

PLANNING COMMISSION

JULY 13, 2020

6:30 O'CLOCK P.M.

1. Call to Order
2. Minutes of the Previous Meeting – June 8, 2020
3. Stannard Discussion – potential cup revision on a storage unit.
4. Zoning Ordinance Rewrite –
5. Other
6. Adjourn

MINUTES OF PLANNING COMMISSION MEETING
June 8, 2020

Pursuant to due call and notice thereof, a regular Planning Commission meeting was held at City Hall on the 8th day of June, 2020 at 6:30 PM

THE FOLLOWING WERE PRESENT: Commissioner Ferris, Commissioner Zelinske, Commissioner Tinsley, Commissioner Thompson, Commissioner Burton and Commissioner Fitch

THE FOLLOWING WERE ABSENT: Commissioner Torkelson

THE FOLLOWING WERE ALSO PRESENT: Administrator Ibisch, Clerk Rappe

CALL TO ORDER AT 6:30PM

MINUTES OF THE PREVIOUS MEETING May 18, 2020 - Motion made to Approve the May 18, 2020 Meeting Minutes as submitted made by Commissioner Burton, second by Commissioner Zelinske with All Voting Aye.

TABLED HEASER VARIANCE REQUEST – The City Council would prefer to modify the encroachment agreement and that modified agreement is in the planning packet. The City Council will vote on this on Wednesday. **Motion to Deny the Variance Request made by Commissioner Burton, second by Commissioner Zelinske with all voting aye.**

ZONING ORDINANCE REWRITE – Clerk Rappe got the Planning Commissioners input into questions that she has come up with in the new code re-write. Clerk Rappe will pass that input along to Laura Chamberlain at Hoisington Koegler.

ANNEXATION DISCUSSION – Administrator Ibisch stated that the Orderly Annexation Agreement with Mantorville Township has expired and there are some parcels on the northeast side that are looking to develop and would like city services. Ibisch stated that the City can do this by joint resolution.

OTHER – Staff updated the Commissioners on a potential CUP revision on a storage unit that has been inquired about at City Hall.

Adjourn 7:34PM

Respectfully Submitted,

Linda Rappe, City Clerk

Staff Planning Review

Conditional Use Permit Application

Rental Storage Units

C-3 Highway Commercial Zoning District

800 7th Street SE

Chad Stannard

Public Works Director

No water or sewer revenue

Electric Supervisor

People's Electric Cooperative

Park and Recreation Supervisor

No parkland fee required

Water/Wastewater

No water or sewer connections

Streets

No planned improvements to 8th Ave SE

Access from 7th Street SE

City Engineer

Building Permit Application to include grading plan, site plan, dust proof condition, and lighting plan relative to adjacent residential use.

Zoning

C-3 Conditional Use – Rental Storage Units

154.080 G.2 "parking lots should be maintained in a useable dust-proof condition and shall be kept graded and drained to dispose of surface water in accordance with existing state, federal and local regulations.

No external storage.

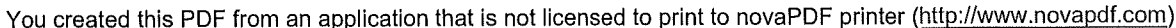
Finance

No Issues

Fire

Access from 7th Street SE

no issue



MINUTES OF PLANNING COMMISSION MEETING

August 14, 2017

Pursuant to due call and notice thereof, a regular Planning Commission meeting was held at City Hall on the 14th day of August, 2017 at 6:30 PM

THE FOLLOWING MEMBERS WERE PRESENT: Commissioner Ferris, Commissioner Sannes, Commissioner Tinsley and Commissioner Zelinske and Commissioner Burton.

THE FOLLOWING WERE ABSENT: Commissioner Borgstrom and Commissioner Torkelson

THE FOLLOWING WERE ALSO PRESENT: City Administrator Coleman, Tony Bigelow, David Martin – Massey Surveying, Chad Stannard, Eric Brophy and Paul Czaplewski

CALL TO ORDER: Commissioner Ferris called the meeting to order at 6:30 PM.

MINUTES OF PREVIOUS PLANNING COMMISSION MEETING: Motion to Approve the July 10, 2017 minutes made by Commissioner Zelinske, second by Commissioner Tinsley with all voting Aye.

PUBLIC HEARING HOUSTON’S FIRST SUBDIVISION FINAL PLAT – Public Hearing Opened.

Jesse Preston, WHKS, was in attendance. There were no comments from the public.

Public Hearing Closed. **Motion made by Commissioner Burton to recommend approval with comments from the staff planning review, second by Commissioner Zelinske with all voting Aye.**

PUBLIC HEARING CONDITIONAL USE PERMIT FOR RENTAL STORAGE UNITS – Chad Stannard – 24749 719th St., Mantorville.

Public Hearing Opened.

Mr. Stannard stated that he is working with David Martin at Massey Surveying. A site plan has been submitted with an access from 8th Ave SE. Mr. Stannard stated that his intention is to build two buildings in the spring and the following year build three more and he would hard surface it when all buildings are complete. The lighting would be wall packs on the buildings and on poles. Mr. Martin stated that a lighting plan would be submitted for review by the City Engineer at building permit.

Public Hearing Closed.

Motion to Approve with the Conditions of : 1. A useable dust-proof condition shall be provided within one year of initial construction with the potential for an extension of up to one additional year. 2. Building permit application to include grading, site, and lighting plan relative to adjoining property made by Commissioner Burton, second by Commissioner Zelinske with all voting Aye.

PUBLIC HEARING CONDITIONAL USE PERMIT FOR CZAPLEWSKI FUNERAL HOME – Administrator Coleman stated that this plan includes access from 8th Ave SE and suggests that the City vacates the south part of 8th Ave SE for the funeral home to use as a private drive to access their garage and canopy. The building permit has been submitted and reviewed by the City Engineer. Commissioner Tinsley recused himself from voting since his employer was involved in the design of the building. Commissioner Zelinske asked about vacating the south of 8th Ave SE. Paul Czaplewski, PO Box 461, Hayfield, MN – Mr. Czaplewski asked how a vacation would work and is satisfied with the answer.

Public Hearing Opened.

No Comments

Public Hearing Closed.

Motion to approve the Conditional use Permit for a Funeral Home in a C-3 District with conditions from staff planning review as stated made by Commissioner Zelinske, second by Commissioner Burton. Ayes: Sannes, Burton, Ferris and Zelinske, Abstention: Tinsley.

PUBLIC HEARING FOR PRELIMINARY PLAT FOR MEADOWBROOK II – Administrator Coleman stated that the Engineer has added some comments on the drainage.

Public Hearing Opened.

David Martin, Massey – stated that he is working with the City Engineer on the drainage plans and they are not planning on building the entire retention pond at first. Commissioner Burton asked if the pond placement will hamper future development. Mr. Martin stated that he is working from a GDP that was submitted some time ago but it will not interfere.

Eric Gruhlke – 1601 13th Ave NE – asked about the water and sewer easement along 16th St NE and wanted to know if this is an additional easement. Administrator Coleman stated that it is not an additional easement.

Public Hearing Closed.

Commissioner Burton asked if discussions had started with the landowner about the retention pond. Mr. Martin stated that Mr. Bigelow was planning on calling the landowner the next day. **Motion to approve the preliminary plat with conditions outlines by City staff made by Commissioner Burton, second by Commissioner Zelinske with all voting Aye.**

Ordinance Discussion - Review changes to Chapters 152 through 152.54 – Administrator Coleman presented the changes that were suggested at the last meeting and stated the new changes she suggested.

Ordinance Discussion – Comments for Definitions – Administrator Coleman stated that there are definitions at the beginning of the ordinance and there are definitions in each section and would like to condense all definitions into one chapter. The Commission discussed “small building and the like” and “trailers”. There was discussion of many of the definitions. Administrator Coleman brought adding ghost plats to the City’s zoning and interim use permits.

COMPREHENSIVE PLAN – Commissioner Burton asked about the answers from the Community Meeting. Administrator Coleman stated that she had three more maps to submit for them to add to the responses and she will send out the responses when they get them all together.

OTHER BUSINESS - None

ADJOURN 7:36PM

ATTEST:

Linda Rappe
City Clerk

Theresa Coleman
Zoning Administrator/City Administrator



Date: 07/13/20

To: Planning Commission
From: City Administrator
Re: Outdoor Storage Issues

The City Clerk was contacted by Mr. Stannard regarding his CUP for the storage units. He indicated that he would like to perhaps shift some of the storage to external. Of course, this is not in compliance with the CUP as it is currently written up. Linda asked him to come to the July P&Z meeting to discuss it with the Planning Commission before making a formal request.

Included in your packet is information regarding the issued CUP. After my review, I found that some of the required items were not being followed. As part of any reissuance for an altered CUP, I believe it would be prudent to necessitate completion of the terms of the original CUP. Most notably the component related to "dust proof conditions" seems to have been somewhat neglected. However, the P&Z Commission is certainly free to act as they see fit.

Required action: No action is required at this time.

