as stated in this article.
 - (2) A sign permit shall be required prior to installation of a digital billboard face on any or new existing billboard sign structure.
 - (3) Digital billboards shall not be permitted on nonconforming sign structures.
 - (4) Not more than one (1) digital or static sign face or message facing in the same direction shall be allowed.
 - (5) The digital billboard screen shall not be divided to show more than one (1) message displayed concurrently.
 - (6) A digital billboard shall be located a minimum of two thousand (2,000) feet from any other digital billboard oriented in the same general direction of travel.
 - (7) A digital billboard shall be located a minimum of three hundred (300) feet from the center of a signalized intersection and a minimum of five hundred (500) feet from the center of an unsignalized intersection. The city, at its sole discretion, may require additional setbacks from an intersection based on site conditions.
 - (8) Digital billboards shall be designed and equipped to freeze the device in one (1) position. The sign owner shall immediately stop the digital display when notified by the city that it is not in compliance with this ordinance.
 - (9) In conjunction with the sign permit application, the applicant shall provide written certification from the sign manufacturer that the sign is equipped with a dimmer control that automatically adjusts to day/night brightness levels.
 - (10) The digital billboard shall not exceed a maximum illumination of five thousand (5,000) nits during daylight hours and five hundred (500) nits between dusk to dawn as measured at the sign's face at maximum brightness. The city, at its sole discretion, may require lower illumination levels based on site conditions through the conditional use permit process.
 - (11) In conjunction with the sign permit application, the applicant shall provide written certification from the sign manufacturer that the brightness levels have been preset to a maximum illumination of five thousand (5,000) nits during daylight hours and five hundred (500) nits between dusk to dawn as measured at the sign's face at maximum brightness.
 - (12) Modes which cause the sign to flash or appear to flash are prohibited. Movement, motion, or the appearance or movement or motion is prohibited.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2007-05, § 1, 4-10-07; Ord. No. 2008-25, § 2, 2-24-09)

Sec. 9-170. - Nonconforming billboards.

Signs which existed prior to September 1, 1997, and which were constructed in compliance with the terms of any prior ordinance, or signs which were constructed in compliance with the regulations of some other public entity but became nonconforming upon the annexation of the sign location into the city are designated as legal nonconforming signs and shall be regulated as follows:

- (1) A nonconforming sign or part thereof may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion unless:
 - (a) The nonconforming sign is discontinued for a period of more than one (1) year, regardless of any intent to resume or not to abandon such use; or
 - (b) The nonconforming sign is destroyed by fire or other peril to the extent of greater than fifty (50) percent of its market value, and no building permit has been applied for within one hundred eighty (180) days of when the sign is damaged.
- (4) No such sign shall be moved in whole or in part to any other location where it would remain nonconforming. Any sign that must be removed shall be done so within sixty (60) days of the date of receipt of notice from the zoning administrator. Any sign requiring change, repair, or maintenance to become conforming must be restored within one hundred eighty (180) days from the date of notice.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2008-25, § 2, 2-24-09)

Sec. 9-180. - Sign credit required for new billboards.

No billboard sign shall be constructed or erected after September 1, 1997, except to the extent that such billboard replaces an existing billboard. Any person wishing to erect a new billboard must completely remove one (1) billboard sign of equal or greater size and its supporting structure in order to receive a sign credit, as follows:

- (1) Evidence of the removal of a legal nonconforming sign must be furnished to the satisfaction of the Zoning Administrator, who will issue a certificate indicating approval of a sign credit.
- (2) Any credit certificate issued by the Zoning Administrator shall remain in effect for two (2) years from the date of issuance. If a replacement sign conforming to the requirements of this chapter is not installed within such time period, an additional sign credit must be obtained.
- (3) If a sign has been removed as a result of public purchase or condemnation of the sign initiated by the city, then the sign owner will be entitled to either financial compensation or a sign credit, but not both alternatives. Where the city is not otherwise legally obligated to pay financial compensation, the city retains the right to designate whether the sign owner will receive financial compensation or a sign credit. If however a sign is removed by a public entity other than the city, the sign owner will not be entitled to a sign credit. Nothing herein shall be construed to require compensation for any rights for which the law does not otherwise require compensation.
- (4) Credits may be transferred between parties through legal means.
- (5) The City Planner shall maintain a Current Billboard Inventory Map and Database. This map and database shall be amended upon relocation, removal, or construction of any billboard sign structure within the City of Faribault. This map shall represent the total number of sign credits currently available within the City of Faribault.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2007-05, § 1, 4-10-07)

ARTICLE 4. - TEMPORARY SIGNS

Sec. 9-190. - Temporary signs.

- (A) *In general.* No permits are required for display of temporary signage that is in compliance with the standards specified below. However, it is not the intent of this section to allow the display of temporary signage as a means to circumvent the sign regulations for the zoning district in which the property is located.
- (B) *Permitted temporary signs.* Temporary signs shall be allowed in excess of and in addition to the sign limitations within each zoning district, as outlined in this chapter, regardless of the status of conformity of all other permanent on-premise signs, provided that:
- (1) The sign is displayed on-premises, is well maintained, and is secured in a manner to prevent being blown uncontrollably by the wind.
 - (2) The sign is displayed for a special event or promotion and shall not be in place for more than a total of sixty (60) calendar days. Only one type of temporary sign is displayed per zoning lot or property under separate management or control at any give time.
 - (3) Banner signs must be attached to the principal building, and at no time shall the total area of all temporary banner signs displayed per zoning lot exceed one hundred (100) square feet, except within the Downtown Sign District.
 - (4) Exterior banner signs shall be prohibited in the Downtown Sign District.
 - (5) A-frame or sandwich board signs may be displayed during business hours only, provided that only one such sign is displayed at a time. Such sign is limited to eight (8) square feet per side and shall not interfere with either pedestrian or vehicular traffic circulation or create a potential traffic hazard.
- (C) *Temporary sign permit required.* A temporary sign permit shall be obtained from the Zoning Administrator for the display of any temporary signage that is not specifically permitted under Section 9-190. The Zoning Administrator shall have the authority to place conditions on any temporary sign permit approval to ensure that the intent of this ordinance is satisfied.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2006-12, § 2, 6-27-06)

ARTICLE 5. - SIGN VARIANCES

Sec. 9-200. - Sign variances.

- (A) *In general.* A sign variance shall be required to allow display or installation of any signage that does not comply with the regulations set forth in this chapter. In no case, however, shall a variance be granted to allow a sign expressly prohibited in Section 9-90
- (B) *Application for sign variance.* An application for a sign variance shall be filed with the Zoning Administrator on an approved form and shall be accompanied by the required fee, as established by City Council resolution, and the following:
- (1) A drawing showing the proposed location of the sign and the location of all existing signage on the premises.
 - (2)

A drawing indicating the size, color, content, and materials of the sign, as well as the method of construction and attachment to the building or to the ground.

- (3) Engineering data showing the structure is designed to accommodate dead load and wind pressure, in any direction, in the amount required within this chapter, when specifically requested by the Zoning Administrator.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 9-210. - Hearing on application for sign variance.

The Planning Commission shall hold a public hearing on each valid and complete application for a sign variance as provided in Section 2-100. After the close of the hearing on a proposed variance, the Planning Commission shall make findings, pursuant to Section 9-230, and shall submit the same together with its recommendations to the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 9-220. - Action by City Council on variances.

The City Council shall make the final decision regarding all applications for a variance from the sign regulations established by this ordinance. Approval shall require a majority vote of the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 9-230. - Required findings for sign variance.

(A) *Prerequisites for approval.* The Planning Commission and City Council shall not vary the regulations of this ordinance unless it makes each of the following findings based upon the evidence presented to it in each specific case. The Planning Commission and City Council may impose such conditions upon the premises benefited by a variance as may be necessary to comply with the standards established by this ordinance or to reduce or minimize the effect of the variance upon other properties in the neighborhood and to better carry out the intent of the variance. The conditions must be directly related to and must bear a rough proportionality to the impact created by the variance:

- (1) That the strict application of this ordinance would result in practical difficulties inconsistent with the general purpose and intent of this ordinance. Economic conditions alone do not constitute practical difficulties.
- (2) That the alleged difficulty is caused by the ordinance and has not been created by any persons presently having an interest in the parcel of land.
- (3) That the variance is requested to overcome unique circumstances that apply to the property which do not apply to other properties in the same zone or vicinity that prevent the property owner from displaying a sign as intended by this ordinance.
- (4) That the variance does not alter the essential character of the neighborhood.
- (5) That the variance is in harmony with the general purposes and intent of the City's ordinances.

(B) *Historical variation.* The City Council may vary the regulations of this ordinance to further historic preservation or re-establishment of historic signage when the following above conditions are shown to exist and the variance will allow signage that is consistent with the historic character of a property or building, based on architectural style or a documented historic use.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2011-17, § 2, 10-25-11)

Sec. 9-240. - Variance conditions and guarantees.

The City Council may impose such conditions on any proposed sign variance and require such guarantees as it deems reasonable and necessary to protect the public interest and to ensure compliance with the standards and purposes of this ordinance.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 9-250. - Expiration of variance.

If a sign for which a variance has been approved is not installed within one (1) year of the date of approval, such variance shall be considered void unless a petition for a time extension has been granted by the City Council. Such extension request shall be submitted in writing at least thirty (30) days prior to expiration of the variance and shall state facts showing a good faith effort to complete work permitted under the original approval.

(Ord. No. 99-20, § 1, 11-23-99)

CHAPTER 10. - RESIDENTIAL DISTRICTS

ARTICLE 1. - GENERAL PROVISIONS

Sec. 10-10. - Purpose.

The residential districts are established to preserve and enhance the quality of living in residential neighborhoods, to regulate structures and uses which may affect the character or desirability of residential areas, to encourage a variety of dwelling types and locations and a range of population densities consistent with the city's Land Use Plan, and to ensure adequate light, air, privacy, and open space.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-20. - District names.

The Residential District names are as follows:

R-1, Single Family Residential District

R-1A, Single and Two Family Residential District

R-2, Low Density Residential District

R-3, Medium Density Residential District

R-4, High Density Residential District

RM, Residential Manufactured Home District

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-09, § 1, 5-28-02; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-30. - Principal uses for the residential districts.

(A) *In general.* All permitted and conditional uses allowed in the residential districts are listed in Table 10-1.

- (B) *Permitted uses.* Uses specified with a "P" are permitted in the district or districts where designated, provided that the use complies with all other applicable provisions of this ordinance. Persons wishing to establish a permitted use, excluding single or two-family residential uses, shall obtain a zoning certificate for such use as specified in Sections 2-190 through 2-250
- (C) *Conditional uses.* Uses specified with a "C" are allowed as a conditional use in the district or districts where designated, provided that the use complies with all other applicable provisions of this ordinance. Persons wishing to establish or expand a conditional use shall obtain a conditional use permit for such use as specified in Sections 2-260 through 2-340
- (D) *Prohibited uses.* Any use not listed as either "P" (permitted) or "C" (conditional) in a particular district or any use not determined by the City Planner to be substantially similar to a use listed as permitted or conditional shall be prohibited in that district. Such determination shall be made in the manner provided for in Section 2-50 governing determination of substantially similar uses.
- (E) *Specific development standards.* Permitted and conditional uses specified with an "x" under the Specific Development Standards column shall be subject to the standards identified in Chapter 7, Specific Development Standards.

Table 10-1. Principal uses in the residential districts.

Use	District							Development Standards
	R-1	R-1A	R-2	R-3	R-4	RM	SH	
Residential uses								
Dwellings								
Single-family dwelling, detached	P	P	P	P	C	-	P	x
Duplex, Single-family dwelling, attached, two units	-	P	P	P	P	-	P	
Single-family dwelling, attached, two to four units	-	-	P	P	P	-	P	
Single-family dwelling, attached, five to eight units	-	-	-	P	P	-	P*	
Multi-family dwelling, three or four units	-	-	P	P	P	-	P	
Multi-family dwelling, five to eight	-	-	-	P	P	-	P*	

units								
Multi-family dwelling, more than eight units	-	-	-	-	P	-	P*	
Manufactured home parks, subdivision	-	-	-	-	-	P	-	
Recreational vehicle park	-	-	-	-	-	P	-	
Relocation of a dwelling previously occupied in another location	C	C	C	C	C	-	C	x
Relocation of a new dwelling	P	P	P	P	P	-	P	x
Congregate living								
Residential care facility, serving six or fewer persons	P	P	P	P	P	-	P	x
Residential care facility, serving seven to sixteen persons	-	C	C	C	P	-	C	x
Residential care facility, serving seventeen or more persons	-	-	-	-	C	-	C	x
Correctional residential care facility, serving up to sixteen persons	-	-	-	C	C	-	C	x
Correctional residential care facility, serving seventeen or more persons	-	-	-	-	C	-	C	x
Dormitories, student housing	-	-	-	-	P	-	-	
Nursing home, senior housing	-	-	-	-	P	-	P*	
Institutional and public uses								
Adaptive reuse of institutional or public buildings	C	C	C	C	C		C	x
Educational facilities								

Early childhood learning center	C	C	C	C	P	-	C	x
Preschool	C	C	C	C	P	-	C	x
School, grades K-12	C	C	C	C	P	-	C	x
Parking facilities, ramps;	C	C	C	C	C	C	-	x
Social, cultural, charitable, and recreational facilities								
Cemetery	C	C	C	C	C	-	-	
Community center	C	C	C	C	C	-	-	
Hospital	-	-	-	C	C	-	-	x
Outdoor recreation area	C	C	C	C	C	-	P	x
Public library	-	-	C	C	P	-	-	
Public and private park, playground	P	P	P	P	P	P	P	
Religious institutions								
Convent or monastery	C	C	C	C	P	-	-	x
Church, place of assembly	C	C	C	C	P	-	C	x
Commercial uses								
Bed and breakfast facility	-	-	-	C	P	-	-	x
Child care center	-	-	-	C	C	-	-	x
Home day care facility, serving fourteen or fewer persons	P	-	P	P	P	P	P	x
Home day care facility, serving fifteen to twenty persons	-	P	C	C	P	-	C	x
Offices	-	-	C	C	C	-	-	x
Public service and utilities								

Electric or gas substation	C	C	C	C	C	C	-	
Essential services	P	P	P	P	P	P	P	
Governmental buildings and structures	C	C	C	C	C	C	C	x
Public utility buildings and structures	C	C	C	C	C	C	C	

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-09, § 1, 5-28-02; Ord. No. 2002-13, § 1, 6-25-02; Ord. No. 2002-19, § 1, 8-27-02; Ord. No. 2003-11, § 2, 10-14-03; Ord. No. 2006-21, § 4, 9-26-06; Ord. No. 2010-06, § 2, 5-25-10; Ord. No. 2013-008, § 2, 11-13-13)

Sec. 10-40. - Accessory buildings and structures.

Accessory buildings and structures located within a residential district shall comply with the provisions of Article 4, Chapter 6 of this ordinance.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02; Ord. No. 2009-12, § 4, 10-27-09)

Sec. 10-45. - Permanent foundation required.

All principle structures in R-1, R-1A, R-2, R-3, and R-4 Zoning Districts shall have a permanent exterior perimeter foundation. The foundation shall meet all requirements of the International Building Code or the International Residential Code; whichever is applicable, unless existing conditions are prohibited. This provision shall not allow post and beam or pier construction above grade as an exterior perimeter foundation. This provision shall not apply to the following attached accessory structures: decks, three or four season porches, landings, bay windows, fireplaces or chimneys, uncovered stairways, canopies or any other ornamental feature that is part of the design of the structure.

(Ord. No. 2004-09, § 1, 4-13-04)

Sec. 10-50. - Height.

Except for communication antennas otherwise allowed by conditional use permit, the maximum height of all principal structures located in the residential districts shall be as established within each residential district. The height

of buildings within the airport overlay district is further regulated as specified in Chapter 13, Article 4.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-60. - Increasing maximum height.

The height limitations of a principal structure, other than single and two-family dwellings, located in a residential district may be increased by conditional use permit, in accordance with Sections 2-260 through 2-340. Additionally, the City Council shall consider, but not be limited to, the following factors when determining

the maximum height:

- (1) Access to light and air of surrounding properties.
- (2) Shadowing of any adjacent single family or two-family dwelling.
- (3) The scale and character of surrounding uses.
- (4) Preservation of views of landmark buildings, significant open spaces or water bodies.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-70. - Site design considerations.

Development of land for multi-family residential purposes shall follow established standards for traffic circulation, landscape design, and other considerations as specified in Chapter 4, Site Plan Review.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-80. - Landscaping and screening requirement.

Landscaping and screening requirements for uses in the residential districts are specified in Chapter 4, Site Plan Review.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-90. - Lot dimension and building bulk regulations.

Lot area and setback requirements for single and multi-family residential uses shall be as specified in Table 10-2. Lot area and setback requirements for manufactured home uses are shown in Table 10-4. Wetland buffer and buffer setback requirements shall be as specified in Chapter 6 of this Ordinance [Appendix].

Table 10-2. Lot dimension and setback requirements, residential districts.

District	R-1	R-1A	R-2	R-3	R-4
Minimum lot area (sq. ft.)					
Single-family detached dwelling:					
Served by municipal sewer/water	10,000	9,000	8,500	6,000	6,000
Not served by municipal sewer/water	1 acre	1 acre	1 acre	1 acre	1 acre
Single-family attached dwellings:					
End units	-	7,000	7,000	6,000	6,000
Interior units	-	-	4,000	4,000	4,000
Duplex, multi-family dwellings (per unit):					

Platted after 5/28/74	-	7,000	6,000	4,800	*
Platted prior to 5/28/74	-	-	4,800	4,800	*
All other uses (per lot):	20,000	15,000	15,000	12,000	10,000
Minimum lot width					
Single-family detached dwelling:	75 feet	70 feet	66 feet	66 feet	66 feet
Single-family attached dwelling:					
End units	-	60 feet	60 feet	60 feet	60 feet
Interior units	-	-	35 feet	35 feet	35 feet
Duplex (per building):	-	70 feet	66 feet	66 feet	66 feet
Multi-family (per building):	-	-	100 feet	100 feet	100 feet
All other uses	100 feet	100 feet	100 feet	100 feet	100 feet
Minimum lot depth	-	-	-	-	100 feet
Building setback requirements					
Front	25 feet	25 feet	25 feet	25 feet**	25 feet**
Side	10 feet	10 feet	10 feet	10 feet**	15 feet**
Corner side	25 feet	25 feet	25 feet	25 feet**	25 feet**

Rear	10 feet	10 feet	10 feet	10 feet**	15 feet**
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* See section 10-100

** See section 10-110

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-09, § 1, 5-28-02; Ord. No. 2002-19, § 1, 8-27-02; Ord. No. 2010-04, § 4, 5-25-10)

Sec. 10-100. - Lot area requirement, R-4 District.

The lot area requirement for multi-family uses in the R-4 District is two thousand (2,000) square feet per one bedroom dwelling unit plus five hundred (500) square feet for each additional bedroom within the dwelling unit. In the case of nursing homes, dormitories, hospitals, and other residential facilities, the area requirement shall be one thousand (1,000) square feet for each resident occupancy of the structure.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-110. - Yard setback requirements, R-3 and R-4 Districts.

Required building setbacks for the R-3 and R-4 Districts, as indicated in Table 10-2, are based on a building height of up to thirty-five (35) feet. For each additional two (2) feet of building height, an additional one (1) foot will be added to the required setback for all yards.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-115. - Front yard setback reductions in R-1, R-1A, R-2, R-3, and R-4 Districts.

In the R-1, R-1A, R-2, R-3, and R-4 Districts, where adjacent structures within the same block have front setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is only one (1) adjacent structure the front yard minimum setback shall be the average of the required setback and the setback of the adjacent structure. In no case shall the minimum front yard setback requirement exceed twenty-five (25) feet.

(Ord. No. 2005-19, § 1, 9-9-05)

Sec. 10-120. - Zero yard provisions.

In the R-1A, R-2, R-3, and R-4 Districts, the side setback for a single-family attached dwelling may be reduced to zero (0) feet, provided that the following conditions are satisfied:

- (1) The wall of the dwelling unit shall be placed upon said in a manner not to encroach upon another property.
- (2) The applicant records all required agreements, easements, and deed restrictions on all structures that abut the zero lot line.
- (3) The minimum front, rear, and side setback restrictions at the periphery of the total structure shall be imposed as required by the district regulations.

(4) Minimum lot area requirements are satisfied, as specified in Table 10-2.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-09, § 1, 5-28-02; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-130. - Maximum lot coverage.

Principal and accessory structures shall not cover more than forty (40) percent of any zoning lot located in the R-1, R-1A, and R-2 Districts. Principal and accessory structures shall not cover more than sixty (60) percent of any zoning lot in the R-3 District, and no more than seventy (70) percent of any zoning lot in the R-4 District. Lots platted prior to May 28, 1974, however, shall be considered exempt from these provisions.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-09, § 1, 5-28-02; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-140. - Planned unit developments.

A planned unit development plan may be submitted for consideration within any residential district, subject to the requirements and standards established in Chapter 14, Planned Unit Development District.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-150. - Parking and loading requirements.

(A) *In general.* Parking and loading requirements for uses in the residential districts shall be as set forth in Chapter 8, Off-Street Parking and Loading.

(B) *Required setbacks.* Minimum setbacks for parking, loading, and driving areas in residential districts are established in Table 10-3. It is noted that an increased setback may be required based on landscape buffer provisions established in Chapter 4, Site Plan Review.

District	R-1	R-1A	R-2	R-3	R-4
Single and two-family uses					
Front	3 feet	3 feet	3 feet	3 feet	5 feet
Side	3 feet	3 feet	3 feet	3 feet	5 feet
Rear	3 feet	3 feet	3 feet	3 feet	5 feet
Multi-family uses					
Front	-		10 feet	10 feet	10 feet

Side	-		5 feet	5 feet	10 feet
Rear	-		5 feet	5 feet	10 feet
Other uses					
Front	10 feet	10 feet	10 feet	10 feet	10 feet
Side	10 feet	10 feet	10 feet	10 feet	10 feet
Rear	10 feet	10 feet	10 feet	10 feet	10 feet

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-09, § 1, 5-28-02; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-160. - Signs.

Sign requirements for uses in the residential districts shall be as specified in Chapter 9, Signs.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-170. - Compliance with performance standards.

All uses in the residential districts shall comply with all general performance standards as expressed in Chapter 6, Article 8.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

ARTICLE 2. - R-1, SINGLE FAMILY RESIDENTIAL DISTRICT

Sec. 10-180. - Purpose.

The R-1, Single Family Residential District, is established to provide for an environment of predominantly low density, single family dwellings, and directly related, complementary uses.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-190. - Uses.

Permitted and conditional uses in the R-1 District shall be as specified in Table 10-1.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-200. - Permitted accessory structures and uses.

Within the R-1 District, the following uses shall be permitted as accessory uses. Accessory uses not listed may be allowed by conditional use permit, subject to the standards expressed in Sections 2-260 through 2-340.

(1)

Buildings temporarily located for purposes of construction on the premises for a period not to exceed the time necessary for such construction.

- (2) Gardening and other horticultural uses.
- (3) Home occupations, as regulated elsewhere in this ordinance.
- (4) Private garages, carports, and parking spaces.
- (5) Private swimming pools, tennis courts, and other recreational facilities which are operated for the sole use and convenience of the residents of the principal use and their guests.
- (6) Tool houses, sheds, and similar buildings for the storage of domestic supplies and non-commercial recreational equipment.
- (7) Antennae and other communication devices for private use, in compliance with the provisions of Section 6-230
- (8) Boarding or renting of rooms to not more than one (1) person.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-210. - Height.

Except for communication antennas otherwise allowed by conditional use permit, the maximum height of all principal non-residential structures located in the R-1 District shall not exceed two and one-half (2½) stories or thirty-five (35) feet, whichever is less. Residential structures shall be limited to a maximum height of two (2) stories or twenty-eight (28) feet, whichever is less.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

ARTICLE 3. - R-1A, SINGLE AND TWO FAMILY RESIDENTIAL DISTRICT

Sec. 10-220. - Purpose.

The R-1A, Single and Two Family Residential District, is established to provide for an environment of predominantly low density, single family detached and attached dwellings, and directly related, complementary uses.

(Ord. No. 2002-09, § 1, 5-28-02; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-230. - Uses.

Permitted and conditional uses in the R-1A District shall be as specified in Table 10-1.

(Ord. No. 2002-09, § 1, 5-28-02; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-240. - Permitted accessory structures and uses.

Within the R-1A District, the following uses shall be permitted as accessory uses. Accessory uses not listed may be allowed by conditional use permit, subject to the standards expressed in Sections 2-260 through 2-340.

- (1) Buildings temporarily located for purposes of construction on the premises for a period not to exceed the time necessary for such construction.
- (2) Gardening and other horticultural uses.

- (3) Home occupations, as regulated elsewhere in this ordinance.
- (4) Private garages, carports, and parking spaces.
- (5) Private swimming pools, tennis courts, and other recreational facilities which are operated for the sole use and convenience of the residents of the principal use and their guests.
- (6) Tool houses, sheds, and similar buildings for the storage of domestic supplies and non-commercial recreational equipment.
- (7) Antennae and other communication devices for private use, in compliance with the provisions of Section 6-230
- (8) Boarding or renting of rooms to not more than one (1) person.
- (9) Detached accessory dwelling units may be permitted as a conditional use in compliance with the provisions of Article 8, Chapter 6 of this ordinance.

(Ord. No. 2002-09, § 1, 5-28-02; Ord. No. 2002-19, § 1, 8-27-02; Ord. No. 2009-12, § 4, 10-27-09)

Sec. 10-250. - Height.

Except for communication antennas otherwise allowed by conditional use permit, the maximum height of all principal non-residential structures located in the r-1a district shall not exceed two and one-half (2½) stories or thirty-five (35) feet, whichever is less. residential structures shall be limited to a maximum height of two (2) stories or twenty-eight (28) feet, whichever is less.

(Ord. No. 2002-09, § 1, 5-28-02; Ord. No. 2002-19, § 1, 8-27-02)

ARTICLE 4. - R-2, LOW DENSITY RESIDENTIAL DISTRICT

Sec. 10-260. - Purpose.

The R-2, Low Density Residential District, is established to provide for an environment of predominantly low density residential uses, including detached and attached single family homes, duplexes, three- and four-unit multi-family dwellings, along with directly related, complementary uses. It is intended that where an R-s, Low Density Residential District directly abuts a zoning district of higher or lower density, a transition from existing uses to new uses be provided. Such transition may be accomplished by a continuation of similar uses (to the extent possible given allowable uses within the district), landscape buffering (as provided in Chapter 4), or both, as required by the City in conjunction with plan approval.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-09, § 1, 5-28-02; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-270. - Uses.

Permitted and conditional uses in the R-2 District shall be as specified in Table 10-1.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-280. - Permitted accessory structures and uses.

Within the R-2 District, the following uses shall be permitted as accessory uses. Accessory uses not listed may be allowed by conditional use permit, subject to the standards expressed in Sections 2-260 through 2-340.

- (1)

Buildings temporarily located for purposes of construction on the premises for a period not to exceed the time necessary for such construction.

- (2) Gardening and other horticultural uses.
- (3) Home occupations, as regulated elsewhere in this ordinance.
- (4) Private garages, carports, and parking spaces.
- (5) Private swimming pools, tennis courts, and other recreational facilities which are operated for the sole use and convenience of the residents of the principal use and their guests.
- (6) Tool houses, sheds, and similar buildings for the storage of domestic supplies and non-commercial recreational equipment.
- (7) Antennae and other communication devices for private use, in compliance with the provisions of Section 6-230
- (8) Boarding or renting of rooms to not more than two (2) person.
- (9) Detached accessory dwelling units may be permitted as a conditional use in compliance with the provisions of Article 8, Chapter 6 of this ordinance.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02; Ord. No. 2009-12, § 4, 10-27-09)

Sec. 10-290. - Height.

Except for communication antennas otherwise allowed by conditional use permit, the maximum height of all principal non-residential structures located in the R-2 District shall not exceed two and one-half (2½) stories or thirty-five (35) feet, whichever is less. Residential structures shall be limited to a maximum height of two (2) stories or twenty-eight (28) feet, whichever is less.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

ARTICLE 5. - R-3, MEDIUM DENSITY RESIDENTIAL DISTRICT

Sec. 10-300. - Purpose.

The R-3, Medium Density Residential District, is established to provide for an environment of predominantly medium density apartments and congregate living arrangements, and single and two-family dwellings, along with directly related, complementary uses. It is intended that where an R-3, Medium Density Residential District directly abuts a zoning district of higher or lower density, a transition from existing uses to new uses be provided. Such transition may be accomplished by a continuation of similar uses (to the extent possible given allowable uses within the district), landscape buffering (as provided in Chapter 4), or both, as required by the City in conjunction with plat approval.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-09, § 1, 5-28-02; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-310. - Uses.

Permitted and conditional uses in the R-3 District shall be as specified in Table 10-1.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-320. - Permitted accessory structures and uses.

Within the R-3 District, the following uses shall be permitted as accessory uses. Accessory uses not listed may be allowed by conditional use permit, subject to the standards expressed in Sections 2-260 through 2-340.