**RESOLUTION #8.10-17
CITY OF KASSON**

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT
TO ALLOW FOR RENTAL STORAGE UNITS AT
800 7th STREET SE, KASSON, MN**

WHEREAS, Chad Stannard, has submitted a request for a Conditional Use Permit to allow for Rental Storage Units at 800 7th Street SE, Kasson, MN, and;

WHEREAS, at a public hearing duly held on the 14th day of August, 2017, the Planning Commission heard testimony of all persons wishing to comment; and

WHEREAS, the Kasson Code of Ordinances, lists in Section 154.267(R) Rental Storage Units as a Conditional Use in an C-3 Highway Commercial District; and

WHEREAS, the appropriate City Staff and consultants have performed a technical review of the application, including attachments; and

WHEREAS, following the public testimony and report of the technical review, the Planning Commission reviewed all relevant information regarding the proposed Conditional Use Permit to allow for Rental Storage Units and recommends approval;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KASSON, MINNESOTA that the following Findings are hereby adopted regarding the application for a Conditional Use Permit to allow for Rental Storage Units at 800 7th Street SE, Kasson, MN:

The use is compatible with the existing neighborhood.

Leth Subdivision was constructed within the C-3 Highway Commercial District south of State Hwy14.

The use conforms to the Comprehensive Plan.

The 2011 Comprehensive Plan encourages the development of a diverse economy including opportunities for commercial development.

The use will not endanger public health, safety and welfare.

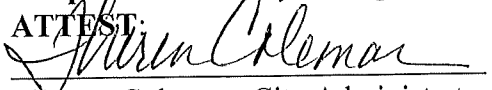
The presence of a Rental Storage Unit at 800 7th Street SE will not have an adverse effect upon public health, safety and welfare.

BE IT FURTHER RESOLVED that the Conditional Use Permit to allow for Rental Storage Units at 800 7th Street Se, Kasson, MN, is hereby approved subject to the following conditions of approval:

1. A useable dust-proof condition shall be provided within one year of initial construction with the potential for an extension of up to one additional year.
2. Building permit application to include grading, site, and lighting plan relative to adjoining property.

Adopted this 23rd day of August, 2017.

ATTEST:


Theresa Coleman, City Administrator



Chris McKern, Mayor

The motion for adoption of the foregoing resolution was made by Council Member Eggler and duly seconded by Council Member Borgstrom. Upon a vote being taken, the following members voted in favor thereof: Borgstrom, Buck, Eggler, McKern and Zelinske. Those against same: None.

**City of Kasson
Code of Ordinances**

CHAPTER 150 Definitions

150.01.11 Purpose

Kasson, MN Code of Ordinances

CHAPTER 150 DEFINITIONS

ARTICLE 01 DEFINITIONS

PART 1 PURPOSE

150.01.11 **Purpose**

- (A) The language set forth in the text of this Title shall be interpreted in accordance with the following rules of construction:
- (1) The singular number includes the plural and 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 permissive; and
 - (4) The masculine gender includes the feminine and neuter.
- (B) For the purpose of this Title, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words not defined have the meaning given by the latest edition of Merriam-Webster's Collegiate Dictionary.

PART 2 DEFINITIONS

150.01.21 **A.**

ACCESSORY DWELLING UNIT. A self-contained dwelling unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is located within or attached to an existing residential dwelling.

ACCESSORY STRUCTURE [BUILDING]. A structure detached from a principal structure located on the same lot and customarily incidental and subordinate to the principal structure or use.

ACCESSORY USE. A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

ALLEY. A service roadway, dedicated to the public, providing a secondary means of public access to abutting property and not intended for general traffic circulation.

ALTERATION. Any change or rearrangement in the supporting members of any existing building, such as bearing walls, columns, beams, girders or interior partitions, as well as any change in doors, windows, means of ingress or egress, or any enlargement to or demolition of a building or

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150.01.22 B.

a structure, whether horizontally or vertically, or the moving of a building or a structure from one location or another.

AMENITY. A natural or created feature that enhances the aesthetic quality, visual appeal or makes more attractive or satisfying a particular property, place or area (such as flowers, trees, architecture, cleanliness or paint).

ANIMAL [PET] SERVICES. Establishments primarily engaged in the sale, grooming, retail of supplies or veterinary care of pets/non-agricultural animals; these uses do not include boarding of animals (see KENNELS)

ANNEXATION. The incorporation of a land area into an existing community with a resulting change in the boundaries of that community.

ANTENNA. Any device or equipment used for the transmission or reception of electromagnetic waves, which may include omni-directional antenna, directional antenna or parabolic antenna.

APPURTENANCES. The visible, functional or ornamental objects accessory to and part of buildings.

AUTOMOBILE FUEL STATION/SERVICE STATION. The retail dispensing or sales of vehicular fuels; servicing and repair of automobiles; and including as an accessory use the sale and installation of lubricants, tires, batteries and similar vehicle accessories.

AUTOMOBILE REPAIR, MAJOR. General repair, rebuilding or reconditioning engines, motor vehicles or trailers, collision service, including body, frame or fender straightening or repair, overall painting or paint job; vehicle steam cleaning.

AUTOMOBILE REPAIR, MINOR. Minor repairs, incidental body and fender work, painting and upholstering, replacement or parts and motor services to passenger automobiles and trucks not exceeding 9,000 pounds gross weight, but not including any operation specified under "automotive repair-major".

AUTOMOBILE WRECKING YARD. Any place where damaged, inoperable, or obsolete machinery such as cars, trucks and trailers, or parts thereof, are stored, bought, sold, accumulated, exchanged, disassembled, or handled.

AVERAGE SETBACK. The mean setback from a street right-of-way of buildings on both sides of a lot.

150.01.22 B.

BAR [TAVERN]. Premises used primarily for the sale or dispensing of liquor by the drink for on-site consumption and where food may be available for consumption on the premises as accessory to the principal use.

BASEMENT. The portion of a building which is wholly or one-half or more below the average grade of the ground level adjoining the building. If the height from the average grade level to the first tier of floor beams or joists is five feet or more, the **BASEMENT** shall be considered a story.

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BED AND BREAKFAST [GUEST HOUSE or TOURIST HOME]. Any dwelling providing certain rooms in excess of those used by members of the family, as herein provided, which are rented primarily to the traveling public, on a short term basis, customarily overnight or for a weekend.

BLOCK. A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways or any other barrier to continuity of development.

BOARD OF ADJUSTMENTS AND APPEALS. The Board of Adjustments and Appeals shall be composed of the members of the City Council as authorized by **M.S. § 462.354, Subd. 2**, as may be amended from time to time.

BREWERY. Establishments that brew, bottle, and sell ales, beers, meads, and/or similar malt liquors.

BREW PUB. A small brewery accessory to a bar or restaurant, generally limited to selling its beer for consumption on the premises where it is brewed, excepting only “growlers” for off-site consumption as defined by **State of Minnesota law**.

BUFFERYARD. A combination of open spaces, landscaped areas, fences, walls, berms used to physically separate and screen one use or property from another so as to visually shield or block noise, lights or other nuisances.

BUILDABLE AREA. The area of a lot remaining after the minimum yard and open space requirements of **Title XV Land Usage** have been met.

BUILDING. Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of any person, animal or chattel of property of any kind. Any portion completely separated from every other part of a building by division walls from the ground up and without openings, shall be deemed as a separate building.

BUILDING LINE. A line parallel to the street line touching that part of a building closest to the street.

BUILDING OFFICIAL. The authorized representative of the city, licensed by the state, to enforce the State Building Code.

BUILDING RECORDS. Includes such items as new construction permits; new construction building inspection records; building permits for the alteration or remodeling of structures; inspection records for the alteration or remodeling of structures; and building permit and inspection records for the repair of damaged structures.

BUILDING SETBACK LINE. See **SETBACK LINE**.

BUILDING SERVICES. Establishments primarily engaged in the retail of hardware and similar supplies for home building or repairs as well as services related to such supplies; examples include, but are not limited to: plumbing, heating, and electrical sales/show rooms, paint wallpaper/home decorating supplies.

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150.01.23 C.

BUSINESS SERVICES. Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment services; management and consulting services; protective services, equipment rental and leasing; commercial research; development and testing; photo finishing; and personal supply services.

150.01.23 C.

CERTIFICATE OF SURVEY. A correct representation of a survey, showing all distances correctly and the placement of all monuments and boundaries correctly, which is prepared and signed by a registered land surveyor under the laws of the state.

CHILD. An individual 12 years of age or younger.

CHILD CARE FACILITY. A place (or building) other than the child's dwelling in which care, supervision and guidance of a child unaccompanied by parents, guardian or custodian is provided on a regular basis for a period of less than 24 hours a day, whether operated for profit or nonprofit.

CHURCH. See **PLACE OF WORSHIP.**

CLINIC. A public or proprietary institution providing diagnostic, therapeutic or preventive treatment of humans by either doctors, physicians, dentists, other medical personnel, psychologists or social workers or a combination thereof, acting in concert and in the same building, where patients are not usually lodged overnight.

CO-LOCATION. The location of more than one antenna or set of antennas on the same wireless communication tower or structure.