- (1) Buildings temporarily located for purposes of construction on the premises for a period not to exceed the time necessary for such construction.
- (2) Gardening and other horticultural uses.
- (3) Home occupations, as regulated elsewhere in this ordinance.
- (4) Private garages, carports, and parking spaces.
- (5) Private swimming pools, tennis courts, and other recreational facilities which are operated for the sole use and convenience of the residents of the principal use and their guests.
- (6) Tool houses, sheds, and similar buildings for the storage of domestic supplies and non-commercial recreational equipment.
- (7) Antennae and other communication devices for private use, in compliance with the provisions of Section 6-230
- (8) Boarding or renting of rooms to not more than two (2) persons.
- (9) Detached accessory dwelling units may be permitted as a conditional use in compliance with the provisions of Article 8, Chapter 6 of this ordinance.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02; Ord. No. 2009-12, § 4, 10-27-09)

Sec. 10-330. - Height.

Except for communication antennas otherwise allowed by conditional use permit, the maximum height of all principal structures located in the R-3 District shall not exceed three (3) stories or forty-two (42) feet, whichever is less.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

ARTICLE 6. - R-4, HIGH DENSITY RESIDENTIAL DISTRICT

Sec. 10-340. - Purpose.

The R-4, High Density Residential District, is established to provide for an environment of predominantly high-density apartments and congregate living arrangements, along with directly related, complementary uses. It is intended that where an R-4, High Density Residential District directly abuts a zoning district of lower density, a transition from existing uses to new uses be provided. Such transition may be accomplished by a continuation of similar uses (to the extent possible given allowable uses within the district), landscape buffering (as provided in Chapter 4), or both, as required by the City in conjunction with plat approval.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-09, § 1, 5-28-02; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-350. - Uses.

Permitted and conditional uses in the R-4 District shall be as specified in Table 10-1.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-360. - Permitted accessory structures and uses.

Within the R-4 District, the following uses shall be permitted as accessory uses. Accessory uses not listed may be allowed by conditional use permit, subject to the standards expressed in Sections 2-260 through 2-340.

- (1) Buildings temporarily located for purposes of construction on the premises for a period not to exceed the time necessary for such construction.
- (2) Gardening and other horticultural uses.
- (3) Home occupations, as regulated elsewhere in this ordinance.
- (4) Private garages, carports, and parking spaces.
- (5) Private swimming pools, tennis courts, and other recreational facilities which are operated for the sole use and convenience of the residents of the principal use and their guests.
- (6) Tool houses, sheds, and similar buildings for the storage of domestic supplies and non-commercial recreational equipment.
- (7) Antennae and other communication devices for private use, in compliance with the provisions of Section 6-230
- (8) Boarding or renting of rooms to not more than two (2) persons.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-370. - Height.

Except for communication antennas otherwise allowed by conditional use permit, the maximum height of all principal structures located in the R-4 District shall not exceed four (4) stories or fifty-six (56) feet, whichever is less.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

ARTICLE 7. - R-M, RESIDENTIAL MANUFACTURED HOME DISTRICT

Sec. 10-380. - Purpose.

The R-M, Residential Manufactured Home District, is established to provide areas within the city for the development of manufactured home parks and subdivisions, as well as recreational vehicle parks. Manufactured home parks and subdivisions shall be located with frontage along an arterial street and shall provide amenities and site design to create a desirable housing community. Recreational vehicle parks shall also be located along an arterial street, with adequate amenities and features for use by visitors and tourist. It is not the intent of this district to allow for on-premise commercial sales of manufactured homes and recreational vehicles.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-390. - Uses.

Permitted and conditional uses in the RM District shall be as specified in Table 10-1.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-400. - Permitted accessory structures and uses.

Within the RM District, the following uses shall be permitted as accessory uses. Accessory uses not listed may be allowed by conditional use permit, subject to the standards expressed in Sections 2-260 through 2-340.

- (1) Manager's office and residence.
- (2) Recreation and social centers.
- (3) Outdoor recreation facilities.
- (4) Coin-operated laundry facilities.
- (5) Security guard houses.
- (6) Boat and recreational vehicle parking areas, including washing areas.
- (7) Accessory structures which are complementary to individual manufactured homes, such as covered carports, garages, patio awnings, and storage buildings.
- (8) Buildings temporarily located for purposes of construction on the premises for a period not to exceed the time necessary for such construction.
- (9) Gardening and other horticultural uses.
- (10) Antennae and other communication devices for private use, in compliance with the provisions of Section 6-230
- (11) Home occupations, as regulated elsewhere in this ordinance.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-410. - General provisions.

- (A) *In general.* No manufactured home, whether temporary or permanent, shall be permitted on any site within the city unless said site is part of an approved manufactured home park or manufactured home subdivision.
- (B) *Compliance with state statutes.* In addition to the requirements of this ordinance, manufactured home parks, manufactured home subdivisions, and recreational vehicle parks shall conform to the Statutes of Minnesota, including, but not limited to, Chapter 327 and any applicable rules and regulations of the Minnesota Department of Health.
- (C) *Unit to lot ratio.* Only one (1) manufactured home or recreational vehicle shall be located on an individual approved lot or space.
- (D) *Lot/space identification.* Each manufactured home and recreational vehicle space shall have frontage on an approved roadway and shall be marked and numbered with digits that are at least three (3) inches in height and made from a bright metal or alloy which will not rust, tarnish, or change color. The corners of each manufactured home and recreational vehicle space shall be marked on a permanent basis with metal corner markers.
- (E) *Minimum development size.* All manufactured home parks, recreational vehicle parks, and subdivisions shall contain a minimum of ten (10) acres.
- (F) *Area maintenance.* Land area shall remain adequately drained, free from dust, and free from refuse, garbage, and debris.
- (G) *Outdoor camping.* There shall be no outdoor camping or placement of tents within any manufactured home or recreational vehicle site.

- (H) *Outdoor speakers.* No public address or loudspeaker system shall be permitted within any manufactured home or recreational vehicle site.
 - (I) *Registry requirements.* The operator of every manufactured home or recreational vehicle park shall maintain a registry of the park indicating the following information:
 - (1) The name and address of each manufactured home or recreational vehicle owner.
 - (2) The make, type, and license number of all manufactured homes and vehicles utilized by park residents.
 - (3) Forwarding address for all manufactured units leaving the park.
 - (4) Date of arrival and departure of each manufactured home or recreational vehicle.
- (Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-420. - Structure requirements.

- (A) *In general.* All manufactured homes and recreational vehicles used for residential purposes shall be kept in good repair, shall remain in sanitary and structurally sound condition, and shall conform to the requirements of Minnesota Statutes and the U.S. Department of Housing and Urban Development.
- (B) *Installation requirements.* All manufactured homes shall be equipped with an anchoring and support system designed to resist movement caused by wind force, in compliance with the Statutes of Minnesota and all other pertinent laws and requirements.
- (C) *Skirting required.* The entire perimeter beneath a manufactured home must be permanently enclosed as follows:
 - (1) In manufactured home parks acceptable materials shall include concrete, concrete block, treated wood, matching vinyl panel, or matching metal panel, provided that an access is available for necessary inspections and repair.
 - (2) In manufactured home subdivisions, acceptable materials shall include concrete, concrete block, brick, or other masonry products, as deemed appropriate at the time of permit application. In all cases an access must be available for necessary inspections and repair.
- (D) *Dwellings of conventional construction.* Dwelling units of conventional construction shall not be permitted on a manufactured home or recreational vehicle site, except for a manager's office and residence.
- (E) *Accessory structures.* No structure shall be allowed on a recreational vehicle space except for electrical and plumbing service connections. Accessory structures within a manufactured home park or subdivision shall be subject to the requirements established in Section 6-180, shall be architecturally compatible with the manufactured home itself, and shall meet the required building setbacks established for the particular use, as specified in Table 10-4.
- (F) *Accessory structures in manufactured home parks existing on January 1, 2003.* A single detached accessory structure shall be allowed subject to the following:
 - (1) The design and construction of the detached accessory structure shall be similar to or compatible with design and construction of the main building.
 - (2) The accessory structure shall meet the required building setbacks specified in Table 10-5.
 - (3) The accessory structure may be adjacent to the principal structure, provided that a fire separation is provided between the two (2) structures and no window or door is obstructed. Further, the accessory structure shall be ten (10) feet from any structure on a neighboring lot.

- (4) The accessory structure shall not exceed one hundred twenty (120) square feet in area.
 - (5) The accessory structure shall not be located closer to the park access drive or street than the principal structure.
 - (6) An accessory structure may be within five (5) feet of an exterior boundary which is not a public street.
 - (7) No person shall extend electrical service to any accessory structure, except as approved by the State Electrical Inspector.
- (G) *[Additional provisions.]* All new manufactured home lots within manufactured home subdivisions shall provide adequate space on said lot for at least a single stall garage. Further, a manufactured home must be placed on a lot such that the lot can accommodate future placement of at least a single stall garage, in compliance with setback and separation requirements as established in Table 10-4 and section 6-180 (Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02; Ord. No. 2003-03, § 1, 2-25-03; Ord. No. 2009-07, § 1, 4-14-09)

Sec. 10-430. - Approval procedures.

- (A) *In general.* The developer of any manufactured home park, recreational vehicle park, or manufactured home subdivision shall meet informally with the City Planner to review site development issues and procedural requirements prior to making formal application.
- (B) *Rezoning and development plan.* An application to amend zoning district boundaries for the purpose of creating an RM district shall be filed and processed as specified Sections 2-140 through 2-180. Such application shall be accompanied by ten (10) copies of a development plan for the property, drawn to scale, which provides the following information:
- (1) Proposed name of the park or subdivision, which such name not to closely resemble or duplicate names of existing parks or subdivisions within the city.
 - (2) Park or subdivision lines in relation to known section, quarter-section, or quarter-quarter section lines comprising a legal description of the property.
 - (3) Names and addresses of all developers who have vested interests in the park or subdivision, including the name of the project designer.
 - (4) The number, location, and dimensions of all proposed manufactured home spaces.
 - (5) Typical manufactured home or recreational vehicle locations on all proposed spaces.
 - (6) Street locations, widths, and typical cross-sections.
 - (7) Pedestrian circulation, including proposed trails and sidewalks.
 - (8) The location, size, and proposed amenities within all proposed recreational areas, facilities, and buildings.
 - (9) Location of off-street parking areas.
 - (10) Proposed fencing and landscaping of the site.
 - (11) Location, size, content, and illumination method of all proposed.
 - (12) Location, width, and name of each existing or platted street, public way, railroad, utility right-of-way, parks or public open spaces, and permanent buildings within and adjacent to the proposed development.
 - (13)

Location and size of all existing and proposed sewers, water mains, gas mains, culverts or other underground installations within and adjacent to the site.

(14) Any additional supplementary information requested by city staff.

(C) *Subdivision approval.* All proposed manufactured home subdivisions must comply with the procedural and design requirements as set forth in Chapter 15, Subdivision Regulations.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-440. - Lot width, area, and setback requirements.

Lot width, area, and setback requirements for manufactured home subdivisions, manufactured home parks, and recreational vehicles parks established after January 1, 2003, shall be as established in Table 10-4. Additionally, there shall be a minimum ten (10) foot separation between the sides of adjacent manufactured homes/recreational vehicles and their attachments. Lot width, area, and setback requirements for manufactured home parks established prior to January 1, 2003, shall be as established in Table 10-5.

Table 10-4. Lot dimension and setback requirements, RM District.

	Manufactured Home Park	Manufactured Home Subdivision	Recreational Vehicle Park
Minimum lot area (sq. ft.)	4,000	6,000	1,200
Minimum lot width	40 feet	66 feet	28 feet
Minimum lot depth	100 feet	90 feet	40 feet
Building setback requirements			
Front	20 feet	20 feet	5 feet
Side	5 feet	5 feet	3 feet
Total side	10 feet	15 feet	6 feet
Corner side	-	20 feet	-
Exterior district	25 feet	-	10 feet

boundary			
Rear	10 feet	5 feet	3 feet

Table 10-5. Lot dimensions and setback requirements, manufactured home parks existing prior to January 1, 2003

	Cannon River Park	Evergreen Estates Park	Knollwood Court Park	Sunrise Park
Minimum lot area (sq. ft.)	4,000 sf	4,000 sf	1,200 sf	1,200 sf
Minimum lot width	40 feet	40 feet		
Minimum lot depth	100 feet	100 feet		
Building setback requirements				
Public street	25 feet	25 feet	10 feet	10 feet
Exterior boundary	25 feet	20 feet	10 feet	10 feet
Park access drive	20 feet	20 feet	10 feet	10 feet
Structure on adjacent lot, including attachments	10 feet	10 feet	10 feet	10 feet
Between rear of	10 feet	10 feet	3 feet	3 feet

home and home on adjacent lot				
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(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02; Ord. No. 2003-03, §§ 2, 3, 2-25-03)

Sec. 10-450. - Parking.

Parking standards for the RM district are established in Chapter 8, Off-Street Parking and Loading. Required setbacks shall be as established for single-family uses in the R-1 District, shown in Table 10-3.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-460. - Landscaping.

All manufactured home parks, manufactured home subdivisions, and recreational vehicle parks shall comply with the landscaping requirements as specified in Chapter 4, Site Plan Review.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-470. - Signs.

All identification, advertising, and other types of signage within the RM district shall comply with the provisions of Chapter 9, Signs.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-480. - Manufactured home park design and development requirements.

In addition to the general provisions and requirements established elsewhere in this section, all manufactured home park developments shall be subject to the standards identified as follows:

- (1) *Maximum area density.* The maximum density allowable within manufactured home parks shall be ten (10) manufactured home spaces per net acre, excluding existing and proposed right-of-way.
- (2) *Maximum height.* Except for public and utility buildings and structures allowed as a permitted or conditional use, the maximum height of all principal and accessory structures located in a manufactured home park shall not exceed one and one-half (1½) stories or twenty (20) feet, whichever is less.
- (3) *Yard and setback requirements.* Setback requirements for manufactured home parks are identified in Table 10-3.
- (4) *Required recreational space.* Each manufactured home park shall provide a minimum of ten (10) percent of the total land area for recreational purposes, with amenities installed and maintained at the owner/operator's expense.
- (5) *Utilities.* All manufactured home parks shall provide adequate utility service for each individual manufactured home, including connection to the public water and sanitary sewer system or a private water and sewer system approved by the Minnesota Department of Health. The location of all utilities

and their connections, waste removal methods, and stormwater drainage methods must be approved by the city. Utilities shall be placed underground and no obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities, and related manufactured home equipment.

- (6) *Internal roads and streets.* Each manufactured home park space shall abut and have access to a private road, to be built and maintained by the owner/operator of the site and approved by the city as to location and design. All streets shall be hard-surfaced, include curb and gutter, and provide a minimum width of thirty-six (36) feet, measured from back of curb to back of curb.
- (7) *Lighting.* Artificial light shall be maintained during all hours of darkness in buildings containing public toilets, laundry equipment, and other common facilities utilized by park residents. The park grounds shall be lighted as approved by the city from sunset to sunrise.
- (8) *Map directory.* A map directory of the manufactured home park shall be displayed near the entrance to the site and shall be illuminated during all hours of darkness.
- (9) *Common facilities.* When a manufactured home park harbors manufactured homes which are not equipped with toilet and bathing facilities, one or more central buildings with laundry washing and drying facilities, showers, toilets and lavatories, and other features shall be provided. Such buildings shall be centrally heated and maintained in a safe, clean, and sanitary condition. Outdoor drying areas for laundry shall only be located in areas approved by the city and shall be maintained exclusively for such purpose.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-490. - Recreational vehicle park design and development requirements.

In addition to the general provisions and requirements established elsewhere in this section, all recreational vehicle park developments shall be subject to the standards identified as follows:

- (1) *Maximum area density.* The maximum density allowable within recreational vehicle parks shall be twenty-two (22) vehicle spaces per net acre, excluding existing and proposed right-of-way.
- (2) *Maximum height.* Except for public and utility buildings and structures allowed as a permitted or conditional use, the maximum height of all principal and accessory structures located in a recreational vehicle park shall not exceed two (2) stories or twenty-eight (28) feet, whichever is less.
- (3) *Yard and setback requirements.* Setback requirements for recreational vehicle parks are identified in Table 10-3, Lot Dimension and Setback Requirements, Residential Manufactured Home Districts.
- (4) *Required recreational space.* Each recreational vehicle park shall provide a minimum of ten (10) percent of the total land area for recreational purposes, with amenities installed and maintained at the owner/operator's expense.
- (5) *Utilities.* All recreational vehicle parks shall provide adequate utility service for each individual vehicle space, including connection to a public water and sanitary sewer system or a private water and sewer system approved by the Minnesota Department of Health. The location of all utilities and their connections, waste removal methods, and stormwater drainage methods must be approved by the city. Utilities shall be placed underground and no obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities, and related equipment.
- (6)

Internal roads and streets. Each recreational vehicle park space shall abut and have access to a private road, to be built and maintained by the owner/operator of the site and approved by the city as to location and design. All streets shall be hard-surfaced, include curb and gutter, and provide a minimum width of twenty-four (24) feet, measured from back of curb to back of curb. If on-street parking is permitted, the minimum street width shall be increased to thirty-six (36) feet.

- (7) *Lighting.* Artificial light shall be maintained during all hours of darkness in buildings containing public toilets, laundry equipment, and other common facilities utilized by park residents. The park grounds shall be lighted as approved by the city from sunset to sunrise.
- (8) *Map directory.* A map directory of the recreational vehicle park shall be displayed near the entrance to the site and shall be illuminated during all hours of darkness.
- (9) *Common facilities.* When a recreational vehicle park harbors recreational vehicles which are not equipped with toilet and bathing facilities, one or more central buildings with laundry washing and drying facilities, showers, toilets and lavatories, and other features shall be provided. Such buildings shall be centrally heated and maintained in a safe, clean, and sanitary condition. Outdoor drying areas for laundry shall only be located in areas approved by the city and shall be maintained exclusively for such purpose.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

Sec. 10-500. - Manufactured home subdivision design and development requirements.

In addition to the general provisions and requirements established elsewhere in this section and in Chapter 15, Subdivision Regulations, manufactured home subdivisions shall be subject to the standards identified as follows:

- (1) *Maximum height.* Except for public and utility buildings and structures allowed as a permitted or conditional use, the maximum height of all principal and accessory structures located in a manufactured home park shall not exceed one and one-half (1½) stories or twenty (20) feet, whichever is less.
- (2) *Yard and setback requirements.* Setback requirements for manufactured home parks are identified in Table 10-3.
- (3) *Required recreational space.* Manufactured home subdivisions shall be subject to the open space requirements established in Chapter 15, Subdivision Regulations.
- (4) *Utilities and basic improvement.* The installation, regulation, and design of all basic improvements and utilities must comply with the standards established in Chapter 15, Subdivision Regulations.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2002-19, § 1, 8-27-02)

CHAPTER 11. - COMMERCIAL DISTRICTS

ARTICLE 1. - GENERAL PROVISIONS

Sec. 11-10. - Purpose.

The commercial districts are established to provide a range of goods and services for city residents, to promote employment opportunities and the adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-20. - District names.

The Commercial District names are as follows:

C-1, Neighborhood Commercial District

C-2, Highway Commercial District

C-3, Community Commercial District

CBD, Central Business District

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-30. - Principal uses for the commercial districts.

- (A) *In general.* All permitted and conditional uses allowed in the commercial districts are listed in Table 11-1
- (B) *Permitted uses.* Uses specified with a "P" are permitted in the district or districts where designated, provided that the use complies with all other applicable provisions of this ordinance. Persons wishing to establish a permitted use shall obtain a zoning certificate for such use as specified in Sections 2-190 through 2-250
- (C) *Conditional uses.* Uses specified with a "C" are allowed as a conditional use in the district or districts where designated, provided that the use complies with all other applicable provisions of this ordinance. Persons wishing to establish or expand a conditional use shall obtain a conditional use permit for such use as specified in Sections 2-260 through 2-340
- (D) *Prohibited uses.* Any use not listed as either "P" (permitted) or "C" (conditional) in a particular district or any use not determined by the City Planner to be substantially similar to a use listed as permitted or conditional shall be prohibited in that district. Such determination shall be made in the manner provided for in Section 2-50 governing determination of substantially similar uses.
- (E) *Specific development standards.* Permitted and conditional uses specified with an "x" under the Specific Development Standards column shall be subject to the standards identified in Chapter 7, Specific Development Standards.
- (F) *Generalized use categories.* Table 11-1 employs generalized use categories for some types of commercial uses. A particular use may be determined to be within a generalized use category if not listed specifically elsewhere in Table 11-1 and if not determined to be within another less restrictive generalized use category. Determination of whether a particular use is included within a generalized use category shall be made by the City Planner in the manner provided for in Section 2-50 governing determination of substantially similar uses.
- (1) *General retail sales and services.* General retail sales and services uses include the retail sale of new products or the provision of services to the general public that produce minimal off-site impacts. General retail sales and services include the following uses:
- (a) Automobile parts and accessories.
 - (b) Bakery/catering service.
 - (c) Barber shop/beauty salon.

- (d) Bicycle sales and repair.
 - (e) Clothing and accessories.
 - (f) Department and discount stores.
 - (g) Drug store.
 - (h) Dry-cleaning establishment.
 - (i) Electronics sales and repair.
 - (j) Film developing/photographic supplies.
 - (k) Florist.
 - (l) Hardware store.
 - (m) Household furnishings and appliances.
 - (n) Locksmith.
 - (o) Musical instruments.
 - (p) Office and school supplies.
 - (q) Picture framing.
 - (r) Shoe repair/tailor.
 - (s) Sporting goods/bait and tackle.
- (2) *Limited production and processing.* Limited production and processing uses include activities that are consistent and compatible with retail sales and services. These uses produce minimal off-site impacts due to their limited nature and scale. Limited production and processing is allowed as a principal use, and may include wholesale and off-premise sales, subject to other restrictions established in this ordinance. Limited production and processing includes the following uses:
- (a) Apparel and other finished products made from fabrics.
 - (b) Computers and accessories, including circuit boards and software.
 - (c) Electronic components and accessories.
 - (d) Film, video and audio recording.
 - (e) Food and beverage products, except no live slaughter or grain milling.
 - (f) Jewelry, ornamental ceramics and pottery.
 - (g) Precision medical and optical goods.
 - (h) Signs and advertising devices.
 - (i) Visual arts, not including performances.
 - (j) Watches and clocks.
 - (k) Wood crafting and carving.
 - (l) Wood furniture and upholstery.

Table 11-1. Principal uses in the commercial districts.

Use	District					Development Standards

	C-1	C-2	C-3	CBD	SH	
Commercial uses						
Auction establishments		C	C		-	X
Retail sales and services						
General retail sales and services	P	P	P	P	C	
Ambulance facility	-	C	-	-	C	X
Antiques and collectibles	-	P	P	P	C	
Bank or financial institution	-	P	P	P	C	
Boat and marine sales	-	P	P	-	C	
Bookstore	P	P	P	P	C	
Building material sales	-	P	P	-	C	
Child care center	C	P	P	P	C	X
Digital Billboards	-	C	C	-	C	see <u>9-160(l)</u>
Firearms dealer	-	P	P	-	C	X
Funeral home	-	P	P	P	C	X
Greenhouse, lawn and garden supplies	-	P	P	P	C	
Grocery or convenience store	C	P	P	P	C	
Laundry, self-service	-	P	P	P	C	X
Pawn shop	-	P	P	P	C	
Performing, visual, or martial arts school	-	P	P	P	C	

Pet store	-	P	P	P	C	X
Photocopying	P	P	P	P	C	
Recreational vehicle sales and service	-	P	P	-	C	
Rental of household goods and equipment	-	P	P	P	C	
Shopping center	C	P	P	P	C	
Small engine repair	-	P	P	P	-	
Tattoo parlor	-	P	P	P	C	
Veterinary clinic	-	P	P	P	C	X
Video store	P	P	P	P	C	
Offices	C	P	P	P	C	X
Automobile services						
Automobile convenience facility	C	P	P	P	C	X
Automobile rental	-	P	P	P	-	X
Automobile repair, minor	-	P	P	C	C	X
Automobile repair, major	-	C	C	C	-	X
Automobile sales	-	P	P	-	-	X
Transportation						
Truck and trailer sales and service	-	C	-	-	-	X
Car wash	-	P	P	-	C	X
Food and beverages						

Bar, nightclub, liquor establishment	-	P	P	P	C	X
Brewery	-	C	C	C	C	X
Coffee shop with limited entertainment	P	P	P	P	C	X
Liquor store	-	P	P	P	C	
Restaurant, drive-through	-	C	C	C	C	X
Restaurant	C	P	P	P	C	X
Restaurant with general entertainment	C	P	P	P	C	X
Commercial recreation, entertainment and lodging						
Bed and breakfast facility	-	-	-	P	C	X
Bowling alley	-	P	P	-	C	
Hotel, motel	-	P	P	P	C	
Indoor recreational facility	-	P	P	C	-	
Outdoor recreation area	-	C	C	C	P	X
Sports and health facility	P	P	P	P	C	
Theater, indoor	-	P	P	C	C	
Institutional and public uses						
Educational facilities						
Early childhood education center	C	P	P	P	C	X
Schools, vocational or business	C	P	P	C	C	

Parking facilities, ramps	C	C	C	C	C	X
Social, cultural, charitable, and recreational facilities						
Stadiums, arenas	-	C	C	-	-	X
Clubs and lodges	C	P	P	P	C	
Community center	C	P	P	C	-	X
Library	C	P	P	P	-	
Museum	C	P	P	P	-	
Park	P	P	P	P	P	
Religious institutions						
Place of assembly	C	C	C	C	C	
Health and medical facilities						
Clinic, medical or dental	P	P	P	P	C	
Laboratory, medical or dental	-	P	P	P	C	
Hospital	-	C	C	-	-	X
Massage parlor	-	P	P	P	C	
Production, processing, and storage						
Farm and construction equipment sales	-	P	P	-	C	X
Limited production and processing	-	P	P	-	-	X
Contractor office and showroom	-	P	P	P	-	X

Furniture moving and storage	-	P	P	-	-	
Industrial machinery and equipment, sales, service, and rental	-	P	P	-	C	
Laundry, commercial	-	P	P	P	-	X
Packaging of finished goods	-	P	P	P	-	
Printing and publishing	-	P	P	P	-	
Self-service storage facility	-	P	P	C	C	
Wholesaling, warehousing, and distribution	-	P	P	C	-	X
Residential uses						
Dwellings						
Dwelling unit as part of mixed-use structure	-	-	-	P	C	X
Multiple-family dwelling	C	C	C	C	-	
Dwelling in conjunction with business	C	C	C	C	C	X
Congregate living						
Residential care facility, serving six or fewer persons	C	C	C	C	C	
Residential care facility, serving seven to sixteen persons	C	C	C	C	C	X
Residential care facility, serving seventeen to thirty-two persons	-	C	C	-	X	
Nursing home, senior housing facility	C	C	C	C	X	

Public service and utilities						
Communication facilities, towers	C	C	C	C	see section <u>6-230</u>	
Electric or gas substation	C	P	P	P		
Essential services	P	P	P	P		
Electricity generation plant, non-nuclear	-	C	C	-		
Governmental buildings and structures	C	P	P	P		
Governmental buildings and structures (other than those used primarily as offices)	-	C	C	C	C	X
Public utility buildings and structures	C	P	P	P		

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2001-15, § 1, 8-28-01; Ord. No. 2002-13, § 1, 6-25-02; Ord. No. 2002-16, § 1, 8-13-02; Ord. No. 2004-14, § 1, 6-8-04; Ord. No. 2006-21, § 5, 9-26-06; Ord. No. 2008-15, § 1, 6-24-08; Ord. No. 2008-25, § 3, 2-24-09; Ord. No. 2010-06, § 3, 5-25-10; Ord. No. 2013-005, § 1, 8-13-13; Ord. No. 2013-009, § 9, 11-26-13)

Sec. 11-40. - Accessory buildings and structures.

Accessory buildings and structures shall comply with the provisions of Section 6-200. Design of such structures is further regulated in Chapter 4, Site Plan Review.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-50. - Height.

Except for communication antennas otherwise allowed by conditional use permit, the maximum height of all principal structures located in the commercial districts shall be as specified within each commercial district. Parapets not exceeding three (3) feet in height shall be exempt from such limitations. The height of buildings within the airport overlay district is further regulated as specified in Chapter 13, Article 4.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-60. - Increasing maximum height.

The height limitations of principal structures located in the commercial districts may be increased by conditional use permit, subject to the standards identified in Sections 2-260 through 2-340. Additionally, the Planning Commission shall consider, but not be limited to, the following factors when determining the maximum height:

- (1) Access to light and air of surrounding properties.
- (2) Shadowing of any adjacent residential areas.
- (3) The scale and character of surrounding uses.
- (4) Preservation of views of landmark buildings, significant open spaces or water bodies.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-70. - Building design and construction.

- (A) *In general.* All buildings and structures shall meet applicable Building Code requirements. Additionally, the following standards are established to encourage architectural creativity and diversity, to create a lessened visual impact upon surrounding land uses, and to establish uniformity in acceptable exterior construction materials for commercial development.
- (B) All building facades must be designed with architecturally finished materials, with primary building materials being limited to the following:
- (1) Modular masonry materials such as brick, block, and stone.
 - (2) Precast concrete or aggregate panels.
 - (3) Stucco or stucco-like materials.
 - (4) Glass.
 - (5) Prefinished metal architectural panels, subject to the provisions indicated below:
 - (a) No such material shall be utilized in the C-1 and CBD Districts.
 - (b) Within the C-2 and C-3 districts, no such material shall be utilized on the front elevation or any other elevation facing public right-of-way, except as a secondary accent material.
- (C) The following building types and materials are expressly prohibited in the commercial districts:
- (1) Corrugated metal roofing or siding.
 - (2) Exposed, untextured, uncolored, unaugmented concrete.
- (D) All subsequent additions and outbuildings constructed after the erection of an original building or buildings shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-80. - Site design considerations.

Development of land within the commercial districts shall follow established standards for traffic circulation, landscape design and buffering, and other considerations as specified in Chapter 4, Site Plan Review.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-90. - Application of building and site design standards.

In the event that an existing principal building within a commercial district is to be enlarged or remodeled, the city may require that building design standards and landscaping requirements created by this chapter be applied to the entire site or to a portion of the site. Such determination shall be made by the City Planner based on the scale and nature of the proposed construction. If disagreement arises over the extent of required improvements, the property owner may appeal such determination to the Planning Commission and City Council for further review.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-100. - Lot dimension and building bulk regulations.

Lot area and setback requirements shall be as specified in Table 11-2. Wetland buffer and buffer setback requirements shall be as specified in Chapter 6 of this Ordinance [Appendix].

Table 11-2. Lot dimension and setback requirements in the commercial districts.

District	C-1	C-2	C-3	CBD
Minimum lot area (sq. ft.)	10,000	20,000	40,000	none
Minimum lot width	100 feet	100 feet	100 feet	none
Building setback requirements				
Front	25 feet	25 feet	25 feet	none
Side	10 feet	10 feet	10 feet	none
Side (abutting residential district)	15 feet	15 feet	15 feet	10 feet
Corner side	25 feet	25 feet	25 feet	none
Rear	10 feet	10 feet	10 feet	10 feet
Rear (abutting residential)	15 feet	15 feet	15 feet	10 feet

district)				
Setback for off-street parking and loading areas				
Front	10 feet	10 feet	10 feet	5 feet
Side	5 feet	5 feet	5 feet	5 feet
Side (abutting residential district)	10 feet	10 feet	10 feet	10 feet
Corner side	10 feet	10 feet	10 feet	10 feet
Rear	5 feet	5 feet	5 feet	5 feet
Rear (abutting residential district)	10 feet	10 feet	10 feet	10 feet
Setback for exterior storage areas				
Side	-	5 feet	5 feet	-
Side (abutting residential district)	-	10 feet	10 feet	-
Corner side	-	25 feet	25 feet	-
Rear	-	5 feet	5 feet	-
Rear (abutting residential district)	-	10 feet	10 feet	-

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2010-04, § 5, 5-25-10)

Sec. 11-110. - Parking and loading requirements.

Parking and loading requirements for uses in the commercial districts shall be as set forth in Chapter 8, Off-Street Parking and Loading.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-120. - Truck and commercial vehicle parking.

(A) *Residential uses.* Parking of commercial vehicles shall be prohibited.

(B) *Non-residential uses.* Regulations governing the parking of trucks and other commercial vehicles accessory to permitted or conditional non-residential uses shall be as specified in each commercial district. These regulations shall apply only to vehicles that are parked regularly at the site and shall not apply to pick-up and delivery activities or to the temporary use of vehicles during construction. Outdoor storage of motorized equipment other than motor vehicles in operable condition shall be prohibited, except as specifically provided for in this ordinance.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-130. - Signs.

Sign requirements for uses in the commercial districts shall be as specified in Chapter 9, Signs.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-140. - Compliance with performance standards.

All uses in the commercial districts shall comply with all general performance standards as expressed in Chapter 6, Article 10.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 2. - C-1, NEIGHBORHOOD COMMERCIAL DISTRICT

Sec. 11-150. - Purpose.

The purpose of the neighborhood commercial district is to provide for the establishment of local centers for convenience, office, retail, or service outlets. These centers are located in close proximity to residences and are to be arranged and designed to be a functional and harmonious part of a residential neighborhood. It is the intent of this ordinance that the location and nature of these commercial activities be reasonably serviced with public sidewalks or other pedestrian access. The district is not intended to draw customers from the entire community, but to be limited in size and number of uses to assure continued compatibility with surrounding residential uses.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-160. - Uses.

Permitted and conditional uses in the C-1 District shall be as specified in Table 11-1.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-170. - General district regulations.

The following conditions govern uses in the C-1 District:

- (1) *Maximum floor area.* All commercial uses shall be limited to a maximum gross floor area of twenty thousand (20,000) square feet.
- (2) *Wholesale and off-premise sales.* Wholesale and off-premise sales accessory to retail sales shall be limited to two thousand (2,000) square feet of gross floor area or forty-five (45) percent of gross floor area, whichever is less, provided that the main entrance opens to the retail component of the establishment.
- (3) *Drive-through facilities and car washes prohibited.* Drive-through facilities and car washes shall be prohibited.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-180. - Enclosed building requirement.

- (A) *In general.* All production, processing, storage, sales, display, or other business activity in the C-1 district shall be conducted within a completely enclosed building, except as otherwise provided in (B) and (C) below or elsewhere in this ordinance.
- (B) *Outdoor sales and display.* Retail merchandise may be displayed on a temporary basis on the sidewalk immediately in front of the principal building or displayed at convenience store gasoline pump islands, provided that such display does not interfere with pedestrian or vehicle traffic.
- (C) *Outdoor dining area.* Facilities offering outside dining shall be allowed provided that the standards identified for such use in Chapter 7, Specific Development Standards, are satisfied.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-190. - Permitted accessory structures and uses.

- (A) *In general.* Permitted accessory uses within the C-1 district include maintenance and parking facilities, mechanical equipment, and other buildings and structures which are necessary to the operation of the principal use.
- (B) Child care center as an accessory use to a principal commercial activity and for the exclusive service to employees of that activity.
- (C) Temporary structures for storage of equipment and materials used in connection with construction of a lawfully authorized use, not to exceed two years.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-200. - Maximum height.

The maximum height of all principal structures located in the C-1 District shall be two (2) stories or twenty-eight (28) feet, whichever is less.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-210. - Maximum ground coverage.

The sum total of ground area covered by all structures shall not exceed fifty (50) percent of the total lot area. The sum total of ground area covered by all structures and off-street parking and loading areas shall not exceed seventy-five (75) percent of the total lot area.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-220. - Truck and commercial vehicle parking for non-residential uses.

Outdoor parking of trucks and other commercial vehicles shall be limited to single rear axle vehicles of not more than fifteen thousand (15,000) pounds gross vehicle weight.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 3. - C-2, HIGHWAY COMMERCIAL DISTRICT

Sec. 11-230. - Purpose.

The purpose of the highway commercial district is to provide for a wide range of vehicle-oriented commercial uses, with emphasis on wholesale and bulk sales, convenience shopping and food, automobile services, motels, and other activities related to highway traffic. Such district shall be located adjacent to a major arterial roadway that provides highway access and exposure.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-240. - Uses.

Permitted and conditional uses in the C-2 district shall be as specified in Table 11-1.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-250. - General district regulations.

The following conditions govern uses in the C-2 district:

- (1) *Maximum floor area.* All commercial uses, including shopping centers, shall be limited to a maximum gross floor area of one half of the square footage of the parcel for a floor area ratio of 0.5. The term "gross floor area" shall be defined as the exterior floor dimensions of the building, structure, or use multiplied by the number of floors. The gross floor area shall not include areas of structures that are used solely for parking.
- (2) *Wholesale and off-premise sales.* Wholesale and off-premise sales accessory to retail sales shall be limited to four thousand (4,000) square feet of gross floor area or forty-five (45) percent of gross floor area, whichever is less, provided that the main entrance opens to the retail component of the establishment.
- (3) *Drive-through facilities permitted.* Drive-through facilities are permitted, subject to the standards of Chapter 4, Site Plan Review and Chapter 8, Off-Street Parking and Loading.
- (4) *Production, processing, and storage.* Limited production and processing uses shall be limited to one thousand two hundred (1,200) square feet of gross floor area. Other production, processing, and storage uses shall be limited to four thousand (4,000) square feet of gross floor area.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2004-32, § 1, 1-11-05)

Sec. 11-260. - Enclosed building requirement.

- (A) *In general.* All production, processing, storage, sales, display, or other business activity shall be conducted within a completely enclosed building, except as otherwise provided in (B) through (E) below or elsewhere in this ordinance.
- (B) *Outdoor storage.* Outdoor storage may be allowed as an accessory use provided that the standards for such use, as identified in Chapter 7, Specific Development Standards, are met.
- (C) *Outdoor sales and display.* Retail merchandise may be displayed on a temporary basis on the sidewalk immediately in front of the principal building or displayed at convenience store gasoline pump islands, provided that such display does not interfere with pedestrian or vehicle traffic. In addition, the following principal uses may include outdoor sales and display provided that the standards for such use, as identified in Chapter 7, Specific Development Standards, are met:
- (1) Automobile sales, service, or rental.
 - (2) Lawn and garden center or greenhouse.
 - (3) Truck, trailer, boat, or recreational vehicle sales, service, or rental.
 - (4) Building material sales.
 - (5) General retail sales.
- (D) *Outdoor speakers.* Outdoor speakers shall not be audible from a residential district boundary or residential use.
- (E) *Outdoor dining area.* Facilities offering outside dining shall be allowed provided that the standards identified for such use in Chapter 7, Specific Development Standards, are satisfied.
- (Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2005-33, § 1, 12-13-05)

Sec. 11-270. - Permitted accessory structures and uses.

- (A) In general. Permitted accessory uses within the C-2 district include maintenance, storage, and parking facilities, mechanical equipment, and other buildings and structures which are necessary to the operation of the principal use.
- (B) Child care center as an accessory use to a principal commercial activity and for the exclusive service to employees of that activity.
- (C) Temporary structures for storage of equipment and materials used in connection with construction of a lawfully authorized use, not to exceed two (2) years.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-280. - Maximum height.

The maximum height of all principal structures located in the C-2 district shall be three (3) stories or forty-two (42) feet, whichever is less.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-290. - Maximum ground coverage.

The sum total of ground area covered by all structures shall not exceed fifty (50) percent of the total lot area. The sum total of ground area covered by all structures, exterior storage areas, and off-street parking and loading areas shall not exceed eighty (80) percent of the total lot area.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-300. - Truck and commercial vehicle parking for non-residential uses.

Outdoor parking of trucks and other commercial vehicles shall be limited to single rear axle vehicles of not more than fifteen thousand (15,000) pounds gross vehicle weight, when located within three hundred (300) feet of a residential district boundary. There shall be no limit on the size of trucks and other commercial vehicles when located more than three hundred (300) feet from a residential district.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 4. - C-3, COMMUNITY COMMERCIAL DISTRICT

Sec. 11-310. - Purpose.

The purpose of the community commercial district is to provide for the development of major retail centers throughout the city, where both adequate land area and transportation access can be provided. Such district shall be located at the intersection of two or more major roadways, allowing for a concentration of commercial uses that draw customers from both within and outside the community.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-320. - Uses.

Permitted and conditional uses in the C-3 District shall be as specified in Table 11-1.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-330. - General district regulations.

The following conditions govern uses in the C-3 District:

- (1) *Wholesale and off-premise sales.* Wholesale and off-premise sales accessory to retail sales shall be limited to four-thousand (4,000) square feet of gross floor area or forty-five (45) percent of gross floor area, whichever is less, provided that the main entrance opens to the retail component of the establishment.
- (2) *Drive-through facilities permitted.* Drive-through facilities are permitted, subject to the standards of Chapter 4, Site Plan Review and Chapter 8, Off-Street Parking and Loading.
- (3) *Production, processing, and storage.* Limited production and processing uses shall be limited to two thousand (2,000) square feet of gross floor area. Other production, processing, and storage uses shall be limited to four thousand (4,000) square feet of gross floor area.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-340. - Enclosed building requirement.

- (A) *In general.* All production, processing, storage, sales, display, or other business activity shall be conducted within a completely enclosed building, except as otherwise provided in (B) through (E) below or elsewhere in this ordinance.
- (B) *Outdoor storage.* Outdoor storage may be allowed as an accessory use provided that the standards for such use, as identified in Chapter 7, Specific Development Standards, are met.

- (C) *Outdoor sales and display.* Retail merchandise may be displayed on a temporary basis on the sidewalk immediately in front of the principal building or displayed at convenience store gasoline pump islands, provided that such display does not interfere with pedestrian or vehicle traffic. In addition, the following principal uses may include outdoor sales and display provided that the standards for such use, as identified in Chapter 7, Specific Development Standards, are met:
- (1) Automobile sales, service, or rental.
 - (2) Lawn and garden center or greenhouse.
 - (3) Truck, trailer, boat, or recreational vehicle sales, service, or rental.
 - (4) Building material sales.
 - (5) General retail sales.
- (D) *Outdoor speakers.* Outdoor speakers shall not be audible from a residential district boundary or residential use.
- (E) *Outdoor dining area.* Facilities offering outside dining shall be allowed provided that the standards identified for such use in Chapter 7, Specific Development Standards, are satisfied.
- (Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2005-33, § 1, 12-13-05)

Sec. 11-350. - Permitted accessory structures and uses.

- (A) *In general.* Permitted accessory uses within the C-3 district include maintenance, storage, and parking facilities, mechanical equipment, and other buildings and structures which are necessary to the operation of the principal use.
- (B) Child care center as an accessory use to a principal commercial activity and for the exclusive service to employees of that activity.
- (C) Temporary structures for storage of equipment and materials used in connection with construction of a lawfully authorized use, not to exceed two years.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-360. - Maximum height.

The maximum height of all principal structures located in the C-3 District shall be three (3) stories or forty-two (42) feet, whichever is less.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-370. - Maximum ground coverage.

The sum total of ground area covered by all structures shall not exceed fifty (50) percent of the total lot area. The sum total of ground area covered by all structures, exterior storage areas, and off-street parking and loading areas shall not exceed eighty (80) percent of the total lot area.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-380. - Truck and commercial vehicle parking for non-residential uses.

Outdoor parking of trucks and other commercial vehicles shall be limited to single rear axle vehicles of not more than fifteen thousand (15,000) pounds gross vehicle weight, when located within three hundred (300) feet of a residential district boundary. There shall be no limit on the size of trucks and other commercial

vehicles when located more than three hundred (300) feet from a residential district.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 5. - CBD, CENTRAL BUSINESS DISTRICT

Sec. 11-390. - Purpose.

The purpose of the central business district is to provide for the development and redevelopment of the established downtown core, including a mix of retail, financial, office, service, and entertainment uses. Additionally, residential units are allowed as an accessory use, when located above a first-story commercial use.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-400. - Uses.

Permitted and conditional uses in the CBD District shall be as specified in Table 11-1.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-410. - General district regulations.

The following conditions govern uses in the CBD District:

- (1) *Maximum floor area.* All commercial uses, including shopping centers, shall be limited to a maximum gross floor area of twenty thousand (20,000) square feet.
- (2) *Wholesale and off-premise sales.* Wholesale and off-premise sales accessory to retail sales shall be limited to two thousand (2,000) square feet of gross floor area or forty-five (45) percent of gross floor area, whichever is less, provided that the main entrance opens to the retail component of the establishment.
- (3) *Drive-through facilities permitted.* Drive-through facilities are permitted, subject to the standards of Chapter 4, Site Plan Review and Chapter 8, Off-Street Parking and Loading.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-420. - Enclosed building requirement.

- (A) *In general.* All production, processing, storage, sales, display, or other business activity shall be conducted within a completely enclosed building, except as otherwise provided in (B) through (E) below or elsewhere in this ordinance.
- (B) *Outdoor storage.* Outdoor storage may be allowed as an accessory use provided that the standards for such use, as identified in Chapter 7, Specific Development Standards, are met.
- (C) *Outdoor sales and display.* Retail merchandise may be displayed on a temporary basis on the sidewalk immediately in front of the principal building or displayed at convenience store gasoline pump islands, provided that such display does not interfere with pedestrian or vehicle traffic. In addition, the following principal uses may include outdoor sales and display provided that the standards for such use, as identified in Chapter 7, Specific Development Standards, are met:
 - (1) Automobile rental.

- (2) Lawn and garden center or greenhouse.
- (3) General retail sales.
- (D) *Outdoor speakers.* Outdoor speakers shall not be audible from a residential district boundary or residential use.
- (E) *Outdoor dining area.* Facilities offering outside dining shall be allowed provided that the standards identified for such use in Chapter 7, Specific Development Standards, are satisfied.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2005-33, § 1, 12-13-05)

Sec. 11-430. - Residential uses.

Residential uses are permitted in the Central Business District, secondary to ground floor commercial uses, with the maximum number of units based on the lesser of the calculations shown below. In addition to area requirements, all residential uses must provide at least one private parking space per unit within four hundred feet of the main entrance to the building.

- (1) The area of the parcel divided by two thousand (2,000), times the number of floors in the building above ground-floor; or
- (2) The number of units that satisfy area requirements as follows:
 - (a) Efficiency and one-bedroom units, 600 square feet
 - (b) Two-bedroom units, 700 square feet
 - (c) Three-bedroom units and above, 900 square feet

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-440. - Permitted accessory structures and uses.

- (A) *In general.* Permitted accessory uses within CBD district include maintenance and parking facilities, mechanical equipment, and other buildings and structures which are necessary to the operation of the principal use.
- (B) Child care center as an accessory use to a principal commercial activity and for the exclusive service to employees of that activity.
- (C) Temporary structures for storage of equipment and materials used in connection with construction of a lawfully authorized use, not to exceed two years.
- (D) Warehousing and storage related to the principle use as follows:
 - (1) Warehousing and storage uses shall not be located in the storefront of a building, which shall be defined as that area of the building at street level that fronts on a public right-of-way (not including an alley), and shall consist of the first 20' back from the wall of the building at street level that fronts on the public right-of-way (not including an alley). In the case of a corner building, both sides of the building at street level that fronts on a public right-of-way (not including an alley) shall be considered a storefront. Where there are no window openings in the street level of a wall that fronts on a public right-of-way, such frontage shall not be considered a storefront.
 - (2) Warehousing and storage uses shall be separated from the storefront area of the building by a wall that extends from floor to ceiling, or at a minimum 24" above the height of a standard door, the entire width of the building or area to be used for storage. For the purposes of this section, a wall

shall be constructed of dry-wall, plaster, stone, brick or other masonry material, or other similar material to provide adequate physical and visual separation between the primary use and the secondary warehousing or storage use.

- (3) Additional conditions may be established to ensure compatibility of the use with surrounding uses.
- (4) Existing warehousing and storage uses shall comply with all provisions of this section within one year of the effective date of this section.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2001-15, § 1, 8-28-01)

Sec. 11-450. - Maximum height.

The maximum height of all principal structures located in the CBD District shall be three (3) stories or forty-five (42) feet, whichever is less.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 11-460. - Truck and commercial vehicle parking for non-residential uses.

Outdoor parking of trucks and other commercial vehicles shall be limited to single rear axle vehicles of not more than fifteen thousand (15,000) pounds gross vehicle weight.

(Ord. No. 99-20, § 1, 11-23-99)

CHAPTER 12. - INDUSTRIAL DISTRICTS

ARTICLE 1. - GENERAL PROVISIONS

Sec. 12-10. - Purpose.

The industrial districts are established to provide locations for industrial land uses engaged in the production, processing, assembly, manufacturing, packaging, wholesaling, warehousing or distribution of goods and materials. Regulations are established to accommodate industrial development while maintaining compatibility with surrounding areas.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 12-20. - District names.

The Industrial District names are as follows:

I-P, Industrial Park District

I-1, Light Industrial District

I-2, Heavy Industrial District

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 12-30. - Principal uses for the industrial districts.

(A) *In general.* All permitted and conditional uses allowed in the industrial districts are listed in Table 12-1

(B)

Permitted uses. Uses specified with a "P" are permitted in the district or districts where designated, provided that the use complies with all other applicable provisions of this ordinance. Persons wishing to establish a permitted use shall obtain a zoning certificate for such use as specified Sections 2-190 through 2-250

- (C) *Conditional uses.* Uses specified with a "C" are allowed as a conditional use in the district or districts where designated, provided that the use complies with all other applicable provisions of this ordinance. Persons wishing to establish or expand a conditional use shall obtain a conditional use permit for such use as specified in Sections 2-260 through 2-340
- (D) *Prohibited uses.* Any use not listed as either "P" (permitted) or "C" (conditional) in a particular district or any use not determined by the City Planner to be substantially similar to a use listed as permitted or conditional shall be prohibited in that district. Such determination shall be made in the manner provided for in Section 2-50 governing determination of substantially similar uses.
- (E) *Specific development standards.* Permitted and conditional uses specified with an "x" under the Specific Development Standards column shall be subject to the standards identified in Chapter 7, Specific Development Standards.
- (F) *Generalized use categories.* Table 12-1 employs generalized use categories for some types of industrial uses. A particular use may be determined to be within a generalized use category if not listed specifically elsewhere in Table 12-1 and if not determined to be within another less restrictive generalized use category. Determination of whether a particular use is included within a generalized use category shall be made by the City Planner in the manner provided for in Section 2-50 governing determination of substantially similar uses.
 - (1) *Limited Industrial Uses.* Limited industrial uses are low impact uses which produce little or no noise, odor, vibration, glare or other objectionable influences and which, given proper controls, have little or no adverse effect on surrounding properties. Limited industrial uses generally do not involve processing of raw materials or production of primary materials. Limited industrial uses include the production, processing, or storage of the following:
 - (a) Apparel, textiles, and fabrics.
 - (b) Electronic and electrical equipment, components, and accessories.
 - (c) Foods and food products, not including distilling or live slaughter.
 - (d) Household goods and appliances.
 - (e) Measuring, analyzing, and controlling instruments.
 - (f) Medical and optical goods and technology.
 - (g) Novelty items, musical instruments, sporting and athletic equipment, and other personal goods.
 - (h) Office and commercial equipment, furniture, and fixtures.
 - (i) Pharmaceuticals, health and beauty products.
 - (j) Printing and publishing operations, including distribution.
 - (k) Signs, including electric and neon signs, and other advertising devices.
 - (l) Fabricated metal products such as cans and shipping containers, cutlery, handtools and general hardware.
 - (m) Fabricated plastic and rubber products, except tires and inner tubes.

- (n) Household, industrial and commercial machinery and equipment such as engines and turbines, farm, lawn and garden equipment, heating, cooling and refrigeration equipment, and machine tools.
 - (o) Metal working such as stamping, welding, machining, extruding, engraving, plating, grinding, polishing, cleaning and heat treating.
 - (p) Paper and paperboard products, except no pulp, paper or paperboard mills.
 - (q) Woodworking, lumber and wood products, not including saw mills.
- (2) *General Industrial Uses.* General industrial uses include high impact and outdoor uses which are likely to have a substantial adverse effect on the environment or on surrounding properties and which require special measures and careful site selection to ensure compatibility with the surrounding area. General industrial uses often include processing of raw materials or production of primary materials. General industrial uses include the production or processing of the following:
- (a) Asphalt, paving and roofing materials.
 - (b) Battery manufacture and reprocessing.
 - (c) Chemicals and chemical products, including ammonia, chlorine, household cleaners, detergent, fertilizer, and industrial and agricultural chemicals.
 - (d) Gypsum and plaster products.
 - (e) Manufactured housing.
 - (f) Paints, varnishes, lacquers, and enamels.
 - (g) Petroleum and coal products, except no mining or extraction.
 - (h) Plastics and synthetic resins and fibers.
 - (i) Primary metals, including steelworks, rolling and finishing mills, forge or foundry.
 - (j) Pulp, paper or paperboard mills.
 - (k) Sand and gravel, except no mining or extraction.
 - (l) Sawmills.
 - (m) Tanned hides and leather.
 - (n) Tires and inner tubes.
 - (o) Transportation equipment, including motor vehicle and aircraft parts and equipment.

Table 12-1. Principal uses in the industrial districts.

	District				Development Standards
Use	I-P	I-1	I-2	SH	
Industrial uses					
Generalized use categories					
Limited industrial	P	P	P	C	

General industrial	-	-	P	-	
Specific industrial uses					
Aircraft storage and maintenance	P	P	P	C	
Ammunition and explosives, storage and manufacturing	-	-	C	-	
Boat construction, repair, and storage	P	P	P	C	
Cleaning services and laundries	P	P	P	C	x
Concrete, asphalt, and rock crushing facility	-	-	C	-	x
Contractor showroom	P	P	P	C	x
Contractor yard	P	P	P	C	
Furniture moving and storage	C	P	P	C	
Grain elevator or storage	-	-	P	-	
Grain milling and distillation	-	-	P		
Greenhouse, wholesale	P	P	P	C	
Industrial machinery and equipment sales, service, and rental	P	P	P	C	
Research, development, and testing laboratory	P	P	P	C	
Recycling facility	C	C	P	-	
Refuse disposal and incineration facility	-	-	C	-	x
Scrap/salvage yard, metal milling facility	-	-	C	-	x
Self service storage	P	P	P	C	
Stockyards, slaughter of animals	-	-	C	-	x

Wholesaling, warehousing and distribution	P	P	P	C	
Commercial uses					
Adult entertainment uses	P	P	P	C	x
Animal kennel, veterinary services	P	P	P	C	x
Auction establishments	C	C	C	C	x
Automobile Services					
Automobile convenience facility	P	P	P	C	x
Automobile repair, major	P	P	P	C	x
Automobile repair, minor	P	P	P	C	x
Brewery	P	P	P	C	x
Commercial recreation, entertainment and lodging					
Firearm range, indoor	P	P	P	C	x
Hotel, motel	C	C	-	-	
Indoor recreational facility	P	P	P	P	x
Outdoor recreation area	C	C	C	C	x
Digital Billboards	C	C	C	C	see <u>9-160(I)</u>
Offices	P	P	P	C	
Retail sales and services					
Ambulance Facility	C	C	C	C	x
Building material sales, lumberyard	P	P	P	C	
Child care center (as principal use)	C	C	-	C	
Farm and construction equipment	P	P	P	C	

Restaurants, liquor establishments	C	C	C	C	x
Transportation					
Bus garage or maintenance facility	C	P	P	C	
Heliport	-	C	C	-	x
Package delivery service	P	P	P	C	
Transportation services	P	P	P	C	
Transportation terminal	P	P	P	C	x
Truck, trailer, boat or recreational vehicle, sales service or rental	P	P	P	C	
Waste hauler	-	C	P	-	x
Institutional and public uses					
Educational facilities					
School, vocational or business	P	P	P	C	x
Parking facilities, ramps	C	C	C	C	x
Social, cultural, charitable, & recreational facilities					
Armories, convention halls	P	P	P	C	
Stadiums, arenas	C	C	C	C	x
Clubs and lodges	P	P	P	C	
Religious institutions					
Place of assembly	P	P	-	C	x
Residential uses					
Dwelling in conjunction w/business	C	C	C	C	x

Public service and utilities					
Communication facilities	P	P	P	C	x
Communication towers	C	C	C	C	see <u>§ 6-230</u>
Electric or gas substation	P	P	P	C	x
Electricity generation plant, non-nuclear	-	-	C	-	x
Essential services	P	P	P	P	x
Governmental buildings and structures	P	P	P	C	x
Public utility buildings and structures	P	P	P	C	x
Street and equipment maintenance facility	P	P	P	C	
Waste transfer or disposal facility	-	C	C	-	x

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2004-14, § 1, 6-8-04; Ord. No. 2005-24, § 1, 9-13-05; Ord. No. 2006-21, § 6, 9-26-06; Ord. No. 2008-25, § 4, 2-24-09; Ord. No. 2013-009, § 10, 11-26-13)

Sec. 12-40. - Accessory buildings and structures.

Accessory buildings and structures shall comply with the provisions of Section 6-200. Design of such structures is further regulated in Chapter 4, Site Plan Review.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 12-50. - Retail sales, service and repair.

Retail sales, service, and repair shall be prohibited in all industrial districts except those specifically listed in Table 12-1 or where such activity is accessory to the permitted principal use. Accessory retail uses shall be limited to a maximum of twenty (20) percent of the overall gross floor area occupied by the primary business, up to a maximum of two thousand (2,000) square feet.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 12-60. - Height.

Except for communication antennas otherwise allowed by conditional use permit, the maximum height of all principal structures located in the industrial districts shall be sixty-five (65) feet. Buildings to be located within five hundred (500) feet of a residential district shall have a maximum height of forty-five (45) feet.

Parapets not exceeding three (3) feet in height shall be exempt from such limitations. The height of buildings within the airport overlay district is further regulated as specified in Chapter 13, Article 4.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 12-70. - Increasing maximum height.

The height limitations of principal structures located in the industrial districts may be increased by conditional use permit, subject to the standards identified in Sections 2-260 through 2-340. Additionally, the City Council shall consider, but not be limited to, the following factors when determining the maximum height:

- (1) Access to light and air of surrounding properties.
- (2) Shadowing of any adjacent residential areas.
- (3) The scale and character of surrounding uses.
- (4) Preservation of views of landmark buildings, significant open spaces or water bodies.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 12-80. - Building design and construction.

- (A) *In general.* All buildings and structures shall meet applicable Building Code requirements. Additionally, the following standards are established to encourage architectural creativity and diversity, to create a lessened visual impact upon surrounding land uses, and to establish uniformity in acceptable exterior construction materials for industrial development.
- (B) All building facades must be designed with architecturally finished materials, with primary building materials being limited to the following:
- (1) Modular masonry materials such as brick, block, and stone.
 - (2) Precast concrete or aggregate panels.
 - (3) Stucco or stucco-like materials.
 - (4) Glass.
 - (5) Prefinished metal architectural panels, subject to the provisions indicated in Section 12-80(C) below.
- (C) The use of prefinished metal architectural panels shall be allowed, provided that no more than seventy (70) percent of the front elevation and no more than eighty (80) percent of any additional street-facing elevation consists of such material. Elevations with interstate exposure on a lot that abuts the interstate right-of-way shall include non-metal accent materials covering at least thirty (30) percent of said elevation, with at least fifty (50) percent of such material placed above the mid-point of the building.
- (D) The following building types and materials are expressly prohibited in the industrial districts:
- (1) Wood as an exterior wall finish, except where used as accent material.
 - (2) Corrugated metal roofing or siding.
 - (3) Exposed, untextured, uncolored, unaugmented concrete.
- (E) All subsequent additions and outbuildings constructed after the erection of an original building or buildings shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2008-09, § 5, 5-13-08)

Sec. 12-90. - Site design considerations.