COLUMBARIUM. A vault with niches for urns containing ashes of cremated bodies.

COMMERCIAL RECREATION FACILITY, INDOOR. Facilities located within a building or enclosed structure operated as a business and shall include, but are not limited to, banquet halls, pool halls, skating rinks, indoor swimming pools, bowling alleys, movie theaters, arcades, jump center, and other similar businesses. Such businesses may also provide accessory snack bar, restaurant, retails sales of related items, and other support facilities.

COMMERCIAL RECREATION, OUTDOOR. Land or facilities operated as a business that shall include, but are not limited to: outdoor swimming pools, amusement parks, and other similar businesses; this use does not include golf courses/country clubs and accessory uses. Such facility may also provide accessory snack bar, restaurant, retail sales of related items, and other support facilities.

COMMERCIAL USE. Activity involving the sale of goods or services carried out for profit.

COMPREHENSIVE PLAN. The adopted official statement of the City Council of the City of Kasson that sets forth a compilation of policy statements, goals, standards and maps for ending the physical, social and economic development, both private and public, and may include, but is

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not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, official street map, a transportation plan and recommendations for plan execution. The Comprehensive Plan represents a compilation of recommendations for future development of the municipality, from the municipality's constituents and appointed commissions, which are adopted by the Planning and Zoning Commission and the City Council.

CONDITIONAL USE. A specific type of structure or land use listed in [Chapter 154](#) that may be allowed, after an in-depth review procedure and with appropriate conditions or restrictions as provided.

CONDITIONAL USE PERMIT. A permit issued by the approving agency stating that the conditional use meets all conditions set forth in [Chapter 154](#).

CONDOMINIUM. A building, or group of buildings, in which dwelling units, offices or floor area are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

CONTRACTOR YARD. Any land or buildings used primarily for the storage of equipment, vehicles, machinery (new or used), building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any contracting trades or business; such businesses include landscaping, construction, and excavation.

CONTIGUOUS. Next to, abutting or touching and having a boundary, or portion thereof, that is coterminous.

CONVENIENCE STORE. Any retail establishment offering for sale prepackaged food products, household items, newspapers and magazines, and sandwiches and other freshly prepared foods, such as salads, for off-site consumption.

150.01.24 D.

DISTILLERY. Establishments involved in the production and distillation of alcoholic spirits, including whiskey, rum, brandy, gin, and other distilled spirits for nonindustrial use.

DISTRIBUTION FACILITY. An establishment engaged in the receipt, storage and distribution of goods, products, cargo and materials, including transshipment by boat, rail, air or motor vehicle.

DWELLING. A structure or portion thereof that is used exclusively for human habitation.

DWELLING UNIT. One or more rooms, designed, occupied or intended for occupancy as a separate living quarter, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

DWELLING, SINGLE FAMILY DETACHED. One dwelling that is not attached to any other dwelling by any means.

DWELLING, TWO-UNIT [DUPLEX]. A building on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending

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150.01.25 E.

from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

DWELLING, THREE-UNIT [TRIPLEX]. A building containing three dwelling units, each of which has direct access to the outside or to a common hall.

DWELLING, FOUR-UNIT [QUADRUPLEX]. Four attached dwellings in one building in which each unit has two open space exposures and shares one or two walls with adjoining units.

DWELLING, SINGLE FAMILY ATTACHED [TWINHOME, TOWNHOUSE, ROWHOUSE]. A one-unit dwelling attached to one or more dwelling units by a common vertical wall, with each dwelling located on a separate lot, sometimes referred to as zero lot line development.

DWELLING, MULTI-FAMILY. A building containing five or more dwelling units, including units that are located one over the other.

150.01.25 E.

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

EGRESS. An Exit.

ELECTROMAGNETIC RADIATION. Any radiation made up of electromagnetic waves; a general term for hertzian waves, gamma rays, X-rays, light, ultra-violet, infra-red (heat) and radio waves. For the purpose of this chapter, this shall include radar and microwaves.

ENGINEER. Any person practicing as a professional engineer shall be duly licensed and certified under the guidelines stipulated in **M.S. Ch. 326**, as may be amended from time to time, for their particular field.

EQUIPMENT SERVICES. Establishments primarily engaged in the display, sale, and minor repair of electronics, appliances, and other household/office equipment; examples include, but are not limited to: radio & television shops, appliance shops, small appliance repair

ERECTED. Assembled, raised, built, constructed, reconstructed, moved upon or any physical operation on the premises required for a building, excavation, fall, drainage and the like.

ESSENTIAL SERVICES. Services and utilities needed for the health, safety and general welfare of the community, such as underground, surface or overhead electrical, gas, telephone, steam, water, sewerage, communications and including generating switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, transmitters and receivers, valves and other utilities and the equipment, buildings, structures and appurtenances necessary for the systems to furnish an adequate level of service for the area in which it is located including cable television.

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150.01.26 F.

EXTENDED CARE FACILITY. A long-term facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged, or a governmental medical institution.

150.01.26 F.

FAA. Federal Aviation Administration.

FAMILY. Any number of persons inhabiting a dwelling unit comprising a single housekeeping unit and related by blood, marriage, adoption or any unrelated person who resides therein as though a member of the family including the domestic employees.

FARM. A parcel of land which is used for agricultural activities including cropping, pasture and raising of livestock or fowl for commercial purposes.

FCC. Federal Communication Commission.

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 OR FLOODWAY FRINGE. The portion of the floodplain outside of the floodway.

FLOODPLAIN. The beds proper and the areas adjoining wetlands, lakes or watercourses which have been or hereafter may be covered by the regional flood.

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

FLOOR AREA. for the purposes of [Sec. 154.07.21, Off-Street Parking](#), in the case of offices, merchandising or service types of uses, shall mean the gross floor area used or intended to be used for services to the public as customers, patrons, clients, patients or tenants, including areas occupied for fixtures and equipment used for display or sale of merchandise.

FLOOR AREA, GROUND. The area within the exterior walls of the principal structure as measured from the outside walls at the ground floor level, not including garages or enclosed or unenclosed porches and not including attached utility or accessory rooms having three or more exterior sides.

FOOD RETAIL. Establishments primarily engaged in the sale of consumable goods, with possibility of on-site food production (cooking/baking) for sales on premises only; examples include: grocery stores, food markets, super markets, delicatessens, candy shops, and bakeries.

FRONTAGE. The side of a lot abutting on a street; the front lot line

150.01.27 G.

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150.01.28 H.

GARAGE, MUNICIPAL. A structure owned or operated by a municipality and used primarily for the parking and storing of vehicles owned by the general public.

GARAGE, PRIVATE RESIDENTIAL. A structure that is accessory to a residential building and that is used for the parking and storage of vehicles owned and operated by the residents thereof and that is not a separate commercial enterprise available to the general public.

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

GARAGE, REPAIR. Any building, premises and land in which or upon which a business, service or industry involving the maintenance, servicing, repair or painting of vehicles is conducted or rendered.

GRADE.

(a) The average elevation of the land around a building; and

(b) The percent of rise or descent of a sloping surface.

GREENHOUSE. A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment; regardless of materials, a greenhouse shall be considered a structure.

150.01.28 H.

HEIGHT. The vertical distance of a structure which, for the purpose of these chapters, will be measured from the lowest elevation of the finished grade surrounding the structure to the highest point of the structure.

HISTORIC SITE. A structure or place of outstanding historical and cultural significance and designated as such by state or federal government or agency.

HOME BUSINESS. A home occupation or profession conducted within the dwelling unit or an existing accessory structure, solely by the owner and/or residents of the dwelling, which is detectable from off of the premises and is usually characterized by activity not normally present within a residential parcel or neighborhood. A ***HOME BUSINESS*** shall require a conditional use permit. (Example: ***HOME BUSINESSES*** may involve the storage of trade inventory incidental to the service; equipment; repair or assembly service requiring equipment other than customarily found in a dwelling or accessory structure.)

HOME OCCUPATION. Any activity carried out for gain in a residents dwelling unit, solely by the owner and/or residents of that unit, that is confined to the interior of that unit so as to be undetectable from what is normally present within a residential dwelling unit and does not qualify as a home business.

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150.01.29 I.

HOSPITAL. An institution providing primary health services and medical surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices and staff residences.

HOTEL. A facility offering transient lodging accommodations to the general public and providing additional services, such as restaurants, meeting rooms, entertainment and recreational facilities.

150.01.29 I.

INCIDENTAL. Subordinate and minor in significance and bearing a reasonable relationship with the primary use.

INFRASTRUCTURE. Facilities and services needed to sustain industry, residential, commercial and all other land use activities.

INGRESS. Access or entry.

INOPERATIVE shall mean incapable of movement under their own power and in need of repairs. All exterior storage material not included as a permitted use, accessory use or conditional use, or otherwise permitted by provisions of this chapter, may be considered as refuse.

INTERMEDIATE CARE FACILITY. A facility that provides, on a regular basis, personal care, including dressing and eating and health-related care and services, to individuals who require the assistance, but who do not require the degree of care and treatment that a hospital or skilled nursing facility provides.