Development of land within the industrial districts shall follow established standards for traffic circulation, landscape design and buffering, and other considerations as specified in Chapter 4, Site Plan Review.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 12-100. - Application of building and site design standards.

In the event that an existing principal building within an industrial district is to be enlarged or remodeled, the city may require that building design standards and landscaping requirements created by this chapter be applied to the entire site or to a portion of the site. Such determination shall be made by the City Planner based on the scale and nature of the proposed construction. If disagreement arises over the extent of required improvements, the property owner may appeal such determination to the Planning Commission and City Council for further review.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 12-110. - Lot dimension and building bulk regulations.

Lot area and setback requirements shall be as specified in Table 12-2. Wetland buffer and buffer setback requirements shall be as specified in Chapter 6 of this Ordinance [Appendix].

Table 12-2. Lot dimension and setback requirements in the industrial districts.

District	I-P	I-1	I-2
Minimum lot area	2.5 acres	1 acre	1 acre
Minimum lot width	100 feet	100 feet	100 feet
Building setback requirements			
Front	25 feet	25 feet	25 feet
Side	15 feet	15 feet	15 feet
Side (abutting residential district or use)	50 feet	50 feet	50 feet
Rear	15 feet	15 feet	15 feet
Rear (abutting residential district or use)	50 feet	50 feet	50 feet
Setback for off-street parking and loading areas			
Front	10 feet	10 feet	10 feet

Side	5 feet	5 feet	5 feet
Side (abutting residential district or use)	20 feet	20 feet	20 feet
Rear	5 feet	5 feet	5 feet
Rear (abutting residential district or use)	20 feet	20 feet	20 feet
Setback for exterior storage areas			
Side	10 feet	10 feet	10 feet
Side (abutting residential district or use)	20 feet	20 feet	20 feet
Corner Side	25 feet	25 feet	25 feet
Rear	10 feet	10 feet	10 feet
Rear (abutting residential district or use)	20 feet	20 feet	20 feet

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2008-09, § 5, 5-13-08; Ord. No. 2010-04, § 6, 5-25-10)

Sec. 12-120. - Parking and loading requirements.

Parking and loading requirements for uses in the industrial districts shall be as set forth in Chapter 8, Off-Street Parking and Loading.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 12-130. - Signs.

Sign requirements for uses in the industrial districts shall be as specified in Chapter 9, Signs.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 12-140. - Compliance with performance standards.

All uses in the industrial districts shall comply with all general performance standards as expressed in Chapter 6, Article 9.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2013-009, § 11, 11-26-13)

Sec. 12-150. - Permitted accessory structures and uses.

(A) *In general.* Permitted accessory uses within the industrial park districts include maintenance, storage, and parking facilities, mechanical equipment, and other buildings and structures which are necessary to the operation of the principal use.

- (B) Child care center as an accessory use to a principal industrial activity and for the exclusive service to employees of that activity.
- (C) Temporary structures for storage of equipment and materials used in connection with construction of a lawfully authorized use, not to exceed two (2) years.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 12-160. - Enclosed building requirement.

- (A) *In general.* All production, processing, storage, sales, display, or other business activity shall be conducted within a completely enclosed building, except as otherwise provided in (B) through (D) below or elsewhere in this ordinance.
- (B) *Outdoor storage.* Outdoor storage may be allowed as an accessory use provided that the standards for such use, as identified in Chapter 7, Specific Development Standards, are met.
- (C) *Outdoor sales and display.* Retail merchandise may be displayed on a temporary basis on the sidewalk immediately in front of the principal building or displayed at convenience store gasoline pump islands, provided that such display does not interfere with pedestrian or vehicle traffic. In addition, the following uses may include outdoor sales and display provided that the standards for such use, as identified in Chapter 7, Specific Development Standards, are met:
 - (1) Automobile sales, service, or rental.
 - (2) Lawn and garden center or greenhouse.
 - (3) Truck, trailer, boat, or recreational vehicle sales, service, or rental.
 - (4) Building material sales.
- (D) *Outdoor speakers.* Outdoor speakers shall not be audible from a residential district boundary or residential use.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 2. - I-P, INDUSTRIAL PARK DISTRICT

Sec. 12-170. - Purpose.

The purpose of the industrial park district is to provide for the establishment of industrial areas with exemplary development standards for light industrial uses that prefer to be located in choice or strategic sites. An IP district should be located with access to a major arterial roadway and provide for the establishment of light industrial development and the further processing of materials first handled by heavy industry. Controls are established to assure compatibility with surrounding commercial or residential uses.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 12-180. - Uses.

Permitted and conditional uses in the I-P District shall be as specified in Table 12-1.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 12-190. - Maximum structure coverage.

The sum total of ground area covered by all structures shall not exceed fifty (50) percent of the total lot area.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2008-09, § 5, 5-13-08)

ARTICLE 3. - I-1, LIGHT INDUSTRIAL DISTRICT

Sec. 12-200. - Purpose.

The purpose of the light industrial district is to provide for the establishment of bulk commercial activities, service warehousing, light industrial development, and the further processing or refining of materials first handled by heavy industry. An I-1 district should be located with access to a major arterial roadway and may abut another industrial or commercial district, but should be separated from residential uses through natural or manmade barriers.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 12-210. - Uses.

Permitted and conditional uses in the I-1 District shall be as specified in Table 12-1.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 12-220. - Maximum structure coverage.

The sum total of ground area covered by all structures shall not exceed sixty (60) percent of the total lot area.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2008-09, § 5, 5-13-08)

ARTICLE 4. - I-2, HEAVY INDUSTRIAL DISTRICT

Sec. 12-230. - Purpose.

The purpose of the heavy industrial district is to provide for the establishment of heavy industrial and manufacturing development and uses, which because of the nature of the product or services, requires isolation from residential and/or commercial uses. An I-2 district should be located with access to a major arterial roadway and should be separated from all other districts, except light industrial, through natural or manmade barriers.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 12-240. - Uses.

Permitted and conditional uses in the I-2 District shall be as specified in Table 12-1.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 12-250. - Maximum structure coverage.

The sum total of ground area covered by all structures shall not exceed sixty (60) percent of the total lot area.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2008-09, § 5, 5-13-08)

CHAPTER 13. - OVERLAY AND SPECIAL DISTRICTS

ARTICLE 1. - OVERLAY DISTRICTS; GENERAL PROVISIONS

Sec. 13-10. - Purpose.

Overlay districts are established in recognition of the unique characteristics of land and land use within certain parts of the city, including those properties within historic areas, flood-prone areas, shoreland areas, and within and adjacent to the city's airport facilities. Overlay districts are further intended to protect the public health, safety, and welfare by preserving the unique character of existing areas for future use and development.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 13-20. - Relationship to other applicable regulations.

Property located within an overlay district shall be subject to the provisions of both the primary zoning district and the overlay district. Since overlay districts may be more or less restrictive than the primary zoning district, where the provisions of the overlay and primary zoning districts are in conflict, the provisions of the overlay district shall govern.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 13-30. - Established boundaries.

Overlay district boundaries shall be as specified in the individual overlay district regulations.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 13-40. - Establishment of overlay districts.

The overlay district names are:

- (1) Floodplain Management Districts.
- (2) Heritage Preservation District.
- (3) Airport District.
- (4) Shoreland Management District.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 2. - FLOODPLAIN MANAGEMENT DISTRICTS

FOOTNOTE(S):

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Editor's note—Ord. No. 2012-03, § 2, adopted March 27, 2012, repealed Art. 2 in its entirety and enacted a new Art. 2 to read as set out herein. Former Art. 2, §§ 13-50—13-250, pertained to similar subject matter and derived from Ord. No. 99-20, § 1, adopted Nov. 23, 1999; Ord. No. 2007-23, § 1, adopted Jan. 8, 2008.

Sec. 13-50. - Purpose.

The floodplain management districts are established to promote the public health, safety, and general welfare, and to minimize those losses caused by the cumulative effect of obstruction in floodways causing increases in flood heights and velocities, and the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others which are inadequately elevated or otherwise protected from flood damages.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-60. - Statutory authorization.

The Legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-65. - National Flood Insurance compliance.

This section 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 the community's eligibility in the National Flood Insurance Program.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-70. - Findings of fact.

- (A) *Existence of potential hazards.* The flood hazard areas of the city are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (B) *Methods used to analyze flood hazards.* This section is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-80. - Lands to which these regulations apply.

The provisions of this section shall apply to all lands within the jurisdiction of the City of Faribault, Minnesota, shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-90. - Establishment of Official Zoning Map.

The Official Zoning Map, together with all materials attached thereto, is hereby adopted by reference and declared to be a part of this ordinance. The attached material shall include the Flood Insurance Study for Rice County, Minnesota, and Incorporated Areas and Flood Insurance Rate Map panels therein numbered 27131C0259D, 27131C0260D, 27131C0266D, 27131C0267D, 27131C0268D, 27131C0269D, 27131C0275D and 27131C0300D, all dated April 3, 2012, and the Letter of Map Revision (LOMR) for the City of Faribault identified

as Case Number 12-05-1808P with an issuance date of February 17, 2012, including all revised flood insurance rate map panels, flood profiles, tables and floodway data tables therein, are also incorporated herein and by reference. The Official Zoning Map shall be on file in the Office of the City Planner.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-100. - Regulatory flood protection elevation.

The regulatory flood protection elevation shall be an elevation no lower than one (1) foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from the designation of a floodway.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-105. - Interpretation and application.

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-110. - Interpretation of boundaries.

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 City Council shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-115. - Abrogation and greater restrictions.

It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-120. - Warning and disclaimer of liability.

This section 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 section shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-125. - Severability.

If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-127. - Annexations.

The Flood Insurance Rate Map panels adopted by reference into Section 13-90 above may include floodplain areas that lie outside of the corporate boundaries of the City of Faribault at the time of adoption of this Ordinance. If any of these floodplain land areas are annexed into the City of Faribault after the date of adoption of this Ordinance, the newly annexed floodplain lands shall be subject to the provisions of this Ordinance immediately upon the date of annexation into the City of Faribault.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-130. - Floodplain Management Districts.

(A) *Established.* The following districts are designated for the purpose of regulating land use within the regulatory floodplain:

- (1) *Floodway District.* The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 13-90
- (2) *Flood Fringe District.* The Flood Fringe District shall include those areas designated as Zone AE and located outside of the floodway on the Flood Insurance Rate Map adopted in Section 13-90
- (3) *General Floodplain District.* The General Floodplain District shall include those areas designated as Zone A and Zone AE (without a floodway designated) on the Flood Insurance Rate Map adopted in Section 13-90, which are not subject to criteria in [Subsection] 13-130[(A)](1) or 13-130[(A)](2) above.

(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 Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway, Flood Fringe and General Floodplain Districts, all uses not listed as permitted uses or conditional uses in Sections 13-140, 13-150, 13-160, and 13-165 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 recreational vehicles are subject to the general provisions of this Ordinance and specifically Section 13-190
- (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 Ordinance and specifically Section 13-230
- (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 Ordinance and specifically as stated in Section 13-200 of this Ordinance.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-140. - Principal uses for the Floodplain Management Districts.

- (A) *In general.* All permitted and conditional uses allowed in the Floodway District are listed in Table 13-1. Permitted uses in the Flood Fringe District shall be those uses of land or structures listed as permitted uses in the underlying zoning use district, as listed elsewhere in this ordinance. Any structure within the Flood Fringe District that is not elevated on fill or floodproofed in accordance with Section 13-160(B)(1) or (2) or any use of land that does to comply with the standards identified elsewhere in this section in Section 13.160(B)(3) or (4) shall only be allowable as a conditional use, in accordance with the procedures specified in Chapter 2, Administration and Enforcement and Section 13-220.
- (B) *Permitted uses.* Uses specified with a "P" are permitted in the district or districts where designated, provided that the use complies with all other applicable provisions of this ordinance. Persons wishing to establish a permitted use shall obtain a zoning certificate for such use as specified in Sections 2-190 through 2-250. A request for a zoning certificate shall be accompanied by plans drawn to scale showing the nature, location, dimensions, and elevations of the lot, existing or proposed structures, fill, or storage of material, and location in relation to the stream channel.
- (C) *Conditional uses.* Uses specified with a "C" are allowed as a conditional use in the district or districts where designated, provided that the use complies with all other applicable provisions of this ordinance. Persons wishing to establish or expand a conditional use shall obtain a conditional use permit for such use as specified in Sections 2-260 through 2-340 and Section 13-220. A request for a conditional use permit shall be accompanied by plans drawn to scale showing the nature, location, dimensions, and elevations of the lot, existing or proposed structures, fill, or storage of material, and location in relation to the stream channel.
- (D) *Prohibited uses.* Any use not listed as either "P" (permitted) or "C" (conditional) in a particular district or any use not determined by the City Planner to be substantially similar to a use listed as permitted or conditional shall be prohibited in that district. Such determination shall be made in the manner provided for in Section 2-50 governing determination of substantially similar uses.
- (E) *Specific standards.* Permitted and conditional uses specified with an "x" under the Specific Standards column shall be subject to the standards identified elsewhere in this section.

Table 13-1. Principal uses in Floodway District.

Use		Specific standards
Agricultural Uses		
General farming	P	
Nurseries, forestry, sod farming	P	

Residential Uses

Lawns and gardens	P	
Parking areas	P	
Play areas	P	
Recreational vehicle park	C	X

Commercial/Industrial Uses

Accessory structures	C	X
Airport landing strips	P	X
Loading and parking areas	P	
Marina	C	
Storage yards	C	X

Public Uses

Boat landing area	P	
Fish hatchery	P	
Golf course	P	X

Outdoor recreational area	P	X
Parks and picnic areas	P	
Recreational trails	P	
Wildlife and nature preserves	P	
Railroads	C	Per <u>13-180</u>
Streets and bridges	C	Per <u>13-180</u>
Other Uses		
Essential services	C	X
Flood control structures	C	X
Placement of fill	C	X
Fences that obstruct flood flows	C	

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-150. - Floodway District development standards.

- (A) *Standards for permitted uses.* The following standards apply to all permitted uses within the Floodway District:
- (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.
- (B) *Standards for conditional uses.* The following standards apply to conditional uses within the Floodway District:
- (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 damage in the reach or reaches affected. The conditional use must also be permissible in the underlying zoning district.
 - (2) *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 methods.
 - (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, 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 title registered with the property in the office of the County Recorder.
 - (3) *Accessory structures.* Permissible as a conditional use for those uses listed in Table 13-1.
 - (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 the floodwaters.
 - (i) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow.
 - (ii) 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:

- (i) 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;
- (ii) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed; and
- (iii) 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 (1) 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 (1) foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(4) *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.

(5) *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.

- (6) 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 the stream.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-160. - Flood Fringe District development standards.

(A) *Standards for all uses.* The following standards apply to all uses within the Flood Fringe District:

- (1) *All uses.* All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation. If a variance to this requirement is granted, the City Council 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 an elevation 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 duration. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 13-160(A)(2) immediately above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.

- (4) *Fill.* 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) *Hydraulic capacity.* 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) *Recreational vehicles.* Standards for recreational vehicles are contained in Section 13-190
 - (7) *Manufactured homes.* 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.
- (B) *Standards for flood fringe permitted uses.* Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). The following standards apply to all permitted uses within the Flood Fringe District:
- (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 (1) foot below the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.
 - (2) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed five hundred (500) square feet for the outside dimension at ground level may be internally floodproofed in accordance with Section 13-150(B)(3)(c).
 - (3) The cumulative placement of fill in excess of one thousand (1,000) cubic yards shall be allowed only as a conditional use, except when said fill is intended specifically to elevate a structure in accordance with Section 13-160(B)(1).
 - (4) The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.
 - (5) The provisions of Section 13-160(A) of this ordinance shall apply.
- (C) *Standards for flood fringe conditional uses.* The following standards apply to all conditional uses within the Flood Fringe District:
- (1)

Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, or above-grade, enclosed areas such as crawl spaces or tuck-under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if the enclosed area is above-grade on at least one side of the structure, is designed to internally flood and is constructed with flood-resistant materials, and 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) *Plan requirements.* 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:
 - (i) 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 (1) foot above grade. The automatic openings shall have a minimum net area of not less than one (1) 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 they permit the automatic entry and exit of floodwaters without any form of human intervention.
 - (ii) 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) *Basement requirements.* Basements shall be subject to the following standards:
 - (a) Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.
 - (b) Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry floodproofed in accordance with Section 13-160(C)(1) (d), immediately below.
- (3) *Floodproofing standards.* All areas of non-residential 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 and 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 control plans required.* 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. 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. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- (5) *Storage of material and equipment.* The storage of processing or materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited. 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) The provisions of Section 13-160(A) of this ordinance shall also apply.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-165. - General Floodplain District.

- (A) *Permitted uses.* The uses listed in Section 13-140 as permitted uses shall be permitted uses.
- (B) All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Section 13-165(C) below. Section 13-150 shall apply if the proposed use is in the Floodway District and Section 13-160 shall apply if the proposed use is in the Flood Fringe District.
- (C) *Procedures for floodway and flood fringe determinations within the General Floodplain District.* 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.
 - (1) 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.
 - (2) Plan (surface view) 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.
 - (3) Photographs showing existing land uses, vegetation upstream and downstream, and soil types.
 - (4) Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred (500) feet in either direction from the proposed development.
- (D) 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 Regulations 1983, 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:

- (1) Estimate the peak discharge of the regional flood.
 - (2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - (3) 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 .5 feet 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.
- (E) The City Planner 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 Section[s] 13-150 and 13-160 of this Ordinance.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-170. - 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 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 ordinance and have road access both to the subdivision and to the individual building sites no lower than two (2) feet below the Regulatory Flood Protection Elevation. For all subdivisions in the floodplain, the floodway and flood fringe 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 Section 13-165(C) of this Ordinance 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 the site preparation if a change of special flood hazard area designation will be requested.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-180. - Public utilities, railroads, roads, and bridges.

All public utility, railroad, road, and bridge structures and uses shall comply with the following standards:

- (1) *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.
- (2) *Public transportation facilities.* Railroad tracks, roads, and bridges to be located within the floodplain shall comply with Sections 13-150 and 13-160 of this Ordinance. 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.
- (3) *On-site sewage treatment and water supply systems.* Where public utilities are not provided the following requirements shall apply:
 - (a) On-site water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the systems.
 - (b) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of floodwaters into 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. No. 2012-03, § 2, 3-27-12)

Sec. 13-190. - Manufactured homes and manufactured home parks and placement of recreational trailers and vehicles.

New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions in Section 13-170 and as follows:

- (1) 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 13-160. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 13-160(A)(1), then replacement manufactured homes will not be allowed until the property owner develops a flood warning emergency plan acceptable to the City Council. 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.
- (2)

Recreational vehicles that do not meet the exemption criteria specified in Section 13-190(2)(a) below shall be subject to the provisions of this Ordinance and as specifically spelled out in Sections 13-190(3) and 13-190(4) below.

- (a) Exemption recreational vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Section 13-190(2)(b) below and further they meet the following criteria:
 - (i) Have current licenses required for highway use.
 - (ii) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect-type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural-type additions attached to it.
 - (ii) The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.
- (b) Areas exempt for placement of recreational trailers/vehicles are as follows:
 - (i) Individual lots or parcels of record;
 - (ii) Existing commercial recreational vehicle parks or campgrounds;
 - (iii) Existing condominium-type associations.
- (3) Recreational vehicles exempted in Section 13-190(A) lose this 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 13-150 and 13-160 of this Ordinance. 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 commercial recreational trailer/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 Section 13-160(A)(1) of this Ordinance. 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 (a) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of [Section] 13-220 of the Ordinance. 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 Section[s] 13-190(2)(a)(1) and (2) of this Ordinance 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 Section 13-180(3) of this Ordinance.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-200. - Administration.

- (A) *Zoning Administrator.* A Zoning Administrator or other official designated by the City Council shall administer and enforce this Ordinance. If the Zoning Administrator finds a violation of the provisions of this Ordinance the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section 13-240 of the Ordinance.
- (B) *Permit requirements.*
- (1) *Permit required.* A permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance 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 Ordinance.
 - (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 Ordinance, and punishable as provided by Section 13-240 of this Ordinance.
 - (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 Ordinance. 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 community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, 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.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-210. - Variances and appeals.

- (A) *In general.* A variance or appeal may be requested, according to the procedures specified in Sections 2-420 through 2-480, for specific cases where such relief or variance from the terms of this section will not be contrary to the public interest and only for those circumstances unique to the property under consideration.
- (B) *Standards for variance or appeal.* The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Ordinance, any other zoning regulations in the Community, and in the respective enabling legislation 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:
 - (1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - (2) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (3)

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

- (C) *Public hearings.* Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board of Adjustment shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten (10) days' notice of the hearing.
- (D) *Notice of decisions.* A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action. Additionally, the City Planner 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.
- (E) *Flood insurance notice and record keeping.* The City Planner shall notify the applicant for a variance that the issuance of a variance to construct a structure below the base flood level will result in increase premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) to one hundred dollars (\$100.00) and that 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.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-220. - Conditional uses.

- (A) *In general.* All requests for a conditional use permit within the floodplain management districts shall follow procedures as specified in Sections 2-260 through 2-340
 - (1) Copies of all notices of any public hearings to consider a conditional use permit, must be sent to the Commissioner, or the Commissioner's designated representative and postmarked at least ten (10) days before the hearings.
- (B) *Application procedures.* In addition to the information required within Section 4-30(B), an applicant for a conditional use permit within a floodplain management districts shall supply plans, drawn to scale, indicating the following:
 - (1) 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.
 - (2) Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply, and sanitary facilities.
- (C) *Plan referral.* The City Planner shall transmit one (1) copy of the information described in Section 13-220(B) 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, planning and zoning staff shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

- (D) *Requirements for approval.* In reviewing conditional use applications, the City Council shall consider all relevant factors specified in other subdivisions of this section and the following:
- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - (2) The danger that material may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
 - (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (5) The importance of the services provided by the proposed facility to the community.
 - (6) The requirements of the facility for a waterfront location.
 - (7) The availability of alternative locations not subject to flooding for the proposed use.
 - (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 - (10) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
 - (12) Such other factors which are relevant to the purposes of this ordinance.
- (E) Conditions attached to conditional use permits. Upon consideration of the factors listed in Section 13-220(D) and the purposes of this section, the City Council shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this section. Such conditions may include, but are not limited to, the following:
- (1) Modification of waste treatment and water supply facilities.
 - (2) Limitations on period of use, occupancy, and operation.
 - (3) Imposition of operational controls, sureties, and deed restrictions.
 - (4) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
 - (5) Floodproofing measures, in accordance with the State Building Code and this section. 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.
- (F) *Decisions.* A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-230. - Non-conforming uses.

A structure or the use of a structure or premises which was lawfully established before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:

- (1) No such use shall be expanded, changed, enlarged, or altered in a way which increases its non-conformity.
- (2) Any structural alteration or addition to a non-conforming structure or non-conforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 through FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted below.
- (3) The cost of any structural alterations or additions to any non-conforming 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 constructed since the adoption of the community's initial floodplain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceed fifty percent (50%) of the current market value of the structure, then the structure must meet the standards for new structures depending upon whether the structure is in the floodway or flood fringe, respectively.
- (4) If any non-conforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this section.
- (5) If any non-conforming use or structure is destroyed by any means, including floods, to an extent of fifty percent (50%) or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this section. The applicable provisions for establishing new uses or new structures will apply depending upon whether the use or structure is in the floodway and flood fringe.
- (6) If a substantial improvement occurs, as defined in Section 1-120 of this Ordinance, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Section 13-150 or 13-160 of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-240. - Violations.

- (A) In general. Violation of the provisions of this section or failure to comply with any of its requirements shall constitute a misdemeanor and shall be punishable as defined in Section 2-630
- (B) Other lawful action. 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 community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

- (2) When an ordinance violation is either discovered by or brought to the attention of planning and zoning staff, such staff shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the Minnesota Department of Natural Resources and to the Federal Emergency Management Agency Regional Office along with the community'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 section 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 planning and zoning staff may order the construction or development immediately halted until a proper permit or approval is granted by the community. If the construction or development is already completed, the Zoning Administrator may either issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls or notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 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 section 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 section and shall be prosecuted accordingly.

(Ord. No. 2012-03, § 2, 3-27-12)

Sec. 13-250. - Amendments.

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. The Commissioner of Natural Resources may permit special exceptions to this rule if he or she determines that, through other measures, lands are adequately protected for the intended use. All amendments to this section, 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 section and said notice shall include a draft of the ordinance amendment or technical study under consideration.

(Ord. No. 2012-03, § 2, 3-27-12)

ARTICLE 3. - HERITAGE PRESERVATION DISTRICT

Sec. 13-260. - Purpose.

The Heritage Preservation District is established to promote the educational, cultural, economic, and general welfare of the public through the protection, enhancement, and perpetuation of properties of historic, architectural, and cultural significance.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 13-270. - Application of district provisions.

The provisions of this section shall apply to those properties identified on the Heritage Preservation District map, incorporated herein by reference. Such designation shall in no way affect the established allowable uses and requirements set forth elsewhere in this ordinance for the underlying zoning district.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 13-280. - Heritage Preservation Commission.

The Heritage Preservation Commission, as established in Chapter 30, City Code of Ordinances, shall have such powers and duties as shall be provided in this section with respect to the establishment and regulation of properties within the Heritage Preservation District.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2010-02, § 2, 5-25-10)

Sec. 13-290. - Procedure for designation into district.

- (A) *In general.* A request for designation of a property or properties into the Heritage Preservation District may be initiated by the Heritage Preservation Commission or by an individual property owner. Such request shall be processed according to the provisions of Sections 2-150 through 2-180 relating to zoning amendments, except that the Heritage Preservation Commission shall first review and submit a report on the request to the Planning Commission.
- (B) *Report by Heritage Preservation Commission.* Prior to submitting a recommendation to the Planning Commission and City Council regarding the designation of a property, the Heritage Preservation Commission shall prepare a report consisting of the following information:
- (1) A physical description of the property or properties to be designated.
 - (2) A statement of the historical, cultural, architectural, and aesthetic significance of the property or properties.
 - (3) A map showing existing district boundaries.
 - (4) A statement justifying the designation of the property or properties into the district.
 - (5) Representative photographs.
- (C) *Criteria for designation.* The Heritage Preservation Commission and Planning Commission shall make findings with respect to the following criteria and submit the same together with its recommendations to the City Council:
- (1)

Whether the property has significant character, interest, or value as part of the development, heritage, or cultural characteristics of the city, state, or nation, or is associated with the life of a person significant in the past.

- (2) Whether the property is the site of an historic event with a significant lasting effect upon society.
- (3) Whether the property exemplifies the cultural, political, economic, social, or historic heritage of the community.
- (4) Whether the property portrays the environment in an era of history characterized by a distinctive architectural style.
- (5) Whether the property embodies those distinguishing characteristics of an architectural type or engineering specimen.
- (6) Whether the property is part of, adjacent to, or related to an existing or proposed historic district, square, park, or other distinctive area that should be redeveloped or preserved according to a plan based on the existing historic, cultural, or architectural motif.
- (7) Owing to its unique location or singular physical characteristics, the property represents an established and familiar visual feature of the neighborhood or city.
- (8) The property has yielded, or may be likely to yield, information important in prehistory or history.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 13-300. - Action by the City Council on zoning amendments.

The City Council shall make the final decision regarding all requests for designation into the Heritage Preservation District. Amendment of this ordinance and the overlay district boundary shall require a two-thirds (2/3) vote of the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 13-310. - Notice of designation.

Within ten (10) days following the adoption of the ordinance designating a property or properties to be within the Heritage Preservation District, the owners and occupants of each designated historic property shall be given written notification of such designation. Such notice shall further apprise such owners and occupants of the necessity of obtaining a certificate of appropriateness prior to undertaking any material change in appearance of the designated historic property.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 13-320. - Rescission of designation.

Any request to have a historic designation rescinded shall be processed in accordance with the procedures and standards established for designation.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 13-330. - Certificate of appropriateness.

- (A) *In general.* After the designation of a property into the Heritage Preservation District, no work requiring a building permit may be authorized on such property until a certificate of appropriateness has been granted by the Heritage Preservation Commission.

- (B) *Building permit required.* A building permit shall be required prior to the commencement of any of the following to a building or land located within the Heritage Preservation District:
- (1) Remodeling, repair, or alteration that would change in any manner the exterior appearance of a building, not including painting.
 - (2) Moving of a building into or out of the district.
 - (3) Construction of a new building or addition to any existing structure.
 - (4) Construction of new walks, fences, parking facilities, and other features when adjacent to or within view of a public right-of-way.
- (C) *Certificate of appropriateness required.* A certificate of appropriateness, but not a building permit, shall be required prior to commencement of any of the following to a building located within the Heritage Preservation District: the painting or staining of unpainted exterior brick or stone.
- (D) *Exemptions.* A building permit and certificate of appropriateness shall not be required for the following activities:
- (1) Ordinary maintenance or repair of any exterior architectural feature to correct deterioration, decay, or damage, or to sustain the existing form, and that does not involve a material change in design, material, or outer appearance of the structure,
 - (2) Change in paint color.
 - (3) Work conducted entirely within the interior of the building and which has no effect on exterior architectural features.
 - (4) Any physical improvements within and adjacent to public rights-of-way, provided that the Heritage Preservation Commission is notified and given an opportunity to comment on any improvements being ordered by the City Council.
- (E) *Review procedures.* Whenever the Building Official receives a building permit for work to be completed within the Heritage Preservation District, such application will be immediately forwarded to the Community Development Director. The item will be placed on the agenda of the next Heritage Preservation Commission meeting for review and issuance of a certificate of appropriateness, if appropriate. The Community Development Director shall submit a recommendation along with any pertinent information regarding the application, including any drawings, photographs, plans, or other documentation as may be required by the Heritage Preservation Commission.
- (F) *Required time period for review.* Within thirty (30) days from the time a building permit application is received, the Heritage Preservation Commission shall schedule a meeting to review the Building Official's report and recommendation and issue the certificate of appropriateness. In the event that a decision is not made within thirty (30) days after receipt of the building permit application, the Heritage Preservation Commission shall be deemed to have approved the issuance of a building permit.
- (G) *Building permit issuance.* The Building Official shall issue a permit only upon receipt of an approved certificate of appropriateness from the Heritage Preservation Commission or in the event that no notice is received from said Commission denying the permit within the thirty-day period described above. A certificate of appropriateness, when issued, shall become an integral part of the building permit. In the event that a permit is denied, the Building Official shall make available to the applicant a copy of the staff report and the findings of the Heritage Preservation Commission, including a list of the reasons why the

application was denied. The Commission may suggest alternative courses of action it thinks proper if it disapproves of the application submitted. The applicant, if so desired, may make modifications to the plans and may resubmit the application at any time after doing so.

- (H) *Guidelines and criteria for certificate of appropriateness.* When considering an application for a certificate of appropriateness for existing buildings, the Heritage Preservation Commission shall be guided by the "Secretary of the Interior's Standards for the Treatment of Historic Properties", the "Secretary of the Interior's Standards for Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings", and the City of Faribault's "Downtown Design Guidelines", each adopted herein by reference. It shall be the responsibility of the applicant to demonstrate compliance with the standards of the above referenced documents.
- (I) *Variances.* When the strict application of any provision of this section would impose practical difficulties to the owner of a property in the use of his or her land because of unique circumstances related to the individual property, the Heritage Preservation Commission shall have the power to vary or modify strict adherence to such provisions, or to interpret the meaning of such provisions, so as to relieve the difficulty, provided such variances, modifications, or interpretations shall remain in harmony with the general purpose and intent of such provisions, so that the architectural or historical integrity, or character of the property and the neighborhood, shall be conserved and substantial justice done. "Unique circumstances" are situations which do not apply to other properties in the same zone or vicinity and result from circumstances over which the owner of the property has had no control. Unique circumstances do not result from the actions of the applicant. Economic conditions alone do not constitute practical difficulties. In granting variances, the Commission may impose such reasonable and additional stipulations and conditions as may be necessary to comply with the standards established by the City's ordinances or to reduce or minimize the effect of such variance upon other properties in the neighborhood and to better carry out the intent of the variance. The conditions must be directly related to and must bear a rough proportionality to the impact created by the variance. In no case, however, shall practical difficulties be based on a situation of the applicant's own making.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2010-16, § 1, 11-9-10; Ord. No. 2011-17, § 4, 10-25-11)

Sec. 13-340. - Expiration of approved certificates.

If substantial development or construction has not taken place within one (1) year of the date of approval of a certificate of appropriateness, such certificate shall be considered void unless a petition for a time extension has been granted by the Heritage Preservation Commission. Such extension request shall be submitted in writing at least thirty (30) days prior to expiration and shall state facts showing a good faith effort to complete work permitted under the original approval.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 13-350. - Inspections.

After a certificate of appropriateness has been issued, and a building permit has been granted to commence work, the Community Development Director, Building Official, or their designee, may from time to time inspect the work authorized and take any action necessary to ensure compliance with the approved plans.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 13-360. - Appeals.

Any person adversely affected by any determination made by the Heritage Preservation Commission relative to the issuance or denial of a certificate of appropriateness may appeal such determination to the City Council. Any such appeal must be filed within fifteen (15) days after the issuance of the determination.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 4. - AIRPORT DISTRICT

FOOTNOTE(S):

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Editor's note—Ord. No. 2005-10, § 1, adopted June 28, 2005, repealed the former Art. 4, §§ 13-370—13-490, and enacted a new Art. 4 as set out herein. The former Art. 4 pertained to similar subject matter and derived from Ord. No. 99-20, § 1, adopted Nov. 23, 1999.

Sec. 13-370. - Purpose.

This provisions of this section [article] have been created and established under the authorization of the Faribault-Rice County Joint Airport Zoning Board to facilitate the public safety and welfare of airport users, nearby property owners, and the general public.

(Ord. No. 2005-10, § 1(1-100), 6-28-05)

Sec. 13-380. - Findings of fact.

- (1) A non-compatible use in the vicinity of the airport or the establishment of an airport hazard may endanger the lives and property of users of the Faribault Municipal Airport, and the property or occupants of land in its vicinity, and, in effect, reduces the size of area for landing, takeoff, and aerial navigation, thus tending to destroy or impair the utility of the Faribault Municipal Airport and the public investments therein.
- (2) The creation or establishment of a non-compatible use, or an airport hazard is a public nuisance and an injury to the region served by the Faribault Municipal Airport.
- (3) For the protection of the public health, safety, order, convenience, prosperity, and general welfare, and for the promotion of the most appropriate use of the land, it is necessary to prevent the creation or establishment of non-compatible uses, and airport hazards.
- (4) The prevention of non-compatible uses and airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.
- (5) The prevention of the creation or establishment of non-compatible uses or airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting thereof, are public purposes for which political subdivisions may raise and expend public funds.

(Ord. No. 2005-10, § 1(1-110), 6-28-05)

Sec. 13-390. - Definitions.

1. AERIAL NAVIGATION - The movement of an aircraft through the air.
2. AIRCRAFT - Any human controlled contrivance used or designed for carrying humans in flight through the air, but not including non-powered parachutes.
3. AIRPORT - Faribault Municipal Airport located in the City of Faribault, Rice County, Minnesota.
4. AIRPORT ELEVATION - The official airport elevation as is depicted on the approved Airport Layout Plan, or 1,061 MSL.
5. AIRPORT HAZARD - Any structure or tree or use of land which would exceed the Federal obstruction standards as contained in 14 CFR FAR, Part 77, and which obstructs or is otherwise hazardous to the landing or departure of any aircraft at the airport, or hazardous to persons or property on the ground. Any structure or tree that the Federal Aviation Administration has found, or determined, to be a hazard.
6. AIRPORT HAZARD AREA - Any area of land or water upon which an airport hazard might be established if not prevented as provided by this ordinance [article].
7. BUILDING OFFICIAL - The building official of the City of Faribault or his or her authorized representative.
8. CITY - The City of Faribault.
9. COUNTY - The County of Rice.
10. FEDERAL AVIATION ADMINISTRATION (FAA) - An agency of the United States Government that administers the Federal regulations that relate to the use and flight of aircraft, and related regulations.
11. GOVERNING AUTHORITY - The governing authority shall be the unit of government that has jurisdiction over the land to which this ordinance [article] applies.
12. INNER EDGE - That edge of any zone that is closest to the runway end to which the zone applies. The inner edge is perpendicular to the runway centerline.
13. MSL - Mean sea level, or commonly, above mean sea level when referring to airport related elevations.
14. MNDOT - Minnesota Department of Transportation, Division of Aeronautics, an agency of the State of Minnesota Government that administers the State regulations that relate to the use and flight of aircraft, and related regulations.
15. NOTICE OF PROPOSED CONSTRUCTION OR ALTERATION - A requirement of 14 CFR FAR Part 77, providing for persons who propose any kind of construction or alteration of the type described in the section to provide notice to the FAA of such action.
16. NON-COMPATIBLE USE - Any activity that would degrade the safety of people on the ground, or occupants of aircraft in flight, including, but not limited to, storage of hazardous materials, above ground storage of flammable liquids in excess of six hundred sixty (660) gallons, and those that lead to an assembly of people, including, but not limited to, residences, theaters, churches, schools, athletic fields with provision for spectators, camp grounds, hospitals, office buildings, shopping centers, hotels and motels, and other uses with similar concentrations of persons.
17. NON-CONFORMING STRUCTURE - A structure, or portion thereof, legally existing on the effective date of this ordinance [article], that is located within or underlying any of the zones created by this ordinance [article] and that does not comply with one (1) or more of the regulations applicable in the airport zoning district.
18. OBSTRUCTION TO AERIAL NAVIGATION - Any structure or tree, the height of which exceeds that which is allowed by this ordinance [article].

19. PERSON - Any person, partnership, firm, company, corporation, tenant, owner, lessee or licensee, agent, heir, or assign.
20. RUNWAY - Any designated area or areas used for the landing, takeoff, and maneuvering of aircraft.
21. RUNWAY THRESHOLD - A designated point on any airport runway that establishes the end of the runway. The Runway Threshold may or may not correspond with the end of the paved portion of the runway.
22. STRUCTURE - Anything constructed or erected with a more or less fixed location on the ground or in or over a body of water. A structure shall include, but not be limited to, buildings, fences, walls, signs, canopies, decks, antennae, piers, docks, trees, towers, smokestacks, scaffolds, lighting fixtures, public and private roads, railways, and overhead transmission lines, including poles or other structures supporting the same.
23. TREE - Any object of natural growth that is, or which is expected to obtain in its natural lifetime, a height in excess of twenty (20) feet.

(Ord. No. 2005-10, § 1(1-120), 6-28-05)

Sec. 13-400. - Lands to which these regulations apply.

The provisions of this section shall apply to all lands described herein, or shown on the Airport Overlay Map, adopted herein by reference.

(Ord. No. 2005-10, § 1(1-130), 6-28-05)

Sec. 13-410. - Airport surfaces.

In order to carry out the purpose of these regulations, the zones identified below are hereby established. Except as otherwise provided in this section, and except as necessary and incidental to airport operations, no person shall construct, alter, or maintain any structure, permanent or temporary in any zone created herein, so as to project above any of the imaginary surfaces created herein, or which otherwise is an airport hazard as defined herein. No tree shall be planted or maintained that penetrates any of the imaginary surfaces created herein, or which, during its normal life shall grow to a height that penetrates any imaginary surface created herein, or which otherwise shall be or become an airport hazard as defined herein. No Airport Hazard shall be constructed, altered, or maintained in any surface created herein. Where an area is covered by more than one (1) height limitation, the more restrictive limitation shall prevail.

(1) *Approach surface.* All that land which lies directly under, and the airspace above, an imaginary surface extending outward and upward at each end of each runway. The approach surface at the airport are as follows:

- a. *For Runway 12/30:* Beginning two hundred (200) feet beyond the threshold at each end of the runway, extending outward, and centered on the extended centerline of the runway, the inner edge of the zone is five hundred (500) feet wide, expanding uniformly to an outer edge width of three thousand five hundred (3,500) feet. The elevation of the inner edge is the same as the altitude of the runway threshold at the centerline. For each forty (40) feet of horizontal distance, the floor of the surface rises from the inner edge one (1) foot (40:1), for a total horizontal distance of ten thousand (10,000) feet.

b.

For Runway 1/19: Beginning at the threshold at each end of the runway, extending outward, and centered on the extended centerline of the runway, the inner edge of the surface is two hundred fifty (250) feet wide, expanding uniformly to an outer edge width of one thousand two hundred fifty (1,250) feet. The elevation of the inner edge is the same as the elevation of the runway threshold at the centerline. For each forty (40) feet of horizontal distance, the floor of the zone rises from the inner edge one (1) foot (20:1), for a total horizontal distance of five thousand (5,000) feet.

- (2) *Horizontal surface.* All that land which lies directly under, and the airspace above, an imaginary horizontal surface one hundred fifty (150) feet above the established airport elevation, or at a height of one thousand one hundred sixty-one (1,161) feet MSL, the perimeter of which is constructed by swinging an arc of ten thousand (10,000) feet from the center of each inner edge of the approach zones of Runway 12/30, and six thousand (6,000) feet from the center of each inner edge of the approach zones of Runway 1/19, and connecting the adjacent arcs by lines tangent to those arcs.
- (3) *Conical zone.* All that land which lies directly under, and the airspace above, an imaginary surface extending upward and outward from the periphery of the horizontal zone. For each twenty (20) feet horizontally, the surface rises one (1) foot in height (20:1) for a horizontal distance of four thousand (4,000) feet, as measured outward from the periphery of the horizontal zone.
- (4) *Transitional zone.*

For Runway 12/30: All that land which lies directly under, and the airspace above, an imaginary surface extending from each side of each runway, beginning at a point two hundred fifty (250) feet from the center line of the runway and at right angles to the runway center line, and from each side of the Approach Zone at each end of each runway, at right angles to the extended runway center line. For each seven (7) feet horizontally the floor of the zone rises at the rate of one (1) foot of elevation (7:1). The transitional zone ends at the point where it intersects the horizontal zone.

For Runway 1/19: All that land which lies directly under, and the airspace above, an imaginary surface extending from each side of each runway, beginning at a point one hundred twenty-five (125) feet from the center line of the runway and at right angles to the runway center line, and from each side of the Approach Zone at each end of each runway, at right angles to the extended runway center line. For each seven (7) feet horizontally the floor of the zone rises at the rate of one (1) foot of elevation (7:1). The transitional zone ends at the point where it intersects the horizontal zone.

(Ord. No. 2005-10, § 1(1-140), 6-28-05)

Sec. 13-420. - Land use safety zones.

In order to carry out the purpose of this section and in order to restrict those uses which may be hazardous to the operational safety of aircraft operating to or from the airport, to persons on the ground in the vicinity of the airport, and furthermore to limit population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property in case of accident, the following land use safety zones are created and established:

- (1)

Safety Zone A. All land in that portion of the approach zones of a runway, as defined in section 1-140, which extends outward from the inner edge of the approach zone at each end of each runway, for a distance equal to two-thirds (2/3) of the planned length of the runway as defined below:

- a. *Runway 12/30:* Safety Zone A shall extend outward from each end of the runway for three thousand ninety-one (3,091) feet, but shall exclude that portion lying southeasterly of Interstate Highway 35.
 - b. *Runway 1/19:* Safety Zone A shall extend outward from each end of the runway for a distance of one thousand five hundred thirty-three (1,533) feet.
- (2) *Safety Zone B.* All that land in that portion of the approach zones of a runway, as defined in section 13-400, which extends outward from each Safety Zone A at each end of each runway, for a distance equal to one-third (1/3) of the planned length of the runway, as defined below:
- a. *Runway 12/30:* Safety Zone B shall extend outward from the end of each Safety Zone A for an additional one thousand five hundred forty-six (1,546) feet, but shall exclude that portion lying southeasterly of Interstate Highway 35.
 - b. *Runway 1/19:* Safety Zone B shall extend outward from the end of each Safety Zone A for an additional seven hundred sixty-seven (767) feet.
- (3) *Safety Zone C.* All that land which is enclosed within the outer perimeter of the conical zone, as defined in section 1-140, and which is not included in Safety Zone A or Safety Zone B.

(Ord. No. 2005-10, § 1(1-150), 6-28-05)

Sec. 13-430. - Land use restrictions.

- (A) *In general.* Notwithstanding any other provision of this ordinance [article], no person shall, in any zone created by this ordinance [article], or upon any land or water underlying such zones:
- (1) Establish any putrescible waste landfill.
 - (2) Create, alter, or maintain any structure or use in such a manner as to create electrical or radio interference with aviation navigational signals or aircraft communications.
 - (3) Install, align or use any permanent or temporary lighting devices that make it difficult for pilots to distinguish between airport lights and others, create glare in the eyes of pilots, or otherwise impair visibility.
 - (4) Produce steam, smoke, or other visual hazard that would impair visibility.
 - (5) Establish or maintain any private roadway in any location that would result in penetration of any zone created herein by any portion of any vehicle that shall be permitted to operate upon such roadway.
 - (6) Within five thousand (5,000) feet of the nearest point of the nearest airport runway, establish or maintain any structure or use that would create a bird strike hazard.
- (B) *Safety Zone A.* In addition to height restrictions established elsewhere in this section, areas designated within Safety Zone A shall contain no non-compatible uses. Permitted uses may include, but are not limited to: corn; low growth agriculture or horticulture, excluding storage of large baled products; animal husbandry; raising of livestock; non-spectator outdoor recreation; cemeteries; and vehicle parking.
- (C) *Safety Zone B.* Permitted uses of land in areas designated within Safety Zone B shall be as follows, subject to the height restrictions established elsewhere in this section:

- (1) Agricultural and residential uses, provided that there shall not be more than one (1) single-family dwelling per three-acre tract of land.
- (2) Any commercial or industrial use provided that the site exceeds three (3) acres in size, does not contain more than one (1) building per every three (3) acres, and which use does not create, attract, or bring together a site population that would exceed fifteen (15) times that of the site acreage. The maximum ground area to be covered by a single commercial or industrial building shall meet the following standards:

Lot size	Ratio	Ground floor building area	Maximum site population
3—3.99 acres	12:1	10,900 square feet	45 persons
4—5.99 acres	10:1	17,400 square feet	60 persons
6—9.99 acres	8:1	32,700 square feet	90 persons
10—19.99 acres	6:1	72,600 square feet	150 persons
More than 20 acres	4:1	218,000 square feet	300 persons

- (3) The following uses are specifically prohibited: Churches, hospitals, schools, theatres, stadiums, hotels, motels, mobile home or recreational vehicle parks, campgrounds, and other similar places of assembly of persons.
- (D) *Safety Zone C.* Areas designated within Safety Zone C are subject only to height restrictions as set forth in Section 13-410 and the general restrictions established in Section 13-430(A).
- (Ord. No. 2005-10, § 1(1-160), 6-28-05)

Sec. 13-440. - Non-conforming uses.

- (A) *In general.* The provisions of this section shall not be construed to require the discontinuance, removal, lowering, or other change or alteration of any use or structure not conforming to the requirements established herein and in existence prior to or on December 13, 1976.
- (B) *Abandonment or destruction.* Whenever a non-conforming structure or tree has been abandoned or more than fifty (50) percent torn down, physically deteriorated, or decayed, no permit shall be granted to allow such structure or tree to exceed the applicable height or land use requirements established elsewhere in this section. Whether application is made for a building permit, zoning certificate, or other license, the governing authority may order the owner of the abandoned or partially destroyed non-conforming structure, at his or her expense, to lower, remove, reconstruct, or equip the same in the manner necessary to comply with the requirements of this ordinance [article]. In the event that the owner of the

non-conforming structure will neglect or refuse to comply with such order within ten (10) days after receipt of the order, the governing authority shall be authorized to take appropriate legal action and to proceed with removal or alteration of the structure with expenses assessed to the property owner.

(Ord. No. 2005-10, § 1(1-170), 6-28-05)

Sec. 13-450. - Permits required.

- (A) *Future uses.* No material change shall be made in the use of land, no use shall be made of land which has previously been unused, and no structure shall be erected, altered, moved, or otherwise established in any of the zones described in Section 13-410, unless a building permit has first been applied for and granted according to the standard procedures of the governing authority.
- (B) *Existing uses.* Before any existing use or structure may be replaced, substantially altered, or repaired or rebuilt within any zone as established in Section 13-440, a building permit must be applied for and granted. No permit shall be issued which would allow the establishment or creation of an airport hazard or permit a non-conforming use or structure to be made higher, enlarged, intensified, or become a greater hazard to aerial navigation than it was on or before the effective date of this ordinance [article].
- (C) *Permits.* No person shall be issued a permit for any construction or alteration in any Safety Zone A or B, or any Transition zone, without a determination or finding from the FAA/Minnesota Department of Transportation, Division of Aeronautics (MNDOT), pursuant to the submission of an applicable Notice of Proposed Construction or Alteration. Such finding or determination must not find or determine that the proposed construction or alteration:
- (1) Would create a hazard.
 - (2) Would endanger the general safety, health and welfare of persons in the vicinity of the airport, or occupants of aircraft in flight.
 - (3) Would result in the raising of the minimum instrument flight altitude of any Federal Airway, approved off-airway route, or instrument approach procedure to the airport.
- (D) *Notice required.* Any person who proposes to construct or alter any structure in or underlying any Safety Zone A or B, or any Transition zone created herein, and who is required to provide Notice of Proposed Construction or Alteration to the Administrator of the FAA by requirements of 14 CFR FAR Part 77, shall furnish to the governing authority, a copy of said notice.
- (1) Except as otherwise provided herein, no permit shall be issued for any construction, alteration, or occupancy without first:
 - (a) Having received from the applicant, a copy of the applicable Notice of Proposed Construction or Alteration as provided to the FAA, and the corresponding finding or determination from the FAA that the proposed construction or alteration complies with the provisions of this ordinance [article].
 - (b) Having determined that the proposed use is consistent with the provisions contained herein.
- (E) *Exceptions.* No Notice of Proposed Construction or Alteration is required to be submitted to the FAA or to the governing authority for a building permit for construction or alteration of any structure when the governing authority has determined that:
- (1) The proposed structure is an antenna that is no greater than twenty (20) feet in height, and does not increase the height of an existing antenna structure.

- (2) The proposed structure is an airport, aerial navigation, or meteorological device, of a type approved by the FAA/MNDOT, the location and height of which is fixed by function.
- (3) No Notice of Proposed Construction or Alteration is required because the proposed structure does not lie within twenty thousand (20,000) feet of the nearest point of the nearest runway, or does not penetrate an imaginary surface, beginning at the nearest point of the nearest runway and at the elevation of the runway threshold, rising one (1) foot in elevation for each one hundred (100) feet of horizontal distance (100:1).
- (4) There exists an emergency, involving essential public services, public health, or public safety, that requires immediate construction or alteration, providing that the applicant complies with the requirements of 14 CFR FAR, Part 77.

(Ord. No. 2005-10, § 1(1-180), 6-28-05)

Sec. 13-460. - Board of Adjustment.

The Board of Adjustment is authorized to hear and decide appeals from any order, requirement, or determination in accordance with Section 13-480. Further, the Board of Adjustment shall hear and decide variances in accordance with Section 13-480. The Board of Adjustment for this ordinance [article] shall be the same as the Board of Adjustment for the governing authority.

(Ord. No. 2005-10, § 1(1-190), 6-28-05)

Sec. 13-470. - Appeals of decisions by administrative staff.

- (A) *Application procedure.* All findings and decisions of the Building Official, Planner, Zoning Administrator, or other official involved in the administration of this section shall be final subject to appeal to the Board of Adjustment. Any affected person may initiate such a request by filing an appeal with the Planner on an approved form. All appeals shall be filed within thirty (30) days of the date of the decision.
- (B) *Review by Airport Advisory Board.* The Airport Advisory Board shall be notified of, and have an opportunity to comment on, all appeals of decisions administrative staff. Such review shall be accomplished within thirty (30) days of the date of appeal.
- (C) *Review by Board of Adjustment.* The Board of Adjustment of the governing authority shall hold a public hearing on each complete application for appeal according to the standard procedures of the governing, and, after the close of the hearing, shall make findings regarding its decision.
- (D) *Action by the Board of Adjustment on appeals.* The Board of Adjustment shall make the final decision regarding all appeals requests. Approval shall require a majority vote of the Board of Adjustment.
- (E) *Expiration of appeal.* If substantial development or construction has not taken place within one (1) year of the date of approval of an appeal, such appeal shall be considered void unless a petition for a time extension has been granted by the Board of Adjustment. Such extension request shall be submitted in writing at least thirty (30) days prior to expiration of the appeal and shall state facts showing a good faith effort to complete work permitted under the original approval.

(Ord. No. 2005-10, § 1(1-200), 6-28-05)

Sec. 13-480. - Variances.

- (A) *Purpose.* Any person desiring to erect or increase the height of any structure, permit the growth of any tree, or use property in a manner not provided for in this ordinance [article], may apply to the Board of Adjustment for a variance to allow departure from the literal requirements of this ordinance [article]. Upon granting of a variance, the use must still substantially comply with the requirements of 14 CFR FAR Part 77.
- (B) *Application procedure.* Any person having a legal or equitable interest in a property may file an application for one (1) or more variances. An application for a variance shall be filed with the Planner according to the standard procedures of the governing authority.
- (C) *Review by Airport Advisory Board.* The Airport Advisory Board shall be notified of, and have an opportunity to comment on, all variance requests. Such review shall be accomplished within thirty (30) days of the date of appeal.
- (D) *Review by Board of Adjustment.* The Board of Adjustment of the governing authority shall hold a public hearing on each complete application for appeal according to the standard procedures of the governing authority, and after the close of the hearing, shall make findings regarding its decision.
- (E) *Action by the Board of Adjustment on variances.* The Board of Adjustment shall make the final decision regarding all variance requests. Approval shall require a majority vote of the Board of Adjustment.
- (F) *Expiration of variance.* If substantial development or construction has not taken place within one (1) year of the date of approval of a variance, such variance shall be considered void unless a petition for a time extension has been granted by the Board of Adjustment. Such extension request shall be submitted in writing at least thirty (30) days prior to expiration of the variance and shall state facts showing a good faith effort to complete work permitted under the original approval.

(Ord. No. 2005-10, § 1(1-210), 6-28-05)

Sec. 13-490. - Hazard marking and lighting.

- (A) Any building permit granted by the governing authority or variance granted by the Board of Adjustment may, if such action is deemed advisable to effectuate the purposes of this section and reasonable under the circumstances, include a condition requiring the property owner to, at their own expense, install, operate, and maintain markers and lights for the purpose of designating an airport obstruction.
- (B) Notwithstanding the above, any building permit granted by the governing authority, or variance granted by the Board of Adjustment shall be subject to the reservation of the right of the governing authority and the airport, at their own expense, to go onto applicant's property to install, operate, and maintain thereon such FAA/MNDOT approved markers and lights as may be necessary to indicate to operators of aircraft the existence of an airport obstruction.

(Ord. No. 2005-10, § 1(1-220), 6-28-05)

Sec. 13-495. - Violations.

Any violation of the provisions of this section shall be enforced as follows:

- (A) *Complaints regarding violations.* The Planner shall have the authority to investigate any complaint alleging a violation of this ordinance [article] or the conditions of any zoning approval and to take such action as is warranted in accordance with the procedures set forth in this chapter.
- (B) *Procedures.* Upon discover of a violation the following procedure shall occur:

- (1) *Notice of violation.* The Planner shall provide a written notice to the property owner or to any person responsible for such violation, identifying the property in question, indicating the nature of the violation, and ordering the action necessary to correct it, including a reasonable time period to remedy the violation. The written notice shall advise that the Planner's decision or order may be appealed to the Board of Adjustment in accordance with the provisions of Section 1-200. Additional written notices may be provided at the Planner's discretion.
- (2) *Enforcement without notice.* Whenever the Planner finds that an emergency exists in relation to the enforcement of the provision of this ordinance [article], which requires immediate action to protect the health, safety, or welfare of occupants of any structure, or the public, the Planner may seek immediate enforcement without prior written notice, notwithstanding any other provision of this ordinance [article].
- (C) *Violation and penalties.* Any person, firm, or corporation violating any of the provisions of this ordinance [article] or any amendment thereto is guilty of a misdemeanor. Fines and imprisonment are appropriate as a penalty for violations and a deterrent against future violations.

(Ord. No. 2005-10, § 1(1-230), 6-28-05)

ARTICLE 5. - SPECIAL DISTRICTS

Sec. 13-500. - Purpose.

Special districts are established to preserve areas within the city that are suitable for agricultural and open space uses, to prevent scattered non-farm development, and to serve as a holding zone for lands where future urban expansion is possible, but not yet appropriate, due to the unavailability of urban level facilities and services.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 13-510. - Establishment of special districts.

The special district names are:

O, Open Space/Agricultural District

TUD, Transitional Urban Development District

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 13-520. - Principal uses for the special districts.

- (A) *In general.* All permitted and conditional uses allowed in the district are listed in Table 13-2.
- (B) *Permitted uses.* Uses specified with a "P" are permitted in the district where designated, provided that the use complies with all other applicable provisions of this ordinance. Persons wishing to establish a permitted use, excluding single family residential uses, shall obtain a zoning certificate for such use as specified in Sections 2-190 through 2-250.
- (C) *Conditional uses.* Uses specified with a "C" are allowed as a conditional use in the district where designated, provided that the use complies with all other applicable provisions of this ordinance. Persons wishing to establish or expand a conditional use shall obtain a conditional use permit for such use as

specified in Sections 2-260 through 2-340

- (D) *Prohibited uses.* Any use not listed as either "P" (permitted) or "C" (conditional) in a particular district or any use not determined by the City Planner to be substantially similar to a use listed as permitted or conditional shall be prohibited in that district. Such determination shall be made in the manner provided for in Section 2-50 governing determination of substantially similar uses.
- (E) *Specific development standards.* Permitted and conditional uses specified with an "x" under the Specific Development Standards column shall be subject to the standards identified in Chapter 7, Specific Development Standards.

Table 13-2. Principal uses in the special districts.