150.01.210 J.

JUNK. Any scrap, waste, reclaimable material or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed or other use or disposition.

JUNKYARD. Any area, lot, land, parcel, building or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage or disposal of junk.

150.01.211 K.

KENNEL[ANIMAL BOARDING]. A commercial establishment in which dogs or domesticated animals are housed, bred, boarded, or sold, all for a fee or compensation.

150.01.212 L.

LANDSCAPE.

(a) An expanse of natural scenery; and

(b) Lawns, trees, plants and other natural materials, such as rock and wood chips, and decorative features, including, sculpture, patterned walks, fountains and pools.

LIQUOR, OFF-SALE. The commercial sale of intoxicating beverages for consumption off premises, in compliance with **Minnesota State Statute** and licensing requirements.

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150.01.212 L.

LIQUOR, ON-SALE. The commercial sale of intoxicating beverages for consumption on premises, in compliance with **Minnesota State Statute** and licensing requirements.

LIVE/WORK UNIT. A building or space within a building used jointly for commercial and residential purposes where the residential use of the space is secondary or accessory to the primary use as a place of work

LONG-TERM CARE FACILITY. An institution or a distinct part of an institution that is licensed or approved to provide health care under medical supervision for 24 or more consecutive hours to two or more patients who are not related to the governing authority or its members by marriage, blood or adoption.

LOT. A piece or parcel of land occupied or to be occupied by building, or use, or by other activity permitted thereon and including the open spaces required under **this Title**.

LOT, CORNER. A lot or parcel of land abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees.

LOT, DOUBLE FRONTAGE. A lot that fronts upon two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot.

LOT, INTERIOR. A lot other than a corner lot.

LOT, NONCOMFORMING. See **NONCOMFORMING LOT**.

LOT, SUBSTANDARD. A parcel of land that has less than the minimum area or minimum dimensions required in the zone in which the lot is located.

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

LOT COVERAGE. The portion of the lot that is covered by impervious surfaces.

LOT DEPTH. The average distance measured from the front lot line to the rear lot line.

LOT FRONTAGE. The length of the front lot line measured at the street right-of-way line.

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

LOT LINE, FRONT. The lot line separating a lot from a street right-of-way.

LOT LINE, REAR. The lot line opposite and most distant from the front lot line. In the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

LOT LINE, SIDE. Any lot line other than a front or rear lot line.

LOT OF RECORD. A lot that exists as shown or described on a plat or deed in the records of the local Registry of Deeds.

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LOT WIDTH. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

150.01.213 M.

MAKERSPACE [STUDIO]. A space primarily used as a work room for at least one artist or creator that may be open to the public for demonstrations, classes, and retail sales. Studios are generally for the purpose of on-site production of painting, pottery (ceramics), sculpture, photography, cinematography, animation, or the making of music.

MANUFACTURED HOME. A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected, on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it, and which complies with the Manufactured Home Building Code, as referred to in MS 327.31.

MANUFACTURING. Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins or liquors.

MANUFACTURING, LIGHT. The processing or fabrication of certain materials or products where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emission which will disturb or endanger neighboring properties

MANUFACTURING, HEAVY. An establishment engaged in manufacturing, assembly, fabrication, packaging or other industrial processing of products primarily from extracted or raw materials or the bulk storage and handling of such products and materials, or an industrial establishment having potential to produce noise, dust, glare, odors or vibration beyond its property line.

MAUSOLEUM. A tomb or a building with vaults for the entombment of a number of bodies.

MINOR SUBDIVISION. Buildable subdivisions created and recorded by the dividing of a subdivision of record.

MOBILE HOME. A structure, transportable in one or more sections, which generally meets the definition of a Manufactured Home but is not compliant with the Manufactured Home Building Code, or was constructed prior to July 1, 1972.

MONUMENT. Concrete and/or metal markers utilized to establish survey points and lot boundaries. All **MONUMENTS** must be set by a licensed land surveyor.

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MOTEL. An establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

MUSEUM. *An establishment for preserving and exhibiting artistic, historical, scientific, natural, or man-made objects of interest. Such activity may include the sale of the objects collected and memorabilia, the sale of crafts work and artwork, boutiques, and the holding of meetings and social events.*

150.01.214 N.

NONCONFORMING LOT. A lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of this chapter, but that fails by reason of the adoption, revision or amendment to conform to the present requirements of the zoning district.

NONCONFORMING SIGN. Any sign lawfully existing prior to the effective date of this chapter, or amendment thereto, that does not conform to all the standards and regulations of the adopted or amended ordinance.

NONCONFORMING STRUCTURE OR BUILDING. A structure or building, the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to this chapter, but that fails by reason of the adoption, revision or amendment to conform to the present requirements of the zoning district.

NONCONFORMING USE. A use or activity that was lawful prior to the adoption, revision or amendment of this chapter, but that fails by reason of the adoption, revision or amendment to conform to the present requirements of the zoning district.

NUISANCE. An interference with the enjoyment and use of property.

NURSERY/GREENHOUSE. A business growing and selling trees, flowering and decorative plants and shrubs..

NURSING HOME. See **INTERMEDIATE CARE FACILITY, EXTENDED CARE FACILITY** and **LONG-TERM CARE FACILITY**.

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

150.01.215 O.

OFFICE. A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government and generally furnished with desks, tables, files and communication equipment.

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OFFICE BUILDING. A building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity, and may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand and child care facilities.

OFFICIAL MAP. An ordinance in map form adopted by the governing body that conclusively shows the location and width of proposed streets, public facilities, public areas and drainage rights-of-way.

OFF-SITE PARKING. Parking provided for a specific use, but located on a site other than the one on which the specific use is located.

OFF-STREET PARKING SPACE. A temporary storage area for a motor vehicle that is directly accessible to an access aisle and that is not located on a dedicated street right-of-way.

ON-STREET PARKING. A temporary storage area for a motor vehicle that is located on a dedicated street right-of-way.

OPEN SALES LOT. Any open land used or occupied for the purpose of buying, selling and/or renting merchandise and for the storing of some prior to sale.

OPEN SPACE. Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment.

OUTDOOR STORAGE. The keeping, outside of an enclosed structure, of any goods, junk, material, merchandise or vehicles, in the same place for more than 24 hours.

OVERLAY ZONE. A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone.

150.01.216 P.

PARCEL. A contiguous lot or tract of land owned and recorded as the property of the same persons or controlled by a single entity.

PARK. Area of public land developed and maintained for both active and passive recreational pursuits, including tot-lots, playgrounds, neighborhood parks, play fields and special purpose areas.

PARKING AREA. Any public or private area, under or outside of a building or structure, designed and used for parking motor vehicles including parking lots, garages, private driveways and legally designated areas of public streets.

PARKING LOT. A temporary storage area for motor vehicles, not located in an R-1 or R-2 zone.

PARKING, SHARED. Joint use of a parking area for more than one use.

PARKING SPACE. A space for the parking of a motor vehicle within a public or private parking area.

PERFORMANCE STANDARDS. A set of criteria or limits relating to certain characteristics that a particular use or process may not exceed.

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PERMIT. Written governmental permission issued by an authorized official, empowering the holder thereof to do some act not forbidden by law, but not allowed without the authorization.

PERMITTED USE. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

PERSON. A corporation, company, association, society, firm, partnership or joint stock company, as well as an individual, a state and all political subdivisions of a state or any agency or instrumentality thereof.

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

PLANNED UNIT DEVELOPMENT. An area of a minimum contiguous size, as specified by ordinance, to be planned, developed, operated and maintained according to plan as a single entity and containing one or more structures with appurtenant common areas. .

PLANNING AND ZONING COMMISSION. A governmental agency appointed by the governing body according to M.S. § 394.30, as may be amended from time to time.

PLAT.

(1) A map representing a tract of land showing the boundaries and location of individual properties and streets; and

(2) A map of a subdivision or site plan.

PLAT, FINAL. A map of all or a portion of a subdivision or site plan that is presented to the approving authority of final approval.

PLAT, PRELIMINARY. All required maps, information and documents as set forth in the subdivision regulations and as required by the Planning and Zoning Commission **for preliminary approval.**

PLAT, SKETCH. A concept, informal map of a proposed subdivision or site plan of sufficient accuracy to be used for the purpose of discussion and classification. **PRELIMINARY**

APPROVAL. The conferral of certain rights, prior to final approval, after specific elements of a development have been approved by the approving authority and agreed to by the applicant.

PRINCIPAL STRUCTURE [BUILDING]. The primary structure in which the predominant permitted use of the lot is conducted or accomplished.

PRINCIPAL USE. The primary or predominant use of any lot or parcel.

PRINTING. A commercial printing operation involving a process that is considered printing, imprinting, reproducing, or duplicating images and using printing methods including but not limited to offset printing, lithography, web offset, flexographic, and screen process printing.

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PROFESSIONAL SERVICES. Establishments primarily engaged in providing services provided by a member of a recognized profession, typically requiring a license, certification, and/or any such similar training for the conduct of that profession; examples include, but are not limited to: medical clinics, dental clinics, eye clinics, architects, attorneys, and engineers.