Use	O District	TUD District	Shoreland District	Development Standards
Residential Uses				
Dwellings				
Single-family dwelling, farm-related	P	C	P	
Single-family dwelling, not farm-related	-	C	C	
Agricultural Uses				
Agricultural produce sales	P	C	C	X
Farms, not including commercial feedlots	P	P	P	
Nurseries and tree farms	P	P	P	
Wildlife and game refuges	P	P	P	

Institutional and Public Uses

Social, Cultural, Charitable, and Recreational Facilities

Athletic field	C	C	C	X
Cemetery	C	C	C	
Fairgrounds	C	C	C	
Golf course	C	C	C	X
Public and private park, playground	P	P	P	

Commercial uses

Airports and related uses	C	C	C	X
Campgrounds	C	C	C	X
Kennels—Boarding or breeding	C	C	C	X
Outdoor recreational area	C	C	C	X
Resorts	C	C	C	
Stables—riding or boarding	C	C	C	X
Veterinary services	C	C	C	X

Public service and utilities

	C	C	C	
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Communication facilities				
Communication towers	C	C	C	see <u>Sec. 6-230</u>
Electric or gas substation	C	C	C	
Essential services	P	P	P	
Governmental buildings and structures	C	C	C	X
Public utility buildings and structures	C	C	C	

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2005-25, § 1, 9-27-05; Ord. No. 2006-21, § 6, 9-26-06; Ord. No. 2007-23, § 1, 1-8-08; Ord. No. 2010-06, § 4, 5-25-10)

Sec. 13-530. - Permitted accessory uses.

Within the special districts, the following uses shall be permitted as accessory uses. Accessory uses not listed may be allowed by conditional use permit, subject to the standards identified in Sections 2-260 through 2-340.

- (1) Agricultural uses such as pasture, grazing, and domestic and wild crop harvesting.
- (2) Buildings temporarily located for purposes of construction on the premises for a period not to exceed the time necessary for such construction.
- (3) Home occupations, as regulated elsewhere in this ordinance.
- (4) Private garages, carports, and parking spaces.
- (5) Private swimming pools, tennis courts, and other recreational facilities which are operated for the sole use and convenience of the residents of the principal use and their guests.
- (6) Tool houses, sheds, and similar buildings for the storage of agricultural equipment and supplies, domestic supplies, and non-commercial recreational equipment.
- (7)

Antennae and other communication devices for private use, in compliance with the provisions of Section 6-230

- (8) Living quarters for persons employed on the premises.
- (9) Boarding or renting of rooms to not more than two (2) persons.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 13-540. - Accessory buildings and structures.

Accessory buildings and structures shall comply with the provisions of Section 6-180 if related to a residential use and [Section] 6-200 if associated with an agricultural or other non-residential use. Design of such structures is further regulated in Chapter 4, Site Plan Review.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 13-550. - Site design considerations.

Development of land within the special districts shall follow established standards for traffic circulation, landscape design, and other considerations as specified in Chapter 7, Specific Development Standards and Chapter 4, Site Plan Review.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 13-560. - Lot dimension and building bulk regulations.

Lot area and setback requirements for the special districts shall be as specified in Table 13-3. Wetland buffer and buffer setback requirements shall be as specified in Chapter 6 of this Ordinance [Appendix].

Table 13-3. Lot dimension and setback requirements, special districts.

	O District	TUD District
Minimum lot area	1 acre	1 acre
Minimum lot width	200 feet	100 feet
Minimum lot depth	200 feet	100 feet
Building setback requirements		
Front	50 feet	50 feet
Side	25 feet	25 feet
Rear	25 feet	25 feet

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2010-04, § 7, 5-25-10)

Sec. 13-570. - Height.

Except for communication antennas otherwise allowed by conditional use permit, the maximum height of all structures located in the special districts shall be fifty (50) feet. Residential structures shall be limited to a maximum height of two and one-half (2½) stories or thirty-five (35) feet, whichever is less. The height of buildings within the airport overlay district is further regulated as specified in Chapter 13, Article 4.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 13-580. - Parking and loading requirements.

Parking and loading requirements for uses in the special districts shall be as set forth in Chapter 8, Off-Street Parking and Loading.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 13-590. - Signs.

Sign requirements for uses in the special districts shall be as specified in Chapter 9, Signs.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 13-600. - Compliance with performance standards.

All uses in the special districts shall comply with all general performance standards as expressed in Chapter 6, Article 10.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 6. - SHORELAND MANAGEMENT DISTRICT

Sec. 13-610. - Statutory authorization, findings of fact and statement of purpose.

- (A) *Statutory Authorization.* This Shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Rules 6120, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.
- (B) *Findings of Fact.* The uncontrolled use of Shorelands of the City of Faribault, Minnesota, affects the public health, safety and general welfare and contributes to the pollution of public waters. Therefore, it is in the best interests of the public to provide for the wise subdivision, use and development of Shorelands of public waters to thus preserve and enhance the quality of surface waters, conserve the environmental values of Shorelands, and provide for the wise use of waters and related land resources.
- (C) *Statement of Purpose.* The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the Shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental

values of Shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the City of Faribault.

(Ord. No. 2006-21, § 7, 9-26-06)

Sec. 13-620. - General provisions.

- (A) *Lands to which these regulations apply.* The provisions of this ordinance shall apply to the Shorelands of the public water bodies as classified in Section 13-640 of this ordinance, and as shown on the Shoreland management Overlay District Map, adopted herein by reference. Pursuant to Minnesota Rules, Part 6120, no lake, pond or flowage less than ten (10) acres in size in municipalities need be regulated in a local government's Shoreland regulations. A body of water created by a private user where there was no previous Shoreland may, at the discretion of the governing body, be exempt from this ordinance.
- (B) *Compliance.* The use of any Shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any Shoreland area; the cutting of Shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this ordinance and other applicable regulations.
- (C) *Enforcement.* The City Planner is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance 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 Chapter 2 of this ordinance. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section 13-630 of this Chapter.
- (D) *Interpretation.* In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.
- (E) *Abrogation and greater restrictions.* It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
- (F) *Severability.* If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

(Ord. No. 2006-21, § 7, 9-26-06)

Sec. 13-630. - Administration.

- (A) *City Planner.* The City Planner is designated by the City Council to enforce this ordinance. If he/she finds a violation of the provisions of this ordinance, he/she shall notify the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it.
- (B) *Permits required.* A permit is required for the construction of buildings or building additions (including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems.

(1)

Application shall be made to the City Planner on forms furnished by him/her and shall include the following where applicable: plans 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, ordinary high water line and bluff line, if present.

- (2) A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined in this ordinance, shall be reconstructed or replaced in accordance with the provisions of this ordinance.
- (C) *County, State and Federal permits.* Prior to granting a permit or processing an application for a Conditional Use Permit or Variance, the City Planner or designated official shall require proof that the applicant has applied for all necessary County, State and Federal Permits.
- (D) *Variances.*
 - (1) Variances may only be granted in accordance with Minnesota Statutes, Chapter 462, as applicable. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. Variances shall be reviewed based on the provisions of Chapter 2, Article 9 of this ordinance.
 - (2) The City Council shall hear and decide requests for variances in accordance with the provisions of Chapter 2, Article 9 of this ordinance. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Section 13-360(E)(1) below shall also include the board of adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
 - (3) For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require a nonconforming sewage treatment system to bring it into compliance.
- (E) *Notifications to the Department of Natural Resources.*
 - (1) Copies of all notices of any public hearings to consider variances, amendments, conditional uses, or Planned Unit Developments, under local Shoreland management controls must be sent to the Commissioner, or the Commissioner's designated representative and postmarked at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
 - (2) A copy of approved amendments, subdivisions/plats, Planned Unit Developments, and final decisions granting variances or conditional uses under local Shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked within ten (10) days of final action.

(Ord. No. 2006-21, § 7, 9-26-06)

Sec. 13-640. - Shoreland classification.

- (A) *Shoreland Classification System.* The public waters of the City of Faribault have been classified below consistent with the criteria found in Minnesota Regulations, Part 120.3300, and the Protected Waters Inventory Map for Rice County, Minnesota. All protected watercourses in the City shown on the Protected

Waters Inventory Map for Rice County, a copy of which is hereby adopted by reference, not given a classification shall be considered "Tributary." The Shoreland areas for the lakes, rivers and streams shall be shown on the Official Zoning Map.

<i>Protected Waters Classification</i>	<i>Protected Waters ID Number</i>	<i>Legal Description From/To</i>
Natural Environment Lakes		
Unnamed Lake	66-19	S23, 26 T110-R21
General Development Lakes		
Wells Lake	66-10	S36 T110-R21 to City Boundary
Faribault Lake (Mill Pond)	66-7	S25, T110-R21 - S30, T110- R20
Wild and Scenic River		
Cannon River		S19, T110-R20 to City Boundary
Agricultural River		
*Straight River		City Boundary to S30, T110- R20
Urban River		
Cannon River		S36, T110-R21 to S19, T110- R20
Tributary River		
Crocker's Creek		City Boundary to S25, T110- R21
Falls Creek		S33, T110-R20
Unnamed Creek to CR		S26, T110-R21

*Within the Faribault Existing Development District, the Urban River standards used for the Cannon River for setbacks, lot sizes, and related land use and zoning standards shall apply to the Straight River.

(Ord. No. 2006-21, § 7, 9-26-06)

Sec. 13-650. - Land use.

- (A) *Consistency with other Chapters.* The intent of this overlay district is to guide the development of public waters Shoreland, thus preserving the quality of surface waters, preserving natural resources and providing for the wise utilization of water and related land resources in the City. The regulations in this overlay district are intended to manage areas suitable for development of various types as allowed in the underlying zoning district. It is the intent of this overlay district to be used in conjunction with the adopted land use regulations and requirements of the City's Unified Development Ordinance. The permitted and conditional uses in the Shoreland management overlay district shall be as identified in the Zoning Ordinance and reflected on the Zoning Map.
- (B) *Inconsistent zoning districts.* When existing zoning districts are inconsistent with the criteria specified above, these inconsistent zoning district designations may continue until revisions are proposed to change either the land use district designation within an existing zoning district boundary shown on the Official Zoning Map, or to modify the boundary of an existing zoning district shown on the Official Zoning Map.
- (C) *Interpretation.* When an interpretation question arises about whether a specific land use fits within a given "use" category, the interpretation shall be made by the Planning Commission. When a question arises as to whether a zoning district's boundaries are properly delineated on the Official Zoning Map, this decision shall be made by the Planning Commission.
- (D) *Proposed revisions.* When a revision is proposed to an inconsistent zoning district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The City Council will direct the City Planner to provide such additional information for this waterbody as is necessary to satisfy the requirements above. The City Council must make a detailed finding of fact and conclusion when taking final action that this revision, and the upgrading of any inconsistent zoning district designations on said waterbody, are consistent with the enumerated criteria and use provisions of this ordinance.

(Ord. No. 2006-21, § 7, 9-26-06)

Sec. 13-660. - Zoning, water supply and sanitary system standards.

- (A) *Lot Area and Width Standards.* The minimum lot area (in square feet) and width standards (in feet) for sewerred single, duplex, and townhome residential lots created after the date of enactment of this ordinance are the following:
- (1) *Sewered Natural Environment Lakes*

	Riparian Lots		Non-riparian Lots	
	Area	Width	Area	Width

Single-family detached	40,000	125	20,000	125
Duplex/Twin	70,000	225	35,000	220
Triplex/3-unit attached	100,000	325	52,000	315
Quad/4-unit attached	130,000	425	65,000	410

(2) *Sewered General Development Lakes*

	Riparian Lots		Non-riparian Lots	
	Area	Width	Area	Width
Single-family detached	15,000	75	10,000	75
Duplex/Twin	26,000	135	17,500	135
Triplex/3-unit attached	38,000	195	25,000	190
Quad/4-unit attached	49,000	255	32,500	245

- (3) *River/stream lot width standards.* There is no minimum lot size requirement for rivers and streams, except as required in the underlying zoning district. The minimum lot width standards for residential developments are:

	Agricultural	Urban/Tributary Stream	

		No Sewer	Sewer
Single-family detached	150	100	75
Duplex/Twin	225	150	115
Triplex/3-unit detached	300	200	150
Quad/4-unit attached	375	250	90

(B) *Special Provisions.*

- (1) Single-family attached (triplex, quad or townhome units). For each unit over two (2) units (duplex), add the lot area and width to the total development area within the Shoreland zone. The area and width may be added to individual lots or to the lot area owned in common by the development, so that the total area of the development and total width are equal to the areas prescribed on the table.
- (2) Residential subdivisions with dwelling unit densities exceeding those in the tables above can only be allowed if designed and approved as planned unit developments. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line. The sewer lot area dimensions in Section 13-660(A) above can only be used if publicly owned sewer system service is available to the property.
- (3) Subdivisions of duplexes and attached single-family units of four (4) units or less on Natural Environment Lakes must also meet the following standards:
 - (a) Each building must be set back at least two hundred (200) feet from the ordinary high water level.
 - (b) Watercraft docking facilities for each lot must be centralized in one (1) location and serve all dwelling units in the building; and
 - (c) No more than twenty-five (25) percent of a lake's shoreline can be in duplex and single-family attached developments.
- (4) Attached single-family and multifamily dwellings with five (5) or more units shall only be allowed as part of a Planned Unit Development.

(C) *Lots with controlled access to public waters.* Lots intended as controlled access to public waters or as recreation areas for use by owners of non-riparian lots within subdivisions are permissible and must meet or exceed the following standards:

- (1)

They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.

- (2) If docking, mooring or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six (6), consistent with the following table:

Ratio of lake size to Shore length (acres/mile)	Required increase in frontage (percent)
Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	5

- (3) They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot.
- (4) Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the conflict activities that are not significant include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

(D)

Placement, design and height of structures. When more than one (1) setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structure setbacks* (in feet) from the Ordinary High Water Level are as follows:

Waters Classification	Sewered (Structure Setback)	Unsewered (Structure Setback)	On-Site Sewage Treatment System Setback
Natural Environment Lakes	150	150	150
General Development Lake	50	75	50
Ag, Urban, Trib. River/Stream	50	100	75

* One (1) water-oriented accessory structure designed in accordance with Section (F) of this ordinance [section] may be set back a minimum distance of ten (10) feet from the ordinary high water level.

(E) *Bluff setback.*

- (1) Structures must be set back thirty (30) feet from the top of the bluff, regardless of the classification of the water body.
- (2) Bluff impact zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

(F) *Floodplain design criteria for structures.* Structures must be placed in accordance with floodplain regulations applicable to the site as required in Chapter 13, Article 2 of the Faribault Unified Development Ordinance. Chapter 13, Article 2, Section 13-100, states that the regulatory flood protection elevation shall be an elevation no lower than one (1) foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from the designation of a floodway. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

- (1) For lakes, by placing the lowest floor at a level at least three (3) feet above the highest known water level, or three (3) feet above the ordinary high water level, whichever is higher;

- (2) For rivers and streams, by placing the lowest floor at least three (3) feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three (3) feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three (3) approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules 6120 governing management of floodplain areas. If more than one (1) approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and
 - (3) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
- (G) *Water-oriented accessory structures.* Each lot may have one (1) water-oriented accessory structure not meeting the normal structure setback requirements of this ordinance if this water-oriented accessory structure complies with the following provisions:
- (1) The structure or facility must not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than two hundred fifty (250) square feet. Detached decks must not exceed eight (8) feet above grade at any point.
 - (2) The setback of the structure or facility from the ordinary high water level must be at least ten (10) feet.
 - (3) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent Shorelands by vegetation, topography, increased setbacks, or color, assuming summer, leaf-on conditions.
 - (4) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.
 - (5) As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage and including storage of related boating and water-oriented sporting equipment, may occupy an area up to four hundred (400) square feet provided the maximum width of the structure is twenty (20) feet as measured parallel to the configuration of the shoreline.
- (H) *Stairways, lifts, and landings.* Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
- (1) Stairways and lifts must not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public open space-recreational properties, and planned unit developments.
 - (2) Landings for stairways and lifts on residential lots must not exceed thirty-two (32) square feet in aggregate area for each stairway. One (1) landing is allowed per twelve (12) vertical feet. Landings larger than thirty-two (32) square feet may be used for commercial properties, public open space-recreational properties, and planned unit developments.
 - (a) Canopies or roofs are not allowed on stairways, lifts, or landings.

- (b) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.
 - (c) Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.
 - (d) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subitems (1) to (5) of Subsection (G) above are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.
- (I) *Significant historic sites.* No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
- (J) *Steep slopes.* The City Planner/City Engineer/Building Official must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for site grading, construction of roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.
- (K) *Height of structures.* Residential uses shall not exceed twenty-five (25) feet in height, except uses in a third or greater tier of a planned unit development may be allowed to exceed thirty-five (35) feet in height, provided it can be demonstrated that any such proposed structure will not negatively impact views from the water body, and provided all other provisions for planned unit developments are met.
- (Ord. No. 2006-21, § 7, 9-26-06)

Sec. 13-670. - Shoreland and vegetation alterations.

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve Shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

- (A) *Exemptions.* Vegetation alteration necessary for the construction of structures and sewage treatment systems, agricultural uses, and the construction of roads and parking areas regulated by Section 13-690 of this ordinance are exempt from the vegetation alteration standards that follow.
- (B) *Alteration standards.* Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Subsections 13-610(B) and (C), is allowed subject to the following standards:
 - (1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is prohibited.
 - (2) Intensive vegetation clearing for forestland conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the City.
- (C)

In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed if approved by City staff to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

- (1) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.
- (2) Along streams, existing shading of water surfaces is preserved; and
- (3) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.
- (4) Vegetation to be removed, including limbs to be pruned, must be marked for inspection and approval by the City, or a vegetation management plan provided and approved by the City before clearing or pruning begins.

(Ord. No. 2006-21, § 7, 9-26-06)

Sec. 13-680. - Topographic alterations, grading and filling.

- (A) *Permits.* Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. Grading, filling, and excavation must follow the guidelines included in the City's Surface Water Management Plan and the steep slope and erosion control sections of this ordinance. The grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways. Public roads and parking areas are regulated by Section 13-690 of this ordinance.
- (B) *Standards.* A grading and filling permit will be required for the movement of more than ten (10) cubic yards of material on steep slopes or within shore and bluff impact zones. A grading and filling permit will be required for the movement of more than fifty (50) cubic yards of material in a Shoreland area that is outside of steep slope and Shoreland and bluff impact zones.
- (C) The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:
 - (1) Grading or filling in any Type 2, 3, 4, 5, 6, 7, or 8 wetland is subject to the regulations of the Minnesota Wetland Conservation Act, reviews or approvals by other local, state or federal agencies such as Rice County, the Minnesota Department of Natural Resources, and/or the United States Army Corps of Engineers.
 - (2) The proposed work should be evaluated for its effect on the following functional values of the wetland:
 - (a) Sediments and pollutant trapping and retention;
 - (b) Storage of surface runoff to prevent or reduce flood damage;
 - (c) Fish and wildlife habitat;
 - (d) Recreational use;
 - (e) Shoreline or bank stabilization; or

- (f) Noteworthiness, including special qualities such as historic significance and critical habitat.
- (3) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.
- (4) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible and approved by staff.
- (5) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.
- (6) Altered areas must be stabilized to acceptable erosion control standards consistent with the Minnesota Pollution Control Agency's Best Management Practices.
- (7) Fill or excavated material must not be placed in a manner that creates an unstable slope.
- (8) Plans to place fill or excavated material on steep slopes must be reviewed by the City Engineer for continued slope stability and must not create finished slopes of fifteen (15) percent or greater.
- (9) Fill or excavated material must not be placed in bluff impact zones.
- (10) Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner of Natural Resources under Minnesota Statutes, section 103G.245.
- (11) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
- (12) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet.
- (13) Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local Shoreland controls. Permission for excavations may be given only after the commissioner has approved the proposed connection to public waters.

(Ord. No. 2006-21, § 7, 9-26-06)

Sec. 13-690. - Placement and design of roads, driveways and parking areas.

Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the Minnesota Pollution Control Agency's Best Management Practices and the following:

- (A) Roads, driveways, and parking areas must meet structure setbacks and must not be placed within shore and bluff impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
- (B) Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within the shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private roads and facilities, the grading and filling provisions of this ordinance must be met.

(Ord. No. 2006-21, § 7, 9-26-06)

Sec. 13-700. - Stormwater management.

- (A) *Design and Construction Standards.* Site design and stormwater management standards shall conform to policies of the City's Surface Water Management Plan, and the following:
- (1) When possible, existing natural drainageways, wetland, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
 - (2) Where appropriate and feasible, strategies such as infiltration or filtration of stormwater will be considered to manage the quality and quantity of stormwater.
 - (3) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff, velocities, erosion potential, and reduce the delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
 - (4) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities, such as diversion, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.
 - (5) Impervious surface coverage of lots must not exceed twenty-five (25) percent of the lot area. This requirement applies only to the portion of the lot within the Shoreland District, and this requirement does not apply to the developed portion of properties within the boundaries of the Existing Development District as defined on the official Shoreland Overlay Map. Development within the Existing Development District shall incorporate reasonable methods to decrease sediment and pollutants in runoff from impervious surfaces as required in the City's Surface Water Management Plan.
 - (6) Where appropriate and where structures and practices for the mitigation of stormwater impacts on receiving waters are employed in compliance with the City's Surface Water Management Plan, or as approved by the City Engineer, impervious surface coverage shall be allowed to exceed twenty-five (25) percent to a maximum of seventy (70) percent per lot within all commercial and industrial zoning districts located in tributary stream, agricultural river, urban river and general development lake Shoreland zoning classifications, provided the following criteria are met:
 - (a) Site design includes features that infiltrate twenty-five (25) percent of the runoff volume produced from the two-year, 24-hour design storm (approximately .5 to .75 watershed inches of infiltration, depending on land use, impervious cover, and soil types). Infiltration is only required in areas with at least three (3) feet of separation between the bottom of the infiltration features and the level of ground water. Pretreatment of runoff to remove sediment prior to entering infiltration features is required.
 - (b) Water quality treatment(s) meet the standards of the MPCA Construction General Permit for Sensitive Receiving Waters;
 - (c) Site design includes stormwater management that meets these performance standards: 24-hour extended detention of the one-year, 24-hour design storm; ten-year design storm peak discharge control or a combination of ten- and 25-year design storm peak discharge control; and 100-year

design storm peak discharge control to meet pre-development levels;

- (d) Site design shall minimize tree removal, ground cover change, loss of natural vegetation and grade change as much as possible, and shall affirmatively provide for the relocation or replanting of as many trees as possible, which are proposed to be removed, based on an approved vegetative management plan.
 - (e) The provisions of Subsection 13-710(4) of this Chapter shall be satisfied.
 - (f) Properties zoned commercial or industrial after the effective date of this ordinance shall not qualify for the provisions of this section except by amendment of the code to specifically apply to the property.
- (7) When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the City's Surface Water Management Plan, National Urban Runoff (NURP) Standards, and the Minnesota Pollution Control Agency's Best Management Practices.
- (8) New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(Ord. No. 2006-21, § 7, 9-26-06)

Sec. 13-710. - Special provisions for commercial, industrial, public/semipublic, agricultural, and forestry uses.

- (A) Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:
- (1) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.
 - (2) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.
 - (3) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
 - (a) Advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority.
 - (b) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information and meet the requirements of City ordinances. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten (10) feet above the ground, and must not exceed thirty-two (32) square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

(c)

Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

- (4) Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must meet the following standards:
 - (a) Be set back double the normal ordinary high water level setback;
 - (b) Be substantially screened from view from the water by vegetation or topography assuming summer, leaf-on conditions, based on an approved vegetative management plan; and
 - (c) The Shoreland impact zone shall be doubled.
- (B) *Agricultural Uses.* General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Natural Resource Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and fifty (50) feet from the ordinary high water level.
- (C) *Forest Management Standards.* The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."
- (D) *Extractive Use Standards.* An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, and possible pollutant discharge, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.
- (E) *Conditional Uses.*
 - (1) Conditional uses allowable within Shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established in Chapter 2 of this ordinance and Subsection 13-630(E) of this Chapter.
 - (2) The following additional evaluation criteria and conditions apply within Shoreland areas:
 - (a) A thorough evaluation of the water body and the topographic, vegetation and soils conditions on the site must be made to ensure the prevention of soil erosion or other possible pollution of public waters, both during and after construction.
 - (b) The visibility of structures and other facilities as viewed from public waters is limited.
 - (c) The site is adequate for water supply and is served by municipal sewer services.
 - (d) The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

(F)

Conditions attached to conditional use permits. The City Council, upon consideration of the criteria listed above and the purposes of this ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:

- (1) Increased setbacks from the ordinary high water level;
- (2) Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
- (3) Special provisions for the location, design, and use of structures, on-site sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

(Ord. No. 2006-21, § 7, 9-26-06)

Sec. 13-720. - Water supply and sewage treatment.

- (A) *Water Supply.* Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
- (B) *Nonconforming Sewage Treatment System.* A permit or variance authorizing any improvement on, or new use of, a property in the Shoreland district requires reconstruction of any existing nonconforming sewage system on the property.

(Ord. No. 2006-21, § 7, 9-26-06)

Sec. 13-730. - Nonconformities.

(A) *Existing Nonconformities.*

- (1) All legally established nonconformities as of the date of this ordinance may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repairs after damage, discontinuance of use and intensification of use.
- (2) Lots of record in the office of the county recorder on the date of enactment of local Shoreland controls that do not meet the requirements of this ordinance may be allowed as building sites without variance from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this ordinance are met.

(B) *Variance from Setback Requirements.* A variance from setback requirements must be obtained before any building permit is issued for a lot.

(C) *Contiguous lots.* If, in a group of two (2) or more contiguous lots under the same ownership, any individual lot does not meet the requirements of this ordinance, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with one (1) or more contiguous lots so they equal one (1) or more parcels of land, each meeting the requirements of this ordinance as much as possible.

(D) *Additions or expansions.*

- (1) Additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height and other requirements of Chapter 3 of this ordinance. Any deviation from these requirements must be authorized by a variance.

- (2) Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
 - (a) The structure existed on the date the structure setbacks were established.
 - (b) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure.
 - (c) The deck encroachment toward the ordinary high water level does not exceed fifteen (15) percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than thirty (30) feet, whichever is more restrictive.
 - (d) The deck is constructed primarily of wood, and is not roofed or screened.
- (3) Nonconforming sewage treatment systems:
 - (a) A sewage treatment system not meeting the requirements of this ordinance must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
 - (b) The City Council has by formal resolution notified the Commissioner of its program to identify nonconforming sewage treatment systems. The City will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time which will not exceed two (2) years. Sewage systems installed according to all applicable local Shoreland management standards adopted under Minnesota Statutes, section 103 [sic], in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

(Ord. No. 2006-21, § 7, 9-26-06)

Sec. 13-740. - Planned unit developments (PUDS).

- (A) *PUDs Density Evaluation.* The regulations in this overlay district are intended to manage Shoreland areas suitable for development as Planned Unit Developments as allowed in the underlying Zoning District. It is the intent of this overlay district to be used in conjunction with the adopted land use regulations and requirements of the City's Unified Development Ordinance. The allowable uses and standards for Planned Unit Developments in the Shoreland management overlay district shall be consistent with those identified in the Unified Development Ordinance, Chapter 14, and reflected on the Zoning Map, with the exceptions in Shoreland areas as identified in the following sections. The Shorelands of all classified water bodies shall be made up of density tiers, which shall vary in width depending on each classification. Within each tier the density allowed may be increased based on the specific standards applicable to the water body's classification, and provided the provisions of this section can be met:
- (1) General Development Lakes (each tier is two hundred (200) feet):
 - (a) Within the first tier (two hundred (200) feet from the OHWL), minimum lot size shall be fifteen thousand (15,000) square feet.

- (2) Natural Environment Lakes (each tier is three hundred twenty (320) feet)
 - (a) Within the first tier (three hundred twenty (320) feet from the OHWL), minimum lot size shall be forty thousand (40,000) square feet.
- (3) The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to the planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.
- (4) The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth, unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analyses herein.
- (5) Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards are met or exceeded and the design criteria are satisfied. The allowable density increases below will only be allowed if structure setbacks from the ordinary high water level are increased to at least fifty (50) percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least twenty-five (25) percent greater than the minimum setback.
- (6) Allowable Dwelling Unit or Dwelling Site Density Increases for Residential Planned Unit Developments are as follows:

Density Evaluation Tiers	Maximum density increase within each tier (percent)
First	50
Second	100
Third	200
Fourth	200
Fifth	200

- (B) *Development organization and functioning.* Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the following features:

- (1)

Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;

- (2) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;
- (3) Assessments must be adjustable to accommodate changing conditions; and
- (4) The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

(C) *Erosion Control and Stormwater Management.* Erosion control and stormwater management plans shall be prepared for all planned Shoreland developments, and shall be consistent with the City's Surface Water Management Plan and ordinances, and the following:

- (1) Stormwater facilities must be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and
- (2) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed twenty-five (25) percent of the tier area.

(D) *Centralization and design of facilities.* Centralization and design of facilities and structures shall be done according to the following standards:

- (1) Planned unit developments must be connected to publicly-owned water supply and sewer systems.
- (2) Dwelling units or sites shall be clustered into groups and located on suitable areas of the development. They shall be designed and located to meet or exceed the dimensional standards for the relevant Shoreland classification, including setbacks from the ordinary high water level, elevation above surface water features, and maximum height.
- (3) Structures, parking areas, and other facilities shall be treated to reduce visibility as viewed from the public waters and adjacent Shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic features shall be preserved, if existing, or may be required to be provided.
- (4) Accessory structures and facilities shall meet the required principal structure setback and must be centralized.
- (5) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in this ordinance centralized.

(E) *Evaluation of Factors.* The following factors are carefully evaluated to ensure that the increased density of development is consistent with the resource limitations of the public water:

- (1) Suitability of the site for the proposed use;
- (2) Physical and aesthetic impact of increased density;
- (3) Level of current development;
- (4) Amount of ownership of undeveloped Shoreland;

- (5) Levels and types of water surface use and public access;
- (6) Possible effects on overall public use.

(F) *Open Space Preservation.*

- (1) Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
- (2) Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provide to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:
 - (a) Commercial uses prohibited;
 - (b) Vegetation and topographic alterations other than routine maintenance prohibited;
 - (c) Construction of additional buildings or storage of vehicles and other materials prohibited;
 - (d) Uncontrolled beaching of watercraft prohibited.
- (3) Planned unit developments must contain open space meeting all of the following criteria:
 - (a) At least fifty (50) percent of the total project area within the Shoreland zone must be preserved as open space.
 - (b) Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space.
 - (c) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.
 - (d) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial facilities or uses, but may contain water-oriented accessory structures or facilities.
 - (e) Open space must not include commercial facilities or uses, but may include water-oriented accessory structures or facilities.
 - (f) The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means.
 - (g) The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUDs, at least fifty (50) percent of the shore impact zone area of existing developments or at least seventy (70) percent of the shore impact zone area of new developments must be preserved in its natural or existing state.

(Ord. No. 2006-21, § 7, 9-26-06)

CHAPTER 14. - PLANNED UNIT DEVELOPMENT DISTRICT

ARTICLE 1. - GENERAL PROVISIONS

Sec. 14-10. - Purpose.

The Planned Unit Development District is established as a means to facilitate the development of land in an integrated and innovative fashion, to allow for flexibility in site design, and to encourage development that is sensitive to environmental, cultural, and economic considerations. Approval of a Planned Unit Development District shall result in the creation of an overlay to the base zoning district, with specific requirements and standards that are unique to the planned development.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-20. - Identified objectives.

When reviewing requests for approval of a planned unit development, the city shall consider whether one (1) or more of the objectives listed below are served or achieved. It is not the intent of this chapter to allow for reductions or waivers to standard zoning requirements solely for the purpose of increasing overall density or allowing development that otherwise could not be approved.

- (1) Accommodation of the growing demand for housing of all types and for commercial facilities conveniently located to such housing.
- (2) Promotion of integrated land uses, allowing for a mixture of residential, commercial, and public facilities along corridors and in transitional areas.
- (3) Innovation in land development techniques that may be more suitable for a given parcel than traditional approaches.
- (4) Enhancement and preservation of important environmental features through careful and sensitive placement of buildings and facilities.
- (5) Preservation of historical or cultural landscape features through private or public reservation of land.
- (6) Provision for more adequate, usable, and suitably located open space, recreational amenities, and other public facilities than would otherwise be provided under conventional land development techniques.
- (7) Coordination of architectural styles and building forms in an effort to ensure compatibility with surrounding land uses.
- (8) Creation of more efficient provision of public utilities and services, lessened demand on transportation facilities, and the promotion of energy resource conservation.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-30. - Relationship to other applicable regulations.

A planned unit development shall be subject to all applicable standards, procedures, and regulations of this ordinance and the zoning district in which it is located, including applicable site plan review standards contained in Chapter 4, Site Plan Review, for the individual uses within the development, except as otherwise provided in this chapter.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-40. - Platting requirement.

All land proposed for planned unit development shall be platted or replatted into one or more lots, in compliance with the applicable requirements of Chapter 15, Subdivision Regulations. For the purposes of this chapter, the development plan shall include the necessary information to serve as a preliminary plat for the development.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-50. - Allowed uses.

Any use allowed within the zoning district in which the planned unit development is located may be included as part of the development plan. In addition, other uses of land may be permitted within the planned unit development upon approval by the City Council. The development plan shall identify all proposed land uses and those uses shall become permitted uses with the acceptance of the development plan. Single-family attached and multifamily uses with more than five (5) dwelling units may be allowed in the Shoreland Management District only as part of a planned unit development.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2006-21, § 8, 9-26-06)

Sec. 14-60. - Minimum project size.

There shall be no minimum size limitation for a planned unit development.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-70. - Phasing of development.

Phasing of the planned unit development shall be permitted, provided that each individual phase shall be designed and developed to exist as an independent unit. Additionally, the construction and provision of all common open space and site amenities that are shown on the development plan must proceed at the same rate as the construction of dwelling units, if any. Any violation of this provision shall authorize the City Council to hold a public hearing to review compliance of the planned unit development.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-80. - Procedure for planned unit development approval.

Prior to the issuance of any building permits for development within a Planned Unit Development District, the following approvals are required:

- (1) Approval of a development plan and Planned Unit Development District designation as described in this chapter.
- (2) Final plat approval in accordance with Chapter 15, Subdivision Regulations.
- (3) Site plan approval, if necessary, in accordance with Chapter 4, Site Plan Review.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-90. - Concept plan required.

As required in Section 2-90(B), the developer of a planned unit development project shall meet with the City Planner prior to submittal of an application for development plan approval to review a concept plan for the project. Such plan shall include the following minimum information:

- (1) Property boundary.
- (2) North arrow.
- (3) Scale.
- (4) Proposed density of development.
- (5) General location of major streets and pedestrian ways.
- (6) General location and extent of public and common open space.
- (7) General location of residential and non-residential land uses with approximate type and intensities of development.
- (8) Proposed development schedule.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 2. - DEVELOPMENT PLAN

Sec. 14-100. - Purpose.

The development plan is intended to illustrate the basic intent and general nature of the proposed planned unit development and to establish the requirements and standards that will apply to the project. Approval of the development plan shall authorize the applicant to seek approval of any required final development plans.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-110. - Application procedure.

Any person having a legal or equitable interest in a property may file a development plan application for a planned unit development. An application for development plan approval shall be filed with the City Planner on an approved form and shall be accompanied by the materials identified elsewhere in this chapter.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-120. - Approval of planned unit development.

The Planning Commission shall hold a public hearing on each complete application for a planned unit development, as provided in Section 2-100. After the close of the hearing on a proposed development, the Planning Commission shall make findings, pursuant to Section 14-140, and shall submit the same together with its recommendations to the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-130. - Action by City Council on planned unit development.

The City Council shall make the final decision regarding all applications for planned unit development approval. Such approval shall require a two-thirds (2/3) vote of the City Council. Upon approval of the development plan, the official zoning map shall be amended to designate the property as a "PUD-Planned Unit Development" overlay district.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-140. - Required findings.

The Planning Commission and City Council shall make each of the following findings before granting approval of a planned unit development:

- (1) Adequate property control is established and provided to protect the individual owner's rights and property values and to define legal responsibilities for maintenance and upkeep.
- (2) The interior circulation plan and access from and onto public right-of-way does not create congestion or dangers and is adequate for the safety of the project residents and general public.
- (3) A sufficient amount of usable open space is provided.
- (4) The arrangement of buildings, structures, and accessory uses does not unreasonably disturb the privacy of surrounding property owners or reduce the value of adjacent properties.
- (5) The architectural design of the project is compatible with the surrounding area.
- (6) The project will not place a burden on existing municipal infrastructure, including utility and drainage systems.
- (7) The development schedule insures a logical development of the site, protecting the interests of project residents and the general public.
- (8) The planned unit development is in reasonable compliance with the intent and purpose of the Land Use Plan.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-150. - Established conditions of approval.

The Planning Commission and City Council may establish any reasonable conditions of approval that are deemed necessary to mitigate adverse impacts associated with the planned unit development, to protect neighboring properties, and to achieve the objectives identified within this chapter and elsewhere in this ordinance.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-160. - Expiration of planned unit development approval.

The planned unit development shall remain valid for a period of one (1) year from the date of approval, unless a longer time period has been agreed to by the City Council. If an application for final plan approval has not been submitted within such period, the planned unit development shall be considered void unless a petition for a time extension has been granted by the City Council. Such extension request shall be submitted in writing at least thirty (30) days prior to expiration of the approval and shall state facts showing a good faith effort to initiate final development plans for the project. In the event that a planned unit development is allowed to expire, the City Council shall direct the Planning Commission to hold a public hearing to remove the planned unit development designation from the property.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-170. - Submittal requirements for development plan.

- (A) *In general.* Required submittal materials include a narrative statement, site plan, architectural elevation plans, and any other information requested by the City Planner, the Planning Commission, or the City Council.
- (B) *Narrative statement.* A written narrative of the proposed development shall be provided, indicating, at a minimum, the information listed below:
- (1) A statement providing evidence that the applicant has sufficient property control to effectuate the planned unit development.
 - (2) Development schedule showing the time and sequence of proposed development.
 - (3) A summary of the total number of units of each type of use, number of dwelling units, the acreage devoted to all land uses, and the overall net density of the development.
 - (4) A statement as to the character and size of all proposed structures, including the use, height, and gross floor area of the buildings.
 - (5) A description of architectural design standards that will be implemented as part of the development.
 - (6) A description of the anticipated market which the development is intended to serve.
 - (7) A statement presenting the applicant's justifications for approval of the planned unit development and how the identified objectives of this chapter are being satisfied.
 - (8) A statement describing the form of ownership and maintenance of all common open space, recreational facilities, and other commonly held area intended for the exclusive benefit of the residents.
 - (9) A description of proposed protective covenants, easements, or restrictions to be imposed upon the use of the land, buildings, and structures.
 - (10) A statement identifying, and providing justification for, any variances, modifications, or waivers from the development standards specified in this chapter.
- (C) *Site plan information and contents.* The site plan submitted in support of a development plan shall include the information listed below, unless specifically waived by the City Planner prior to submittal:
- (1) Proposed name of development; names shall not duplicate or too closely resemble names of existing subdivisions or developments.
 - (2) Location of boundary lines in relation to known section, quarter-section or quarter-quarter section lines comprising a legal description of the property.
 - (3) Vicinity sketch, at a legible scale, illustrating the relation of the plan to its surroundings.
 - (4) Names and addresses of all persons having property interest, the developer, designer, and surveyor together with his registration number.
 - (5) Graphic scale of plat, not less than one (1) inch to one hundred (100) feet.
 - (6) Date and north arrow.
 - (7) Boundary line and total acreage of proposed plan, clearly indicated.
 - (8) Designation of existing zoning classifications for land within one hundred (100) feet of the proposed development.
 - (9)

Location, widths, and names of all existing or previously platted streets or other public ways, showing type, width, and condition of improvements, if any, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, easements and section and corporate lines within the tract and to a distance of one hundred (100) feet beyond the tract.

- (10) Location and size of existing sewers, water mains, culverts, or other underground facilities within the tract and to a distance of one hundred (100) feet beyond the tract. Such data as grades, invert elevations, and locations of catch basins, manholes and hydrants shall also be shown.
 - (11) Boundary lines of adjoining unsubdivided or subdivided land, within one hundred (100) feet, identified by name and ownership, including all contiguous land owned or controlled by the subdivider.
 - (12) Topographic data of the site and area within one hundred (100) feet, including contours at vertical intervals of not more than five (5) feet. Watercourses, floodplain areas, wetlands, rock outcrops, power transmission poles and lines, and other significant features shall also be shown.
 - (13) Location and type of land uses to be developed including a summary of the number of residential dwellings by building type and gross floor areas of both residential and non-residential buildings.
 - (14) Layout of proposed streets showing the right-of-way widths, centerline gradients, typical cross-sections, and proposed names of streets.
 - (15) Locations and widths of proposed alleys and pedestrian ways.
 - (16) Locations and size of proposed sewer lines and water mains.
 - (17) Location, dimension, and purpose of all easements.
 - (18) Layout, numbers, lot areas, and preliminary dimensions of lots and blocks.
 - (19) Minimum front and side street building setback lines to illustrate compliance with development standards of this chapter. When lots are located on a curve, the width of the lot at the building setback line shall be shown.
 - (20) Areas, other than streets, alleys, pedestrian ways and utility easements, intended to be dedicated or reserved for public or private use, including the size of such area or areas in acres.
 - (21) Location of parking areas, including the number of stalls required and the number provided, loading facilities, and proposed vehicular driveways and aisles.
 - (22) Location, general exterior dimensions, and approximate gross floor areas of all proposed buildings, along with a description of the proposed use and, if applicable, approximate amount of floor area devoted to each separate use.
 - (23) The location, type, and size of proposed landscape and screening plantings, signs, or other site enhancements.
- (D) *Building plans and elevations.* Drawings shall be submitted indicating use and illustrating typical floor plans, elevations, and exterior building materials.
- (E) *Required supplemental information.* Any or all of the supplementary information or reports listed in Section 2-90(C) shall be submitted when deemed necessary by the City Planner, Planning Commission, or City Council.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 3. - FINAL DEVELOPMENT PLANS

Sec. 14-180. - Procedure for approval of final development plans.

Approval of the development plan shall authorize the applicant to proceed with final plans, including any necessary final plat, site plan, and building permit approvals. All such plans shall be reviewed in accordance with the procedures established elsewhere in this ordinance.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-190. - Plan consistency.

The city shall withhold approval of any final plat, site plan, or building permit required for a planned unit development if the proposal is inconsistent with the development plan as approved, except as provided below:

- (1) *Minor revisions.* Minor changes, such as the location, placement, and height of structures may be authorized by the Development Review Committee if required by engineering or other circumstances not foreseen at the time the development plan was approved.
- (2) *Major revisions.* Changes in use, any rearrangement of lots, blocks, and building tracts, changes in the provision of common open spaces, and all other changes shall require approval of a revised development plan, in accordance with the procedures established in Section 14-120

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 4. - DEVELOPMENT STANDARDS

Sec. 14-200. - Exceptions to ordinance standards.

As part of planned unit development approval, the City Council shall be authorized to approve exceptions to the zoning controls applicable to the zoning district in which the planned unit development is located. Such exceptions shall only be granted, however, when it is clearly warranted to achieve the objectives identified in Section 14-20. Nothing in this chapter, however, shall be construed to provide a property owner any right to compel the city to grant such exceptions. When a planned unit development is to be located within a Shoreland Management District, flexibility in may be allowed, provided the recommendations of the City's Surface Water Management Plan are incorporated into the development plan, as required by the City Engineer, subject to the requirements of Chapter 13, Article 6, Shoreland Management District, are met.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2006-21, § 8, 9-26-06)

Sec. 14-210. - Placement of structures.

More than one principal building may be placed on a platted lot within a planned unit development. The appearance and compatibility of individual buildings to other site elements and to surrounding development shall be given primary consideration in reviewing and approving the placement and spacing of structures.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-220. - Bulk regulations.

- (A) *Floor area.* The city council may authorize an increase in the maximum gross floor area allowed by right in the base zoning district by not more than twenty (20) per cent for the purpose of promoting project integration and additional site amenities.
 - (B) *Building height.* The city council may authorize an increase in building height for the purpose of promoting project integration and additional site amenities.
 - (C) *Building setbacks.* The city council may authorize a reduction in or elimination of required yards provided that a landscaped yard of the minimum width established for the base zoning district is maintained along the periphery of the planned unit development.
- (Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-230. - Lot requirements.

- (A) *In general.* The city council may authorize reductions in the area and width of individual lots within a planned unit development from that required for the base zoning district, provided that such reductions are compensated for by an equivalent amount of open space elsewhere in the planned unit development. Such open space shall not include areas designated as public or private streets.
 - (B) *Density bonus.* The city council may authorize a reduction in the minimum lot area per dwelling unit required by the zoning district regulations by not more than twenty (20) per cent for the purpose of promoting an integrated project with a variety of housing types and additional site amenities.
- (Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-240. - Open space.

For all planned unit developments, at least twenty (20) per cent of the project area not within street right-of-way must be devoted to open space. Such open space must be available to the residents or tenants of the planned unit development for recreational purposes or other similar benefit. Land reserved for stormwater detention facilities and other required site improvements, private yards and required or proposed setback areas, and areas not accessible by those living in the development, shall not be applied toward satisfaction of open space requirements. Such open space must be suitably improved for its intended use, and plans for such improvements shall be submitted and approved as part of the planned unit development approval process. Areas containing natural features worthy of preservation or excessive areas of public or private utility easements may, at the city council's discretion, be counted as open space, and may, at the city council's discretion, be left unimproved. The development plan must coordinate improvements to open space areas concurrent with construction of permitted structures and other required improvements within their respective phase of the planned unit development.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2004-29, § 1, 11-23-04)

Sec. 14-250. - Parking.

- (A) *In general.* Parking requirements for all uses within the planned development shall be as established in Chapter 8, Off-Street Parking and Loading. When private streets are proposed as part of a residential planned development, additional common area off-street parking will be required in accordance with Table 14-1 below. Such parking areas shall be dispersed throughout the planned development and shall not be located directly in front of any residential unit.

Table 14-1. Additional parking requirements, residential planned development.

On-street parking	No garages	Single garages	Double garages
None	1½ stalls/unit	1 stall/unit	½ stall/unit
1 side of street	1 stall/unit	½ stall/unit	none
2 sides of street	½ stall/unit	none	none

- (B) *Affect of on-street parking.* At least fifty (50) per cent of the curb frontage on the designated parking side or sides of a street must be available for parking. Available parking frontage shall not include driveways, three (3) feet either side of a driveway, the frontage within twenty-five (25) feet of an intersection, and ten (10) feet either side of a fire hydrant. A length of twenty (20) feet shall be used as a parking space length along the available curb frontage. When less than fifty (50) per cent of the curb frontage is available for on-street parking, off-street parking, in addition to that required in Table 14-1, shall be provided. The amount of additional parking provided shall be the difference between the amount of on-street parking that would be available if fifty (50) per cent of the curb frontage was available for parking and the amount actually being provided based on the development plan.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-260. - Private streets.

- (A) *When permitted.* Private streets will be allowed when the pattern of development does not lend itself to through streets, taking into consideration existing properties, buildings, or topographical features that make construction of a public street unfeasible or inappropriate. Private streets will not be permitted in the following instances:
- (1) When a street serves as an extension of an existing public street.
 - (2) When a future extension of the street will serve as access to adjacent properties.
 - (3) When the street is, or will be, part of a larger neighborhood traffic system or is part of the city-wide comprehensive street system.
- (B) *Design standards.* Private streets shall be located within a dedicated easement and shall be equivalent to public streets in construction design, as determined by the city engineer. Streets shall include concrete curb and gutter, with surmountable style curbing permitted, and street lighting equivalent to standards for installation along public streets. Minimum street width, as measured from face-to-face of curb, along with the minimum easement width to allow for utility installations, is indicated in Table 14-2.

Table 14-2. Minimum street and easement width, private streets.

Proposed on-street parking	Minimum street width	Minimum easement width
None	24 feet	50 feet
1-side of street	28 feet	50 feet

2-sides of street	32 feet	60 feet
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(C) *Maintenance.* Maintenance of private streets and street lighting shall be the responsibility of the developer or homeowner's association formed as part of the planned development. Requests for dedication of private streets as public streets shall only be considered if streets are constructed to city standards.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 5. - ENFORCEMENT OF TERMS OF PLANNED UNIT DEVELOPMENT APPROVAL

Sec. 14-270. - Recording of documents.

Upon approval of the development plan, it shall be filed with the Rice County Recorder's office to serve as notice that the property is being developed under the terms and conditions agreed to by the applicant and the city. Upon approval of a final plat, said plat shall be filed along with a development agreement, executed by both the applicant and the city, and any necessary restrictions or homeowner's association documents governing the planned unit development.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-280. - Performance guarantee.

A cash escrow or letter of credit shall be required by the city council to guarantee performance by the developer. The amount of said cash escrow or letter of credit, and the specific elements of the development that it is intended to guarantee, will be stipulated in the development agreement.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-290. - Control of planned development following completion.

- (A) *In general.* After a certificate of occupancy has been issued, no changes shall be made in the use or configuration of any buildings or structures within the planned unit development, except as permitted below. All other modifications shall require approval of a revised development plan in accordance with the procedures specified in section 14-120.
- (B) *Permitted amendments.* The development review committee may authorize any minor extensions, alterations, or modifications to existing buildings or structures if they are consistent with the purpose and intent of the development plan. No change authorized by this section may increase the size of any building or structure by more than ten (10) per cent.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 14-300. - Violations.

Any violation of the conditions established with approval of the planned unit development shall be handled in accordance with the enforcement provisions specified in sections 2-610 through 2-630.

(Ord. No. 99-20, § 1, 11-23-99)

CHAPTER 15. - SUBDIVISION REGULATIONS

ARTICLE 1. - GENERAL PROVISIONS

Sec. 15-10. - Purpose.

This chapter is established to provide for the orderly, economic, and safe development of land and urban services and facilities, and to promote the public health, safety, and general welfare of the community by establishing physical standards, design requirements, procedures for the subdivision of land, and requirements which will allow flexibility in the design of subdivisions.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-20. - Jurisdiction.

The regulations governing plats and subdivision of land established by this ordinance shall apply within the corporate limits of the City of Faribault and to the unincorporated area within two (2) miles of its limits, as provided for under Minnesota Statutes, Section 462.358.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-30. - Application of subdivision regulations.

- (A) *In general.* The regulations established by this chapter shall apply to any division of a parcel of land into two (2) or more parcels by platting, conveyance, registered land survey, or other means, and the combination of any two (2) or more such adjoining parcels. Platting shall be deemed to include townhouse development, planned unit developments, and any building, common area or land coming within the purview of the Minnesota Condominium Act and the Minnesota Common Interest Ownership Act. No subdivision or conveyance of land shall be entitled to be recorded in the Rice County Recorder's Office or have any validity until all requirements of this chapter have been satisfied.
- (B) *Restrictions on filing and recording conveyances.* No conveyance of land described by metes and bounds, by reference to an unapproved registered land survey, or to an unapproved plat shall be made or recorded unless the parcel described in the conveyance meets one of the criteria listed below. Property that cannot be conveyed under the provisions shown below may only be conveyed as part of a subdivision conforming to the requirements established in the remainder this chapter.
- (1) The land was a separate parcel of record on or before August 4, 1972, or was the subject of a written agreement to convey entered into prior to said date.
 - (2) The land was a separate parcel of not less than five (5) acres in area or three hundred (300) feet in width on or before July 1, 1980.
 - (3) The land is a single parcel of commercial or industrial land of not less than five (5) acres and having a width of not less than three hundred (300) feet and its conveyance will not result in the division of land into two (2) or more parcels, either of which is less than five (5) acres in area and three hundred (300) feet in width.
 - (4) The land is a single parcel of residential or agricultural land of not less than twenty (20) acres and having a width of not less than five hundred (500) feet and its conveyance will not result in the division of land into two (2) or more parcels, either of which is less than twenty (20) acres in area and five hundred (500) feet in width.

- (C) *Building permits.* No permit will be issued for the construction of any building, structure, or improvement to or on any land within a subdivision or which is the subject of a conveyance unless the subdivision or conveyance complies with all applicable requirements of this chapter and pertinent Minnesota Statutes. Additionally, building permits are not to be issued for properties that are platted as outlots.
- (D) *Variances.* A request to vary from the regulations set forth in this chapter shall be processed and reviewed under the procedures established in Sections 2-420 through 2-480
- (Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2011-13, 9-13-11)

ARTICLE 2. - MINOR SUBDIVISIONS

Sec. 15-40. - Purpose.

This section is established to provide for administrative approval of subdivisions that meet specified criteria and for the waiver of standard platting requirements specified elsewhere in this chapter. It is intended largely to facilitate the further division of previously platted lots, the combination of previously platted lots into fewer lots, or for the adjustment of a lot line by relocation of a common boundary.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-50. - Application for minor subdivision.

Any person having a legal or equitable interest in a property may file an application for minor subdivision. An application for minor subdivision shall be filed with the City Planner on an approved form and shall be accompanied by an accurate boundary survey and legal description of the parent parcel and a survey and legal description identifying the resulting parcels after subdivision.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-60. - Review of minor subdivision.

The City Planner shall review all applications for minor subdivision to determine compliance with the standards identified in this section and all other pertinent requirements of this ordinance. Upon written approval of the request by the City Administrator, the applicant shall be responsible for filing the subdivision survey with the Rice County Recorder's office. Should the request be denied, the City Planner shall notify the applicant, in writing, of the reasons for such denial. Any appeal of staff's decision shall be made to the Planning Commission as specified in Sections 2-110 through 2-130.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-70. - Findings required for minor subdivision approval.

In order for the City Planner to grant administrative approval for a proposed minor subdivision, each of the provisions shown below must be met:

- (1) The proposed subdivision of land will not result in more than three (3) lots.
- (2) All necessary utility and drainage easements are provided for.
- (3) All lots to be created by the subdivision conform to lot area and width requirements established for the zoning district in which the property is located.

- (4) The subdivision does not require dedication of public right-of-way for the purpose of gaining access to the property.
- (5) The property has not been divided through the provisions of this section within the previous five (5) years.
- (6) The subdivision meets all design standards as specified elsewhere in this chapter.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-80. - Minor subdivision conditions of approval.

Staff may impose such conditions on any proposed minor subdivision that are deemed reasonable and necessary to protect the public interest and to ensure compliance with the provisions of this ordinance including, but not limited to, the following:

- (1) The applicant shall provide required utility and drainage easements for all newly created lots and be responsible for the cost of filing and recording written easements with the Rice County Recorder's Office; and
- (2) The applicant shall pay parkland dedication fees for each lot created beyond the original number of lots existing prior to subdivision, except when such fees have been applied to the property as part of a previous subdivision.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 3. - PRELIMINARY PLATS

Sec. 15-90. - Purpose of preliminary plat.

Preliminary plats are intended to illustrate proposed subdivision of properties within the city. Such approval shall be required for all subdivisions of land not specifically exempted elsewhere in this chapter. Approval of a preliminary plat does not constitute an acceptance of the subdivision, but rather is deemed an authorization to proceed with the final plat.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-100. - Application for preliminary plat.

Any person having a legal or equitable interest in a property may file an application for a preliminary plat. An application for a preliminary plat shall be filed with planning and zoning staff on an approved form and shall be accompanied by five (5) copies of the preliminary plat along with any other information required by planning and zoning staff in support of the application.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-110. - Hearing on application for preliminary plat.

The Planning Commission shall hold a public hearing on each complete application for preliminary plat approval, as provided in Section 2-100. After the close of the hearing on a proposed preliminary plat, the Planning Commission shall make findings and submit these, together with a recommendation, to the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-120. - Action by City Council on preliminary plat.

The City Council shall make the final decision regarding all applications for preliminary plat approval. Approval shall require a majority vote by the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-130. - Required findings for preliminary plat.

The Planning Commission and City Council shall make each of the following findings before granting preliminary plat approval:

- (1) The proposed preliminary plat conforms with the requirements of this chapter, the applicable zoning district regulations, and any other applicable provisions of this ordinance, subject only to acceptable rule exceptions.
- (2) The proposed subdivision is consistent with the city's Land Use Plan and any other adopted land use studies.
- (3) The plat contains a sound, well-conceived parcel and land subdivision layout that is consistent with good land planning and site engineering design principles.
- (4) The spacing and design of proposed curb cuts and intersection locations is consistent with good traffic engineering design and public safety considerations.
- (5) All submission requirements have been satisfied.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-140. - Expiration of preliminary plat.

An approved preliminary plat shall be valid for a period not to exceed one (1) year from the date of approval by the City Council. In the event that a final plat is not submitted within such time, the preliminary plat will become void.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-150. - Sketch plan required.

- (A) *In general.* In order to insure that all applicants are informed of the procedural requirements and minimum standards of this chapter and the requirements or limitations imposed by other city code provisions or plans, all applicants shall present a sketch plan to the City Planner for review prior to submittal of a preliminary plat. Review of the sketch plan further provides staff the opportunity to determine whether the proposed subdivision is premature, based upon criteria established in Section 15-240
- (B) *Required information.* To facilitate initial review by city staff, the sketch plan shall include the following minimum information:
 - (1) Plat boundary.
 - (2) North arrow.
 - (3) Scale.

- (4) Street layout on and adjacent to plat.
- (5) Designation of land use and current or proposed zoning.
- (6) Significant topographical or physical features.
- (7) General lot locations and layout.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-160. - Submittal requirements for preliminary plat.

- (A) *In general.* Once a sketch plan has been reviewed by the City Planner, the applicant may submit a request for preliminary plat approval as provided for in Section 15-100
- (B) *Required information and contents.* The preliminary plat, at a minimum, shall contain the information identified below unless specifically waived by the City Planner prior to submittal:
- (1) Proposed name of subdivision; names shall not duplicate or too closely resemble names of existing subdivisions.
 - (2) Location of boundary lines in relation to known section, quarter-section or quarter-quarter section lines comprising a legal description of the property.
 - (3) Vicinity sketch, at a legible scale, illustrating the relation of the plat to its surroundings.
 - (4) Names and addresses of all persons having property interest, the developer, designer, and surveyor together with his registration number.
 - (5) Graphic scale of plat, not less than one (1) inch to one hundred (100) feet.
 - (6) Data and north arrow.
 - (7) Boundary line and total acreage of proposed plat, clearly indicated.
 - (8) Existing zoning classifications for land within and abutting the subdivision and any proposed zoning changes associated with the proposed plat.
 - (9) Location, widths, and names of all existing or previously platted streets or other public ways, showing type, width, and condition of improvements, if any, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, easements and section and corporate lines within the tract and to a distance of one hundred (100) feet beyond the tract.
 - (10) Location and size of existing sewers, water mains, culverts, or other underground facilities within the tract and to a distance of one hundred (100) feet beyond the tract. Such data as grades, invert elevations, and locations of catch basins, manholes and hydrants shall also be shown.
 - (11) Boundary lines of adjoining unsubdivided or subdivided land, within one hundred (100) feet, identified by name and ownership, including all contiguous land owned or controlled by the subdivider.
 - (12) Topographic data of the site and area within one hundred (100) feet, including contours at vertical intervals of not more than two (2) feet. Watercourses, floodplain areas, wetlands, rock outcrops, power transmission poles and lines, and other significant features shall also be shown.
 - (13) Layout of proposed streets showing the right-of-way widths, centerline gradients, typical cross-sections, and proposed names of streets.
 - (14) Locations and widths of proposed alleys and pedestrian ways.
 - (15) Locations and size of proposed sewer lines and water mains.