PROHIBITED USE. A use that is not permitted in a zoning district.

PUBLIC HEARING. A meeting announced and advertised in advance and open to the public, with the public given an opportunity to talk and participate.

PUBLIC NOTICE. The advertisement of a public hearing in a paper of general circulation, and through other media sources, indicating the time, place and nature of the public hearing and where the application and pertinent documents may be inspected.

PUBLIC UTILITY. A closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety and welfare.

PUBLIC UTILITY FACILITIES. See **ESSENTIAL SERVICES**.

150.01.217 R.

REACH. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or human-made obstruction.

RECREATION FACILITY. A place designed and equipped for the conduct of sports and leisure-time activities.

RECREATIONAL VEHICLE. A vehicular-type portable structure without permanent foundation that can be towed, hauled or driven and primarily designed as a temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

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

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

RE-PLAT. A change in a recorded subdivision if the change affects any street layout, affects any area reserved for public use or diminishes the size of any lot.

RESIDENTIAL HEALTH CARE FACILITY. Residences usually occupied by the frail elderly that provide rooms, meals, personal care and health monitoring services under the supervision of a professional nurse and that may provide other services, such as recreational, social and cultural activities, financial services and transportation.

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RESTAURANT. An establishment where food and drink are prepared, served and consumed primarily within the principal structure.

RETAIL, GENERAL. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of the goods; examples include, but are not limited to: department, variety, clothing, furniture, antique, gift, drug, hardware, and book stores, news shops, flower shops, and show rooms for retail.

REVIEWING AGENCIES. Reviewing agencies may include, but are not limited to, the City Engineer, School Board, utility companies, Park Board, County Surveyor, Department of Natural Resources, Planning and Zoning Commission, MN DOT, Dodge County Highway Department, City Attorney, City Council and any additional government agencies city, state or federal, as dictated by statute.

REZONE. To change the zoning classification of particular lots or parcels of land.

RIGHT-OF-WAY.

- (A) A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and other similar uses: and
- (B) Generally, the right of one to pass over the property of another.

ROOF. The outside top covering of a building

ROOF, FLAT. A roof that is not pitched and the surface of which is generally parallel to the ground.

ROOF, GABLE. A ridged roof forming a gable at both ends of the building.

ROOF, GAMBREL. A gabled roof with two slopes on each side, the lower steeper than the upper.

ROOF, HIP. A roof with sloping ends and sides.

ROOF, MANSARD. A roof with two slopes on each of four sides, the lower steeper than the upper.

ROOF, SHED. A roof with one slope.

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SCRAP / SALVAGE STORAGE YARD. Any area, lot, land, parcel, building or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage or disposal of scrap, waste, reclaimable material or debris.

SCREENING. A method of visually shielding or obscuring an abutting or nearby use or structure from another by fencing, walls, berms, or densely planted vegetation.

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SELF-STORAGE FACILITY [RENTAL STORAGE UNIT]. A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

SETBACK. The distance between the building and any lot line.

SETBACK LINE. The line that is the required minimum distance from any lot line and that establishes the area within which a structure must be erected or placed.

SHORT TERM VACATION RENTAL. A dwelling, or portion thereof, that is used for accommodations or lodging of guests paying a fee or other compensation for a period of less than 30 consecutive days.

SIGN. A publicly displayed message using words, letters, symbols or pictures, bearing information, warning, advertising or other.

SIGN, A-FRAME OR SANDWICH BOARD. An advertising sign that is normally in the shape of an "A" or some derivation thereof, located on the ground, easily movable, not permanently attached and two sided.

SIGN, ANIMATED/FLASHING. A sign that features simulated motion, either illuminated or not illuminated. If illuminated, a sign that has a light source not constant in intensity or color at all times, which creates the illusion of motion through graphic animation, and other motion such as flashing, blinking, revolving or rotating light. Electronic message signs are specifically exempt.

SIGN, AREA IDENTIFICATION. A freestanding sign which identifies the name of a neighborhood, a residential subdivision, a multiple-residential complex consisting of three or more structures or ten or more units, a shopping center consisting of three or more separate structures, an industrial area consisting of three or more structures or any combination of the above.

SIGN, BANNER. Any sign of fabric or similar material that is mounted to a pole, fence, building or similar structure at one or more edges. National, state or municipal flags shall not be considered a **BANNER**.

SIGN, BILLBOARD TYPE. A freestanding sign advertising or containing information which may or may not pertain to the business on the property where the sign is located.

SIGN, CONSTRUCTION/PROJECT. A temporary sign erected on the premises prior to or during the period of construction. These signs typically indicate the names of the architects, engineers, landscape architects, contractors or similar artisans, and/or owners, financial supporters, sponsors and similar individuals or firms having a role or interest with respect to the structure or project, and rental, sale or lease information.

SIGN, ELECTRONIC MESSAGE. Any sign that by electronic means conveys a text message or series of messages, including, but not limited to, time and temperature.

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SIGN, FINDER. Temporary signs used to direct the reader to a temporary event such as an open house or garage sale, the signs shall not exceed eight square feet and shall only be displayed for up to seven days, during the events.

SIGN, FREESTANDING. A self-supporting sign resting on or supported by means of poles, standards of any other type of base anchored to the ground.

SIGN, GRAPHICS. A sign which is an integral part of the building facade. The sign is painted directly on, carved in or otherwise permanently imbedded in the facade. Signs in shop windows are included unless they qualify as auxiliary signs.

SIGN, MARQUEE. A structure attached to and projecting from a wall of building, located above an entrance, which is designed to identify a business or use located on the premises or to advertise present or scheduled events on the premises.

SIGN, OFFICIAL. A sign placed by an authorized government body including, but not limited to, street, traffic and highway signs, posted legal notices, parking signs.

SIGN, PORTABLE. Any sign temporary in nature, not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to: signs designed to be transported by means of wheels; balloons used as signs; umbrellas used for advertising, except that advertising umbrellas may be used in conjunction with the operation of a restaurant; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless the vehicle is used for normal day-to-day operations of a business. Specifically excluded are A-frame and sandwich board signs.

SIGN, PROJECTING. A sign, other than a wall sign, which attaches to and projects from a structure or building facade.

SIGN, ROOF. A sign mounted on the roof of a building or which depends upon a parapet wall for support.

SIGN, WALL. A sign mounted parallel to a building facade or other vertical building surface (which should not be mounted more than 18 inches from the wall surface they are attached to).

SIMILAR USE. A use that has the same characteristics and the specifically cited uses in terms of the following: trip generation and type of traffic, parking and circulation, utility demands, environmental impacts, physical space needs and clientele.

SITE PLAN. A plan, to scale, showing uses and structures proposed for a parcel of land as required by the regulations; includes lot lines, streets, building sites, reserved open space, buildings, major landscape features—both natural and manmade, the locations of proposed utility lines, and any other information that may be required in order that an informed decision can be made by the approving authority.

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SOLAR ENERGY SYSTEM, ACCESSORY. A solar energy system which is directly connected to or designed to serve the energy needs of the primary use.

SOLAR FARM, COMMUNITY. A solar array composed of multiple solar panels on ground-mounted rack or poles which is not directly connected to or designed to serve the energy needs of the primary use but rather for the primary purpose of wholesale sales of generated electricity or a financial proxy for retail power. Solar farms include but are not limited to community solar gardens. A community solar system may be either an accessory or a principal use.

STEEP SLOPE. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs

STORY. The portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it and including those basements used for the principal use.

STREET. Any vehicular way that:

- (A) Is an existing state, county or municipal roadway;
- (B) Is shown upon a plat approved pursuant to law;
- (C) Is approved by other official action; or
- (D) Is shown on a plat duly filed and recorded in the office of the County Recorder prior to the appointment of a government body with the power to review plats; includes the land between the street lines, whether improved or unimproved.

STREET TYPE.

- (A) **ALLEYS.** A service roadway, dedicated to the public, providing a secondary means of public access to abutting property and not intended for general traffic circulation.
- (B) **ARTERIAL.** Streets carrying large volumes of local traffic between widely separated areas of the community and which may be designated as county state aid highways.
- (C) **COLLECTOR.** Streets which carry traffic from minor streets to arterial streets and highways, including the principal entrance streets of a residential subdivision and streets used for circulation within the developments.
- (D) **CUL-DE-SAC.** A short street having one end open to traffic and the opposite end permanently terminated by a circular turn-around for vehicles.
- (E) **FRONTAGE.** Streets which are adjacent and parallel to highways or arterial streets and provide access to abutting properties.
- (F) **HIGHWAYS.** Streets carrying large volumes of relatively fast moving traffic and are designated as either interstate, federal, state, county or municipal state aid highways.

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(G) **LOCAL.** Streets which are used principally for access to abutting properties, especially residential properties.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles and other similar items.

STUDIO. See **MAKERSPACE**.

SUBDIVIDER. Any person having an interest in land that is the subject of an application for subdivision.