- (16) Location, dimension, and purpose of all easements.
 - (17) Layout, numbers, lot areas, and preliminary dimensions of lots and blocks.
 - (18) Minimum front and side street building setback lines.
 - (19) When lots are located on a curve, the width of the lot at the building setback line.
 - (20) Areas, other than streets, alleys, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres.
- (C) *Required supplemental information.* Any or all of the supplementary information requirements listed below shall be submitted when deemed necessary by city staff, consultants, advisory bodies or the City Council:
- (1) Proposed protective covenants or restrictions.
 - (2) A grading plan to indicate the approximate gradients of streets and lots, proposed grading and drainage of the site, and the anticipated garage floor or basement elevations of all structures.
 - (3) Preliminary storm water plans including the location of culverts, bridges, underground pipe, improved channels, and natural waterways. Hydrologic calculations shall be based upon a 50-year standard as stipulated by the City Engineer.
 - (4) An accurate soil survey of the subdivision prepared by a qualified person.
 - (5) A survey prepared by a qualified person identifying tree coverage in the proposed subdivision in terms of type, weakness, maturity, potential hazard, infestation, vigor, density, and spacing.
 - (6) Statement of the proposed use of lots stating type of buildings with number of proposed dwelling units or type of business or industry, so as to reveal the effect of the development on traffic, fire hazards, and congestion of population.
 - (7) If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions, shall be shown. Such proposed zoning plan shall be for information only and shall not vest any rights in the applicant.
 - (8) Provision for surface water disposal, ponding, drainage, and flood control.
 - (9) Where the subdivider owns property adjacent to that which is being proposed for the subdivision, it shall be required that the subdivider submit a sketch plan of the remainder of the property so as to show the possible relationships between the proposed subdivision and the future subdivision. In any event, all subdivisions shall be required to relate well with existing or potential adjacent subdivisions.
 - (10) Where structures are to be placed on large or excessively deep lots which are subject to potential replat, the preliminary plat shall indicate a logical way in which the lots could possibly be resubdivided in the future.
 - (11) A plan for soil erosion and sediment control both during construction and after development has been completed. The plan shall include gradients of waterways, design of velocity and erosion control measures, design of sediment control measures, and landscaping of the erosion and sediment control system and shall be included as part of the required drainage plan.
 - (12) When the city has agreed to install improvements in a development, the developer may be required to furnish a financial statement satisfactory to the city indicating the developer's ability to develop the plat.
 - (13) Such other information as may be required as documented in writing by the city staff.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 4. - FINAL PLATS

Sec. 15-170. - Purpose of final plat.

A final plat is a drawing representing the proposed subdivision of land within the city and serves as the document for recording purposes, as required by the Rice County Recorder's office. Once a preliminary plat has been approved by the City Council, the applicant may submit a request for final plat approval. In certain cases, the City Planner may allow a final plat to be submitted concurrent with a request for preliminary plat approval.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-180. - Application for final plat.

Any person having a legal or equitable interest in a property may file an application for a final plat. An application for a final plat shall be filed with the City Planner on an approved form and shall be accompanied by five (5) copies of the final plat along with any other information required by the City Planner in support of the application.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-190. - Hearing on application for final plat.

The Planning Commission shall hold a public hearing on each complete application for final plat approval, as provided in Section 2-100. After the close of the hearing on a proposed final plat, the Planning Commission shall make findings and submit these, together with a recommendation, to the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-200. - Action by City Council on final plat.

The City Council shall make the final decision regarding all applications for final plat approval. Approval shall require a majority vote by the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-210. - Required findings for final plat.

The Planning Commission and City Council shall make each of the following findings before granting final plat approval:

- (1) The final plat substantially conforms to the approved preliminary plat;
- (2) The plat conforms to all applicable requirements of this ordinance, subject only to approved rule exceptions; and
- (3) All submission requirements have been satisfied.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-220. - Recording of final plats.

Final plats shall be recorded with the Rice County Recorder's Office within twelve (12) months following City Council approval. Final plats that are not recorded within said time period shall be deemed null and void. The final plat shall be submitted in a digital format suitable to the city when recording plats are forwarded for required city signatures.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-230. - Submittal requirements for final plat.

The final plat, at a minimum, shall contain the information identified below unless specifically waived by the City Planner prior to submittal:

- (1) Name of the subdivision, which shall not duplicate or too closely approximate the name of any existing subdivision.
- (2) Location by section, township, range, county, and state, and including descriptive boundaries of the subdivision, based on an accurate traverse, giving angular and linear dimensions that must mathematically close. The allowable error closure of any portion of a final plat shall be one (1) foot in seven thousand five hundred (7,500) feet.
- (3) The exact location of existing and proposed monuments shall be shown and described on the final plat. Locations of such monuments shall be shown in reference to existing official monuments on the nearest established street lines, including true angles and distances to such reference points or monuments.
- (4) Location of lots, streets, public highways, alleys, parks, and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground shall be shown. Dimensions shall be shown from all angle points of curve to lot lines.
- (5) Lots shall be numbered clearly. Blocks are to be numbered, with numbers shown clearly in the center of the block.
- (6) The exact locations, widths, and names of all streets to be dedicated.
- (7) Location and width of all easements to be dedicated.
- (8) Name and address of developer and surveyor making the plat.
- (9) Scale of plat (the scale to be shown graphically on a bar scale), date and north arrow.
- (10) Statement dedicating all streets, alleys, other public areas, and easements as follows: "have caused the same to be surveyed and platted as (Name of Plat), and dedicated to the public use forever the thoroughfares and also dedicate the easements as shown on this plat for drainage and utility purposes only."
- (11) Notarized certification by a registered surveyor in the form required by Minn. Stat. § 505.03, as amended.
- (12) Certification indicating that all taxes and special assessments due on the property have been paid in full.
- (13) Execution of all owners of any interest in the land and any holders of a mortgage thereon of the certificates required by Minn. Stat. § 505.02, as amended, and which certificate shall include a dedication of streets, utility easements, and other public areas.

- (14) Space for certificates of approval and review to be filled in by the signatures of the mayor and city administrator.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2003-014, § 1, 6-24-03)

ARTICLE 5. - PREMATURE SUBDIVISIONS

Sec. 15-240. - Premature subdivision described.

Any preliminary plat of a proposed subdivision deemed premature for development shall be denied by the City Council. A subdivision may be deemed premature should any of the conditions which follow exist:

- (1) *Lack of adequate drainage.* A condition of inadequate drainage shall be deemed to exist if surface or subsurface water retention and runoff is such that it constitutes a danger to the structural security of the proposed structures, the proposed subdivision will cause damage from erosion and siltation on downhill or downstream land, or the proposed site grading and development will cause harmful and irreparable damage from erosion and siltation on downstream land.
- (2) *Lack of adequate roads or highways to serve the subdivision.* A proposed subdivision shall be deemed to lack adequate roads or highways to serve the subdivision when roads which serve the proposed subdivision are of such a width, grade, stability, vertical and horizontal alignment, site distance and surface condition that an increase in traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare, or seriously aggravate an already hazardous condition.
- (3) *Lack of municipal sanitary sewer and water availability.* A proposed subdivision shall be deemed premature if the extension of municipal sanitary sewer or water facilities is not feasible or is not proposed as part of subdivision improvements or if existing facilities are inadequate to support the subdivision if developed to its maximum permissible density.
- (4) *Inconsistency with Land Use Plan.* The proposed subdivision is inconsistent with the purposes, objectives and recommendations of the duly adopted Land Use Plan of the city, as may be amended.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 6. - DESIGN STANDARDS

Sec. 15-250. - Minimum design standards.

The design standards set forth below are deemed to be minimum requirements. The city may impose additional or more stringent requirements concerning lot size, streets, and overall design as deemed appropriate considering the property being subdivided.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-260. - Blocks.

- (A) *Block length.* In general, intersecting streets, determining block lengths, shall be provided at such intervals so as to serve cross-traffic adequately and to meet existing streets. Where no existing plats control, the blocks in residential subdivisions should not exceed one thousand three hundred twenty (1,320) feet nor be less than four hundred (400) feet in length, except where topography or other conditions justify a

departure from such standards. In blocks longer than eight hundred (800) feet, pedestrian ways and/or easements through the block may be required near the center of the block. Blocks intended for commercial or industrial use shall be of sufficient size to provide for adequate off-street parking, loading, and other site requirements.

- (B) *Block width.* The width of the block shall normally be sufficient to allow two (2) tiers of lots of appropriate depth. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-270. - Lots.

- (A) *In general.* All lots shall have size, width, depth, shape, and orientation that is appropriate for the type of development and use contemplated.
- (B) *Area and dimension requirements.* The minimum lot area, width, and depth shall not be less than that established for the individual zoning districts in effect at the time of adoption of the final plat.
- (C) *Corner lots.* Corner lots for residential use shall have additional width to permit appropriate building setback from both streets as required within the individual zoning districts.
- (D) *Side lot lines.* Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.
- (E) *Required street frontage.* Every lot must have minimum street frontage, as required within the individual zoning districts, on a city approved street other than an alley, except that lots permitted as part of a planned unit development may front a private street.
- (F) *Natural features.* In the subdividing of land, due regard shall be shown for all natural features, such as tree growth, watercourses, historic spots, or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.
- (G) *Lot remnants.* All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots, rather than allowed to remain as unusable parcels.
- (H) *Frontage on two streets.* Double frontage, or lots with frontage on two (2) parallel streets shall not be permitted except where lots back on arterial streets or highways or where topographic or other conditions render subdividing otherwise unreasonable. Such double frontage lots shall have an additional depth of at least twenty (20) feet in order to allow space for screen planting along the back lot line.
- (I) *Turn-around access.* Where proposed residential lots abut a collector or arterial street, they should be platted in such a manner as to encourage turn-around access and egress on each lot.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-280. - Streets and alleys.

- (A) *Street network.* Except for culs-de-sac, streets shall connect with streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of streets in the nearest subdivided tracts. The arrangement of thoroughfares and collector streets shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to runoff of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the area to be served.
- (B)

Local streets and dead-end streets. Local streets should be so planned as to discourage their use by non-local traffic. Dead-end streets are prohibited, but culs-de-sac shall be permitted where topography or other physical conditions justify their use. Cul-de-sacs shall not serve more than twenty (20) lots nor be longer than six hundred fifty (650) feet in length, including a terminal turn around which shall be provided at the closed end, with a right-of-way radius of not less than fifty (50) feet. Such distance shall be measured from the centerline of the street of origin to the center point of the cul-de-sac.

- (C) *Access to arterial streets.* In cases where a proposed subdivision abuts a limited access highway or arterial street, there shall be no direct vehicular or pedestrian access from individual lots to such highway or street.
- (D) *Street plans for future subdivisions.* Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided portion shall be prepared and submitted by the subdivider.
- (E) *Provisions for resubdivision of large lots and parcels.* When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and openings of future streets and appropriate resubdivision, with provision for adequate utility connections for such resubdivision.
- (F) *Street intersections.* Under normal conditions, streets shall be laid out so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. Under normal conditions, the minimum angle of intersection of streets shall be sixty (60) degrees. Street intersection jogs with an offset of less than one hundred twenty-five (125) feet, as measured from centerline to centerline, shall be avoided.
- (G) *Subdivisions abutting major rights-of-way.* Wherever the proposed subdivision contains or is adjacent to the right-of-way of a U.S. or State highway or thoroughfare, the city may require the provision of a marginal access street, located approximately parallel and adjacent to the boundary of such right-of-way. Due consideration shall be given to proper circulation design or for a street at a distance suitable for the appropriate use of land between such street and right-of-way. Such distance shall be determined with due consideration of the minimum distance required for approach connections to future grade separations, or for lot depths.
- (H) *Sidewalks.* In cases where the city deems it appropriate, sidewalks of not less than five (5) feet in width shall be provided. Where sidewalks are provided provisions shall be made for handicapped access.
- (I) *Service access, alleys.* Service access shall be provided in commercial and industrial districts for off-street loading, unloading, and parking consistent with and adequate for the uses proposed. Dead-end alleys shall not be permitted.
- (J) *Half streets.* Dedication of half streets shall not be considered for approval except where it is essential to the reasonable development of the subdivision and in conformity with the other requirements of these regulations or where it is found that it will be practical to require the dedication of the other half when the adjoining property is subdivided.
- (K) *Right-of-way width.* Right-of-way widths shall conform to the minimum standards identified below. In the case of a local or collector street, the minimum right-of-way width may be reduced, at the discretion of the City Council, when anticipated traffic volumes, area circulation patterns, or other factors warrant such a reduction.

Arterial street80 feet

Collector street80 feet

(66 feet when specifically allowed)

Local street66 feet

(50 feet when specifically allowed)

Cul-de-sac50 feet

Alley20 feet

Pedestrian way20 feet

- (L) *Street grades.* Except when, upon the recommendation of the City Engineer, the topography warrants a greater maximum, the grades in all streets shall not exceed those identified below. In addition, there shall be a minimum grade on all streets and thoroughfares of not less than five-tenths (.5) percent.

Arterial street5 percent

Collector street6 percent

Local street8 percent

Cul-de-sac8 percent

Alley8 percent

- (M) *Street alignment.* A tangent of at least one hundred (100) feet shall be provided between reverse curves on arterial or collector streets and fifty (50) feet on lesser streets. Other than at intersections, connecting street lines that deflect from each other shall be connected by a curve with a radius adequate to ensure a sight distance of no less than the following:

Arterial street500 feet

Collector street320 feet

Local street100 feet

Cul-de-sac100 feet

- (N) *Reserve strips.* Reserve strips controlling access to streets shall be prohibited.

- (O) *Naming of streets.* The City Council reserves the right to establish street names, which shall be based on area naming patterns, ease of public safety response, and other pertinent factors.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-290. - Easements.

- (A) *For utilities.* An easement for utilities at least five (5) feet wide shall be provided along side and rear lot lines, which when combined with easements on adjoining lots, forms a continuous easement of at least ten (10) feet. Additionally, a similar easement of at least ten (10) feet shall be provided across the front lot

line. If necessary for the extension of main water or sewer lines or similar utilities, easements of greater width may be required along lot lines or across lots, at the discretion of the City Engineer.

- (B) *For storm water drainage.* Where a subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided a drainage easement or other means of land dedication conforming substantially with the lines of such water course and of such further width as determined by the City Engineer.
- (C) *For walkways or trails.* Pedestrian easements, with a width not less than twenty (20) feet, may be required where deemed necessary to provide circulation, access to schools, parks, or other community facilities, or as part of a planned community-wide trail system.
- (D) *Guy wires.* Additional easements for pole guys should be provided, where appropriate, at the outside of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that pole guys will fall along side lot lines.
- (E) *Continuous easement provision.* All required easements, when approved as part of a final plat, shall not thereafter be changed without the approval of the City Council of a vacation of such easement, as specified in Section 2-500

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-300. - Erosion and sediment control.

- (A) *In general.* The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.
- (B) *Erosion and siltation control measures.* Erosion and siltation control measures shall be coordinated with the different stages of construction. Appropriate control measures shall be installed prior to development when necessary to control erosion.
- (C) *Incremental development.* Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.
- (D) *Soil exposure or removal.* When soil is exposed, the exposure shall be for the shortest feasible period of time, as specified in the development agreement. Where topsoil is removed, sufficient arable soil shall be set aside for respreading over the developed area. Top soil shall be restored or provided to a depth of four (4) inches and shall be of a quality at least equal to the soil quality prior to development.
- (E) *Runoff.* Runoff water shall be diverted to a sedimentation basin before being allowed to enter the natural drainage system.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-310. - Storm drainage.

All subdivision design shall incorporate adequate provisions for storm water, subject to review and approval of the City Engineer. The rate of runoff for the area being subdivided is to be maintained at a level equal to that which existed in an undeveloped state, except as may be approved by the City Engineer.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-320. - Protected areas.

Where land proposed for subdivision is deemed environmentally sensitive by the city, due to the existence of wetlands, drainage ways, watercourses, floodable areas or steep slopes, the design of said subdivision shall clearly reflect all necessary measures of protection to insure against adverse environmental impact. Based upon the necessity to control and maintain certain sensitive areas, the city shall determine whether said protection will be accomplished through lot enlargement and redesign or dedication of those sensitive areas in the form of protection shall include design solutions which allow for construction and grading involving a minimum of alteration to sensitive areas. Where these areas are to be incorporated into lots within the proposed subdivision, the subdivider shall be required to demonstrate that the proposed design will not require construction on slopes over fifteen (15) percent, or result in significant alteration to the natural drainage system such that adverse impacts cannot be contained within the plat boundary.

(Ord. No. 99-20, § 1, 11-23-99; Ord. No. 2010-08, § 1, 5-25-10)

ARTICLE 7. - PARK LAND DEDICATION

Sec. 15-330. - Park land dedication requirements.

- (A) *In general.* As a prerequisite to plat approval, subdividers shall dedicate land for parks, playgrounds, public open spaces, or trails and/or shall make a cash contribution to the city's park fund as provided within this section. In the case of a replat of previously subdivided property where a park dedication or contribution has been made or where the previously subdivided lots are less than seventy (70) percent of current lot area standards, no park dedication or contribution shall be required. No park dedication or contribution shall be required in the case of a minor subdivision where land is being added to an existing parcel for the creation of a larger lot.
- (B) *Required park land.* In all new subdivisions, a percentage of the gross area of all property to be subdivided shall be dedicated for parks, as follows:
- Residential subdivision (minimum)7%
 - Commercial subdivision (minimum)4%
 - Industrial subdivision (minimum)4%
 - Other subdivisions (minimum)7%
- (C) *Land suitability.* Land to be dedicated shall be reasonably suitable for its intended use and shall be at a location convenient to the people to be served. In evaluating the adequacy of proposed park and recreation areas, the City Council shall consider factors including size, shape, topography, geology, hydrology, tree cover, access, and location. Wetlands, ponding areas, and drainageways accepted by the city shall not contribute towards park land requirements, except at the discretion of the City Council.
- (D) *Terms of dedication.* Dedication of land for public use shall be without restrictions or reservations and shall be designated as an outlot on the plat. The subdivider shall be responsible to grade the land to the contours shown on the approved preliminary plat and to leave such dedicated land in a condition suitable to the city.
- (E) *Fee in lieu of land dedication.* When it is determined that park land dedication is not desirable due to location, size, or other suitability factors as defined in Section 15-330(C) above, the city shall require, in lieu of land donation, a cash donation equal to a percentage of the fair market value of the property. Such

percentage is based on the requirements identified in Subsection 15-330(B). For the purposes of this section, fair market value shall be determined at the time of final plat approval in accordance with the following:

- (1) The city and the developer may agree as to the fair market value, or
 - (2) The fair market value may be based upon a current appraisal submitted to the city by the subdivider at the subdivider's expense. The appraisal shall be made by a qualified real estate appraiser who is an approved member of the SREA or MAI, or equivalent real estate appraisal societies.
 - (3) If the city disputes such appraisal the city may, at its own expense, obtain a second appraisal of the property by a qualified real estate appraiser, mutually agreed upon by the developer and the city, which appraisal shall be conclusive evidence of the fair market value of the land.
- (F) *Combined land and cash donations.* The city may elect to receive a combination of cash and land as part of parkland dedication requirements. In such cases, the percentage of land dedicated shall reduce the required fee percentage by an equal amount.
- (G) *Planned unit developments.* Planned developments with mixed land uses shall make cash and/or land contributions in accordance with this section based upon the percentage of land devoted to the various uses.
- (H) *Payment requirements.* Park cash contributions are to be calculated at the time of final plat approval. The City Council may approve a delay in the payment of cash requirements provided that an agreement is executed guaranteeing such payment in accordance with the following:
- (1) Any developer may elect to pay in full park fees based on the amount required at the time of the final plat approval.
 - (2) Plats with park fees of up to two thousand five hundred (\$2,500.00) must be paid in full when the City Council approves the final plat.
 - (3) Twelve month scheduled payment plan. Plats with park fees of two thousand five hundred one dollars (\$2,501.00) to seven thousand five hundred dollars (\$7,500.00) must pay at least one-third (1/3) of the fee when the final plat is approved by the City Council, one-half (1/2) of the balance no later than six (6) months from the date of final plat approval, and the final balance not later than twelve (12) months from the date of final plat approval. No interest will be charged on the payments during the twelve (12) months.
 - (4) Twenty-four month scheduled payment plan. Plats with park fees of over seven thousand five hundred one dollars (\$7,501.00) must pay at least one-third (1/3) of the fee when the final plat is approved by the City Council, and one-half (1/2) of the balance no later than twelve (12) months from the date of final plat approval. No interest will be charged on the money due and paid during the first twelve (12) months. The final payment must be paid not later than twenty-four (24) months from the date of final plat approval by the City Council, and interest at a rate set forth in the development agreement shall be charged on the park fees due and paid after twelve (12) months.
- (I) *Identified sites.* When a proposed park, playground, recreational area, school site or other public ground has been indicated in the city's official map or Land Use Plan and is located in whole or in part within a proposed plat, it shall be designated as such on the plat and shall be dedicated to the appropriate

governmental unit. If the subdivider elects not to dedicate an area in excess of the land required hereunder for such proposed public site, the city may consider acquiring the site through purchase or other available means prior to approval of the plat.

- (J) *Private open space/parks.* Where private open space for park and recreation purposes is provided in a proposed subdivision, such areas may be used for credit, at the discretion of the City Council, against the requirement of dedication for park and recreation purposes, provided the City Council finds it is in the public interest to do so.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 8. - REQUIRED BASIC IMPROVEMENTS

Sec. 15-340. - General provisions.

- (A) *Development agreement required.* Before an approved final plat is filed with the Rice County Recorder's office, the subdivider of the land covered by said plat shall pay all applicable fees and execute and submit to the City Council a development agreement which shall be binding on his or her heirs, personal representatives, and assigns. Such agreement shall address responsibilities for construction of public improvements, timing related to such improvements, and the form of financial guarantee, together with other standard development agreement provisions. The city shall be responsible for filing the agreement with the Rice County Recorder's office in conjunction with the final plat. No private construction shall commence, nor shall building permits be issued, until all improvements required under this section have been contracted for and the subdivision improved by completion of sewer, water, storm sewer, and graded right-of-way. No final certificate of occupancy shall be issued for private construction until all improvements, including paving of streets, have been completed.
- (B) *Surety required.* Prior to the delivery of the approved final plat, the subdivider shall deposit with the city an amount equal to a minimum of one hundred (100) percent of the City Engineer's estimated cost of the required improvements within the plat, either in a cash escrow performance bond, or letter of credit. The surety shall be approved by the city. The cash escrow letter of credit or performance and indemnity bond shall be conditioned upon:
- (1) The making and installing of all of the improvements required by the terms and conditions set forth by the city within one (1) year unless an extension is granted by the City Council.
 - (2) Satisfactory completion of the work and payment for work that was undertaken by the subdivider in accordance with the developer's agreement referred to above.
 - (3) Payment by the subdivider to the city of all expenses incurred by the city, which expenses shall include but not be limited to expenses for engineering, planning, fiscal, legal, construction, and administration. In instances where a cash escrow is submitted in lieu of a letter of credit or performance and indemnity bond, there shall be a cash escrow agreement which shall provide that in the event the required improvements are not completed within one (1) year, all amounts held under the cash escrow agreement shall be automatically turned over and delivered to the city and applied by the city to the cost of completing the required improvements. If the funds available within said cash escrow agreement are not sufficient to complete the required improvements, the necessary additional cost to the city may be assessed against the subdivision. Any balance remaining in the cash escrow fund after such improvements have been made and all expenses have been paid, shall be

returned to the subdivider. In instances where a letter of credit is used in lieu of a cash escrow or performance and indemnity bond, the letter of credit shall be in a form satisfactory to the city and the terms thereof shall substantially comply with the procedure set forth for a cash escrow fund. In instances where a performance and indemnity bond is used in lieu of a cash escrow or letter of credit, the bond shall be in a form acceptable to the city and shall comply with all requirements as set forth in Minnesota Statutes, as amended, which statutes relate to surety bonds.

- (C) *Special assessments for improvements.* In lieu of the requirements outlined in Section 15-340(B) above, the subdivider may petition the city for basic improvements to be made as part of a special assessment project, pursuant to Minnesota Statutes, Chapter 429. If the city elects to install the improvements, the developer shall post a cash escrow or letter of credit guaranteeing payment of the assessments, unless specifically waived by the City Council.
- (D) *Inspection required.* All of the required improvements to be installed under the provisions of this chapter shall be approved by and subject to the inspection of the City Engineer. All of the city's expenses incurred as the result of the required improvements shall be paid directly, indirectly, or by reimbursement to the city by the subdivider.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-350. - Monuments.

- (A) *Required locations.* Official monuments or permanent markers shall be set at each corner of every block or portion of a block, points of curvature and points of tangency on street lines, and at each angle point on the boundary of a subdivision. Additionally, monuments shall be set at all quarter section points within, or on the perimeter of, the subdivision.
- (B) *Monument type.* A monument or permanent marker shall be a steel pipe or rod, one-half (½) inch or larger in diameter, extending at least three (3) feet below the finished grade. In situations where conditions prohibit the placement of markers in the required locations, off-set markers will be permitted.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-360. - Street improvements.

- (A) *In general.* All street improvements shall be completed in accordance with the standards and specifications for street construction as required by the City Council and described in the city's Community Management Program manual, specifically, but not limited to, the following:
- (1) The full width of the right-of-way shall be graded, including the subgrade of the areas to be paved.
 - (2) All streets shall be improved with pavement to the required overall width, with curb and gutter installed.
 - (3) Storm sewers, culverts, storm water inlets, and other drainage facilities shall be required where they are necessary to insure adequate storm water drainage for the subdivision.
 - (4) Street signs of a design approved by the City Council shall be installed at each street intersection.
 - (5) Driveway approaches, sidewalks, or pedestrian pathways of standard design shall be installed as may be required by the City Council.
 - (6) Street lighting fixtures shall be installed as may be required by the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-370. - Sanitary sewer and water distribution improvements.

- (A) *In general.* All sanitary sewer and water distribution improvements shall be completed in accordance with the standards and specifications for such construction as required by the City Council and described in the city's Community Management Program manual.
- (B) *Sanitary sewer and water required.* Whenever municipal sanitary sewer or water facilities are not available for extension, or proposed for extension, to serve a subdivision, such subdivision shall be deemed premature, as indicated in Section 15-240, and shall be ineligible for development until such time that sanitary sewer and water service will be provided. In the case of a minor subdivision of land, as provided for in Sections 15-40 through 15-80, and where municipal sanitary sewer and water facilities are not located within one hundred (100) feet of the new or residual parcels of land, the City Council may approve the conveyance or division of land subject to the following conditions being satisfied:
- (1) The new or residual parcels of land resulting from the conveyance or division are not less than one (1) acre in size.
 - (2) The private wastewater disposal and water supply systems shall be in compliance with applicable sections of the building code.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-380. - Utilities.

All utilities, including but not limited to, telephone, electric, cable television, and gas service lines which are meant to serve newly developing areas are to be placed underground. Such facilities shall be placed within dedicated easements or within the right-of-way in a manner to avoid conflict with other underground services. When overhead placement of such utilities is necessary, based on a determination by the City Engineer, such facilities shall be required to be located within rear lot line easements. Utility installations and services are further governed by franchise requirements established within the City Code of Ordinances.

(Ord. No. 99-20, § 1, 11-23-99)

ARTICLE 9. - UNLAWFUL ACTS

Sec. 15-390. - Sale of lots from unrecorded plats.

It is unlawful for any person to sell, trade, or otherwise convey any lot or parcel of land as a part of, or in conformity with any plan, plat, or replat of any subdivision or area located within the jurisdiction of this chapter unless said plan, plat, or replat shall have first been recorded in the office of the Recorder of Rice County.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-400. - Receiving or recording unapproved plats.

It is unlawful for any person to receive or record in any public office any plans, plats of land laid out in building lots and streets, alleys or other portions of the same intended to be dedicated to public or private use, or for the use of purchasers or owners of lots fronting on or adjacent thereto, and located within the jurisdiction of this chapter, unless the same shall bear thereon, by endorsement or otherwise, the approval of the City Council.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-410. - Misrepresentations.

It is unlawful for any person owning an addition or subdivision of land within the city to represent that any improvement upon any of the street, alleys or avenues of said addition or subdivision or any sewer in said addition or subdivision has been constructed according to the plans and specifications approved by the City Council, or has been supervised or inspected by the city, when such improvements have not been so constructed, supervised, or inspected.

(Ord. No. 99-20, § 1, 11-23-99)

Sec. 15-420. - Violations.

Any violation of the provisions of this chapter shall be enforced in accordance with the policies established in Section 2-610 through 2-630.

(Ord. No. 99-20, § 1, 11-23-99)