SUBDIVISION. The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale, development or lease.

SWIMMING POOL. Any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, aboveground and on-ground swimming pools; hot tubs; portable and non-portable spas; and fixed-in-place wading pools.

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TOWER. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, (e.g., monopoles and similar structures).

TOWER ACCESSORY STRUCTURE. Any structure located at the base of a tower for housing receiving or transmitting equipment.

TOWER HEIGHT. The distance measured from the ground level at the base of the tower or structure to the highest point on a tower or structure.

150.01.220 U.

UTILITY EASEMENT. The right-of-way acquired by a utility or governmental agency to locate utilities, including all types of pipelines, telephone and electric cables and towers.

150.01.221 V.

VARIANCE. A modification of a specific permitted development standard required in [this Title](#), to allow an alternative development standard not stated as acceptable in the [this Title](#), but only as applied to a particular property for the purpose of alleviating a practical difficulty or unique circumstance, as defined and elaborated upon in [this Title](#).

150.01.222 W.

WALKWAY. A right-of-way or easement dedicated to public use which cuts across or into a block to facilitate pedestrian access to adjacent streets and properties.

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

WATER RESOURCE. Any lake, creek, pond, or wetland

WHOLESALE TRADE [WHOLESALE ESTABLISHMENT/RETAIL]. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial,

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institutional or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, individuals or companies.

WINERY. A processing facility used for the fermenting and processing of fruit juice into wine; or the refermenting of still wine into sparkling wine.

WIRELESS COMMUNICATION. Any personal wireless services as defined in the Federal Communications Act of 1996, including FCC licensed commercial wireless telecommunications services such as cellular, personal communication services (PCS), paging and similar services that currently exist or may be developed.

150.01.223 Y.

YARD. An open space that lies between the principal structure or structures and the nearest lot line. The minimum required yard as set forth in the ordinance is unoccupied and unobstructed from the ground upward; except, as may be specifically provided in this chapter.

YARD, FRONT. A space extending the full width of a 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 the principal structure and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line.

YARD, REQUIRED. The open space between a lot line and the yard line within which no structure shall be located except as provided in **the Land Use Ordinance**.

YARD, SIDE. A space extending from the front yard to the rear yard between the principal structure and the side lot line and measured perpendicular from the side lot line to the closest point of the principal structure.

YARD AREA. The total square footage of the property.

YARD DEPTH. The shortest distance between a lot line and a yard line.

150.01.224 Z.

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.

ZONE. A specifically delineated area or district in a municipality within which uniform regulations and requirements govern the use, placement, spacing and size of land and buildings.

ZONING. The delineation of districts and the establishment of regulations governing the use, placement, spacing and size of land and buildings.

ZONING DISTRICT. A part, zone or geographic area within the municipality within which certain zoning or development regulations apply.

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ZONING MAP. The map or maps that are a part of the zoning ordinance and delineate the boundaries of zone districts.

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CHAPTER 151 Building Regulations; Construction 151.01.11 Adoption of the State Building Code

CHAPTER 151 BUILDING REGULATIONS; CONSTRUCTION

ARTICLE 01 GENERAL PROVISIONS

PART 1 <NEED TITLE>

151.01.11 Adoption of the State Building Code

- (A) The State Building Code, as adopted by the Commissioner of Administration pursuant to M.S. §§ 326B.101 through 326B.194, as may be amended from time to time, rules and regulations established, adopted and published from time to time by the State Commissioner of Administration, through the Building Codes and Standards Division is hereby adopted by reference with the exception of the optional chapters. The State Building Code is hereby incorporated in this subchapter as if fully set out herein.
- (B) No building or structure shall hereafter be constructed, altered, repaired or removed, except in conformity with the provisions of this chapter or in conformity with the State Building Code.
- (C) The application, administration and enforcement of the code shall be in accordance with M.S. §§ 326B.101 through 326B.194, as may be amended from time to time, and state rules promulgated by the Commissioner of Administration and any amendments thereto.

151.01.12 Board of Appeals; Created

- (A) The City Council shall appoint a Board of Appeals which shall consist of two members of the City Council and a third member appointed by the City Council from the public.
- (B) A person aggrieved by the decision of the Building Official as to the application of the code, including any rules adopted pursuant to statute, may, within 30 days of the decision, appeal to the Board of Appeals.
- (C) The Board of Appeals may affirm, reverse or modify the decision of the Building Official. However, the Board of Appeals shall have no authority to waive the specific requirements of the State Building Code.
- (D) Any person aggrieved by the final decision of the Board of Appeals as to the application of the code may appeal the decision to the Commissioner of Administration pursuant to M.S. § 326B.139, as may be amended from time to time.

151.01.13 Building Official; Appointed

- (A) The Building Official for the City shall be a certified Building Official under the laws of the state. The Building Official shall be appointed by the City Council annually.
- (B) The Building Official shall be responsible for the enforcement of the State Building Code within the city. The Building Official shall inspect all buildings or structures during

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CHAPTER 151 Building Regulations; Construction 151.01.14 Removal or Restoration of Unsafe or Dangerous Buildings

construction to see that the provisions of the law are complied with and that construction is prosecuted safely.

- (C) Whenever, in the opinion of the Building Official, by reason of defective or illegal work (work without a permit) in violation of a provision of this chapter, the continuance of a building operation is contrary to the law and the public welfare, he or she may order all further work to be stopped until the condition in violation has been remedied.

151.01.14 Removal or Restoration of Unsafe or Dangerous Buildings

- (A) Any building or structure within the City limits that may be or shall, at any time hereafter, be deemed dangerous or unsafe by the Building Official shall, unless made safe and secure, be taken down and removed in compliance with Minnesota Pollution Control Agency guidelines within 90 days of determination. Upon failure to restore or remove the building or structure within 90 days, the City will have the building or structure demolished and assess the costs incurred to the property owner.
- (B) A building or structure declared unsafe by the Building Official may be restored to safe condition; provided that, if the damage or cost of reconstruction or restoration is in excess of 50% of the assessed value of the building or structure, the building or structure, if constructed or restored, shall be made to conform with the requirements for new buildings hereafter erected.

151.01.15 Permits; Fees

- (A) No building or structure shall be erected, altered or moved until a building permit has been obtained from the Building Official stating that the building or structure, according to the plans for its erection or alteration, complies with this subchapter and other building laws or ordinances and health laws or ordinances which are new or may hereafter be in force. The failure to obtain a building permit as required by this section prior to the commencement of work shall result in a building permit fee and penalty which shall be set by Ordinance.
- (B) Application for a building permit shall be made to the City Administrator on forms to be furnished by the City Administrator. Each application for a permit to construct or alter a building or structure shall be accompanied by **proper information as required for permit issuance.**
 - (1) The Building Official shall issue a building permit only after the application, together with the building plans, has been approved.
 - (2) A permit shall expire if the building or work authorized by the permit is not commenced within six months from the date of the permit.
- (C) The Building Official may extend the time for action by the permittee for a period not exceeding 180 days, upon written request by the permittee holding an unexpired permit showing a good and satisfactory reason.

note
requirements?



City of Kasson Code of Ordinances

CHAPTER 151 Building Regulations; Construction

151.01.16 Permit Fee Surcharge

what happens in the case that the contractor is fired/goes out of business/ etc?



- (1) No permit shall be extended more than once. All building permits issued are nontransferable.
- (2) The fee for a building permit and the fee for an extension of a building permit may be set from time to time by Ordinance. ← reference fee appendix?
- (D) No building shall be demolished in the city until a demolition permit has been obtained from the City Administrator, stating that the building may be demolished.
 - (1) The demolition process, including the grading of the lot, shall be completed within 30 days of the date of issuance of the demolition permit.
 - (2) Any vacant or unoccupied building shall be secured so that the same is not open to trespass during the demolition process.
 - (a) If a vacant or unoccupied building is deemed hazardous, due to the fact that the building is open to trespass and has not been secured, the City Council may order the building secured and shall cause notice to the owner of the premises, or his or her agent, by delivering a copy to him or her or by mailing it to him or her at his or her last known address. Service by mail is complete upon mailing.
 - (b) If the owner or agent of the building fails to comply with the order within ten days after the order is served upon him or her, the governing body shall cause the building to be properly secured, and the cost thereof may be charged against the real estate pursuant to M.S. §§ 463.21 *et seq.*, as may be amended from time to time.
 - (c) The fee for a demolition permit shall be set by Ordinance.
 - (3) A cash deposit will be required prior to the issuance of a demolition permit.
 - (a) The deposit will be refunded to the permittee when the work has been completed to the satisfaction of the City Building Official.
 - (b) All work must be completed within 30 calendar days of permit issuance or the deposit will be forfeited.
 - (c) The required cash deposit, based on the square foot size of the building to be demolished, shall be set by Ordinance.

should these be combined?

151.01.16 Permit Fee Surcharge

In addition to the permit fees mentioned above, a surcharge shall be collected on all permits issued for work governed by the State Building Code and the surcharge shall be remitted to the state in accordance with M.S. § 326B.106, as may be amended from time to time.

151.01.17 Building Records Retrieval and Copying Charges

- (A) A fee in an amount to be determined by the City Council shall be charged to persons requesting building records to defray the cost of retrieval and copying of same.

can this be incorporated in the fee schedule? just to give an "out the door" cost to developers



City of Kasson Code of Ordinances

CHAPTER 151 Building Regulations; Construction

151.01.18 Penalty

- (B) The fee for the retrieval and copying of the building records shall be payable to the City Administrator.
- (C) The fee for the retrieval and copying of building records may be revised from time to time and set by Ordinance.

151.01.18 Penalty

- (A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.
- (B) A violation of this Chapter and the State Building Code and rules adopted pursuant thereto shall be a misdemeanor and the maximum misdemeanor penalties shall apply.

can we simplify this
line across the
chapter rather than
repeating it - maybe
point to a fee
schedule that lists all
the fees?

are all violations of
the Code of
Ordinances
misdemeanors?
Could there be a
blanket statement?



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CHAPTER 152 Manufactured Homes


152.01.11 Permit Required

CHAPTER 152 MANUFACTURED HOMES

ARTICLE 01 GENERAL PROVISIONS

PART 1 <NEED TITLE>

152.01.11 Permit Required

No manufactured homes shall be installed until an approved Manufactured Home Installation Permit has been obtained from the City Administrator. 

what about grouping things so it's easy to see when an application is required? Maybe it's a table that lists the different types of development on one side and then checks the boxes for what is required (application, fee, public hearing, etc)

152.01.12 Application; Fee

Application for a Manufactured Home Installation Permit shall be made on forms to be furnished by the City Administrator. The fee for a manufactured home installation permit shall be at a rate set annually by Ordinance.

152.01.13 Inspection Generally

- (A) Following installation of the manufactured home, the City Building Official shall inspect the manufactured home installation to determine whether or not it is in violation of any provisions of the state statutes or administrative rules.
- (B) There shall be no occupancy of a manufactured home until physical inspection of the manufactured home has been completed and approval of the installation has been given, but occupancy shall not preclude the physical inspection of the manufactured home installation, including utilities.
- (C) In the event that the inspection reveals that a manufactured home installation or a manufactured home accessory structure installation is in violation of any provisions of statutes or administrative rules, the City Building Official shall serve on the owner or dealer/installer a notice of violations setting forth in what respect the state statutes or administrative rules have been violated. Violations shall be corrected ~~within 20 days of the notice or a longer period of time as may be specified in the notice.~~

152.01.14 Permit Required For Installation of Accessory Structure; Application; Fee; Inspection

- (A) Permits for the installation of manufactured home accessory structures shall be obtained by the owner of the manufactured home or ~~persons making the installation for the owner~~ prior to placement.
- (B) The application and fee for the permit shall be as specified in § 151.02. The City Building Official shall inspect a manufactured home accessory structure installation to determine whether or not the installation is in violation of any provisions of the state statutes or administrative rules.

152.01.15 Penalty

the owner's agent


see previous note on this issue

**City of Kasson
Code of Ordinances**

CHAPTER 152 Manufactured Homes

152.01.15 Penalty

- (A) Any person who violates or fails to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and be punishable as defined by law. Each day that the violation continues shall constitute a separate offense.

 see previous note on
this issue

**City of Kasson
Code of Ordinances**

CHAPTER 153 SUBDIVISIONS

153.01.11 Purpose

CHAPTER 153 SUBDIVISIONS

ARTICLE 01 GENERAL PROVISIONS

PART 1 INTRODUCTORY PROVISIONS

153.01.11 Purpose

- (A) Any person platting, re-platting or dividing property for purposes of transfer of title or separate description shall do so under the provisions of this chapter. This chapter sets forth the minimum requirements deemed necessary to ensure and protect the health, safety and welfare of the public. More specifically, the provisions of this chapter are designed to:
- (1) Assure that, to the maximum extent possible, all lands will be developed for the best possible use with adequate protection against deterioration and obsolescence;
 - (2) Assure that effective protection is given to the natural resources of the community, especially ground water and surface waters;
 - (3) Encourage well-planned subdivisions through the establishment of adequate design standards;
 - (4) Discourage inferior developments that might adversely affect the local tax base;
 - (5) Create neighborhoods which will be of lasting credit to the community;
 - (6) Facilitate adequate provision lot transportation and other public facilities;
 - (7) Secure and protect the rights of the public with respect to public lands, waters and the development of recreational facilities;
 - (8) Improve land records by the establishment of standards for surveys and plats;
 - (9) Safeguard the interests of the public, the homeowner, the subdivider and units of local government;
 - (10) Provide a common ground for understanding between developers and local units of government;
 - (11) Prevent, where possible, excessive governmental operating and maintenance costs; and
 - (12) Preserve agricultural and other open lands.
- (B) Efforts shall be made to conserve natural resources and advantageously utilize all natural features and vegetation on the property to minimize soil erosion. Consideration will be given to eliminate any form of underground or surface water pollution.

153.01.12 Authority

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CHAPTER 153 SUBDIVISIONS

153.01.13 Administration

- (A) This chapter is enacted pursuant to M.S. § 462.358, as may be amended from time to time. When allowed, any provisions of this chapter that impose restrictions which are more restrictive than those imposed by provisions of Minnesota State Statute or Ordinances, the provisions of this chapter shall govern. I think keeping it short makes it clear who has jurisdiction and the appointment of the Commission and Administrator is handled elsewhere in the Code of Ordinances

153.01.13 Administration

- (A) The provisions of this chapter shall be administered by the City Council in cooperation with the Planning and Zoning Commission and City Zoning Administrator who shall be appointed by the City Council.
- (B) The Planning and Zoning Commission shall provide assistance to the City Council and Zoning Administrator in the administration of this chapter and their recommendations shall be advisory in nature. Specifically, the Planning and Zoning Commission shall review all subdivision applications, hold public hearings and make recommendations to the Council.

153.01.14 Amendments

- (A) The Planning and Zoning Commission may, of its own motion or upon petition, cause to be prepared amendments supplementing or changing the regulations herein established. All proposed amendments, together with the recommendation of the Planning and Zoning Commission, shall be submitted to the City Council for adoption.

PART 2 COMMON PROCEDURES AND REQUIREMENTS

153.01.21 Authority to File Applications

- (A) Subdivision applications for an individual property may be initiated by:
- (1) The owner of the property that is the subject of the application; or
 - (2) An agent authorized by the owner of the property that is the subject of the application, which may include a lessee of the property. Evidence of such authorization shall be the signature of the property owner.
 - (3) If the property subject to an application is under more than one ownership, all owners or their authorized agents shall join in filing the application.

153.01.22 Pre-application Meeting ← is this mandatory?


- (A) A pre-application meeting is an informal discussion between a potential applicant and City staff regarding a possible project subject to this Title. The Zoning Administrator shall determine which City staff shall attend the pre-application meeting.
- (B) The purpose of the pre-application meeting is to assist the applicant in identifying the type of approvals needed, the potential review criteria, and the information to be contained in the application(s).
- (C) Discussions that occur during pre-application meetings are not binding on the City and do not constitute official assurances or representations on the City.
- (D) Pre-application meetings are required or recommended based on application type.

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CHAPTER 153 SUBDIVISIONS

153.01.23 Fees



153.01.23 Fees

- (A) A cash filing fee payable to the city shall be paid ~~as soon as ascertainable~~ following receipt of the application. This fee shall be in the amount which has been set by Ordinance and will be used for public expense and/or development fees in connection with the consideration of the subdivision application by the Planning and Zoning Commission and Council. Applications will not be processed or considered complete until the filing fee is paid to the city
- (B) All other applicable fees that may be set by the Council shall also accompany the application.  **is the application incomplete if these are not paid?**

153.01.24 Withdrawal of any Applications

- (A) Any request for withdrawal of an application shall be submitted in writing to the Zoning Administrator.
- (B) In all cases where the applicant has requested withdrawal of an application, the associated fee paid and any costs incurred by the City in the processing of an application shall not be refunded.

153.01.25 Timelines for Review

- (A) Action on Preliminary Subdivision Requests  **as may be amended?**
- (1) In compliance with MS 462.358 the City shall take action to approve or deny applications ~~for~~ **preliminary plats** within 120 days of receiving a completed application.
- (2) If the city cannot take action to approve or deny the application within 120 days of receiving the completed application, an extension request may be approved by the applicant in writing.
- (3)  **A subdivision application** shall be preliminarily approved or disapproved by the municipality within 120 days following acceptance of the application completed in compliance with this chapter, unless an extension of the review period has been agreed to by the applicant
- (B) Action on Final Subdivision Request
- (1) In compliance with MS 462.358, as may be amended, once the City has preliminarily approved a subdivision request, the applicant may submit an application for final subdivision approval; the City shall take action to approve or deny applications for final plats within 60 days of receiving a completed application

153.01.26 Public Hearing

- (A) For all subdivision procedures which require a public hearing, the procedures established in Sec. 154.02.21(J) shall apply


PART 3 SUBDIVISION APPROVAL REQUIRED

City of Kasson Code of Ordinances

CHAPTER 153 SUBDIVISIONS

153.01.31 Applicability

153.01.31 Applicability


- (A) Applications for subdivisions shall be classified as one of the following types:
- (1) Minor Subdivision where a lot division or consolidation results in three or less parcels under certain conditions.  what conditions?
 - (2) Major Subdivisions, where:
 - (a) A lot division creates three or more parcels, lots, or tracts or where the division necessitates the creation of streets, roads, or alleys for residential, commercial, industrial, or other use or any combination thereof; or
 - (b) Any change in the lot line(s) or the establishment of the lot line(s) of a parcel, lot, or tract not previously platted.
- (B) Prohibition Related to Building Permits
- (1) No lot, parcel, or tract created after the effective date of this Chapter shall be issued a building permit unless the lot, parcel or tract has been created in compliance with the subdivision regulations of the City.
 - (2) Outlots are deemed unbuildable and no building permit shall be issued for such properties, except in the case of public park facilities and essential services.

153.01.32 Exemptions

- (A) Subdivision approval is not required for those separations where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;
- (B) Subdivision approval is not required for separations creating cemetery lots; and
- (C) Subdivision approval is not required for separations resulting from court orders or the adjustment of a lot line by the relocation of a common boundary.

153.01.33 Development Agreement Required

(A) Purpose

It is the purpose of this section to ensure that a subdivider follows the conditions of approval and properly installs the basic improvements required in a plat. Whenever a subdivision includes any public improvements or whenever a **major subdivision** includes other conditions of approval, the subdivider shall enter into a development agreement with the city, setting forth the conditions under which the subdivision is approved. 

(B) Required Improvements

- (1) Basic Improvements.

As required by the approval, and any conditions therein, all of the following required improvements to be installed under the provisions of this section shall be

would a minor subdivision have conditions of approval?

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CHAPTER 153 SUBDIVISIONS

153.01.33 Development Agreement Required

designed and constructed in accordance with the design standards of this **Chapter**, and approved by and subject to the inspection of the city engineer prior to approval:

- (a) Streets;
 - (b) Sanitary sewer;
 - (c) Watermain;
 - (d) Surface water facilities (pipes, ponds, rain gardens, and similar improvements);
 - (e) Grading and erosion control;
 - (f) Sidewalks/trails;
 - (g) Street lighting;
 - (h) Street signs and traffic control signs;
 - (i) Wetland mitigation; and
 - (j) Monuments required by Minnesota Statutes.
- (2) Other Improvements.

The subdivider shall arrange for the installation of private utilities including but not limited to telecommunications cabling, electrical and natural gas service following the backfilling of the curb and gutter.

(C) Installation of Basic Improvements

- (1) The subdivider shall arrange for the installation of all required improvements in the development subject to the development agreement.
- (a) All of the city's expenses incurred as the result of the required improvements shall be paid to the city by the subdivider including but not limited to legal, planning, engineering and inspection expenses incurred in connection with approval and acceptance of the **plat**, the preparation of the development agreement, review of construction plans and documents, and all costs and expenses incurred by the city in monitoring and inspecting ~~development of the plat.~~ ← fulfillment of the development agreement
 - (b) The subdivider shall reimburse the city for costs incurred in the enforcement of the development agreement, including engineering and attorneys' fees.
- (2) The city council reserves the right to, in its sole discretion, elect to install all or any part of the basic improvements required under the provisions of this section and

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CHAPTER 153 SUBDIVISIONS

153.01.33 Development Agreement Required

assess the costs to the benefiting property owners pursuant to Minn. Stat., Chapter 429, as may be amended.

- (3) Unless separate written approval has been given by the city as provided for in **Section 153.02.54(C)**, within the plat or land to be platted, the subdivider may not grade or otherwise disturb the earth, remove trees, construct sewer lines, water lines, streets, utilities, public or private improvements, or any buildings within the plat or land to be platted until all the following conditions have been satisfied:
 - (a) The development agreement has been fully executed by both parties and filed with the city clerk;
 - (b) The necessary security has been received by the city;
 - (c) The plat has been filed with the county recorder's office;
 - (d) The construction plans have been approved and signed by the city engineer; and
 - (e) The city has issued a letter that all conditions have been satisfied and that the subdivider may proceed.
 - (4) The improvements shall be installed in accordance with this Chapter, city standard specifications for utilities and street construction, and the city's engineering standard specifications.
 - (a) The subdivider shall submit plans and specifications that have been prepared by a registered professional engineer to the city for approval by the city engineer.
 - (b) The city shall, at the subdivider's expense, provide all on-site inspection and soil testing to certify that the construction work meets the city's standards and approved plans.
 - (5) All labor and work shall be done and performed in the best and most workmanlike manner and in strict conformance with the approved plans and specifications.
 - (a) No deviations from the approved plans and specifications will be permitted unless approved in writing by the city engineer.
 - (b) The subdivider shall not do any work or furnish any materials not covered by the plans and specifications and special conditions of the development agreement, for which reimbursement is expected from the city, unless such work is first ordered in writing by the city engineer as provided in the specifications.
- (D) Time of Performance
- (1) The subdivider shall complete all required basic improvements no later than one year following the commencement of work on the improvements, except:

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CHAPTER 153 SUBDIVISIONS

153.01.34 Financial Guarantees

- (a) Where weather precludes completion;
 - (b) For street lighting;
 - (c) For landscaping; and
 - (d) For the wearing course of streets.
- (2) Where weather precludes completion, the timeline for completion of the improvements may be extended an additional six months upon approval in writing of the Zoning Administrator.
- (3) The subdivider shall complete street lighting within two years following the initial commencement of work on the required basic improvements.
- (4) The subdivider shall complete landscaping by the development phase within 90 days following the issuance of a building permit for the last vacant lot within a phase unless weather precludes completion, in which case the landscaping shall be completed at the outset of the next growing season.
- (5) Neither curb and gutter nor bituminous pavement shall be installed between November 15 and April 15. The final wear course on streets shall be installed between May 15 and October 1 the first summer after the base layer of asphalt has been in place one freeze thaw cycle. Any deficiencies in the base asphalt, curb or other improvements must be repaired by the subdivider at its own cost prior to final paving. The subdivider may, however, request an extension of time from the city engineer. If an extension is granted, it shall be conditioned upon updating the security posted by the subdivider to reflect cost increases and the extended completion date. Final wear course placement outside of this time frame must have the written approval of the city engineer.

153.01.34 Financial Guarantees

- (A) Subsequent to execution of the development agreement, but prior to approval of a signed final plat for recording, the subdivider shall provide the city with a financial guarantee in the form of a letter of credit from a bank, cash escrow, or other form of security acceptable to the city. A letter of credit or cash escrow shall be in an amount as determined by the city engineer.
- (B) It shall be the responsibility of the subdivider to insure that a submitted financial guarantee shall continue in full force and effect until the city engineer has approved and the city council has accepted all of the required improvements. The city engineer thereby is authorized to release the guarantee or reduce the amount of the guarantee as provided in **Sec. 153.01.15**, Approval and Acceptance of Basic Improvements.
- (C) When any instrument submitted as a financial guarantee contains provision for an expiration date, after which the instrument may not be drawn upon, notwithstanding the status of the development agreement or of the required improvements, the expiration date

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CHAPTER 153 SUBDIVISIONS

153.01.34 Financial Guarantees

shall be December 31 or the closest business day in the case of weekends and legal holidays.

- (1) Further, the financial guarantee shall be deemed automatically extended without change for six months from the expiration date unless 60 days prior to the expiration date the financial institution notifies the city in writing by certified mail that it does not elect to renew the financial guarantee for an additional period.
- (2) If the instrument is not to be renewed and has not been released by the city engineer, another acceptable financial guarantee in the appropriate amount shall be submitted at least 60 days prior to the expiration.
- (3) The term of any extension shall be approved by the city engineer and subject to the requirements of this section.
- (4) Upon receipt of an acceptable substitute financial guarantee, the city engineer may release the original guarantee.

(D) Forms of Financial Guarantees

(1) Letter of Credit.

If the subdivider posts a letter of credit as a guarantee, the credit shall:

- (a) Be irrevocable;
- (b) Be from a bank approved by the city;
- (c) Be in a form approved by the city;
- (d) Be for a term sufficient to cover the completion, maintenance and warranty periods identified in this section; and
- (e) Require only that the city present the credit with a sight draft and an affidavit signed by the city administrator or the city administrator's designee attesting to the city's right to draw funds under the credit.

(2) Cash Escrow.

If the subdivider posts a cash escrow as a guarantee, the escrow instructions approved by the city shall provide that:

- (a) The subdivider will have no right to a return of any of the funds except as provided in [Sec. 153.01.15](#), Approval and Acceptance of Basic Improvements; and
- (b) The escrow agent shall have a legal duty to deliver the funds to the city whenever the city administrator presents an affidavit to the agent attesting to the city's right to receive funds whether or not the subdivider protests that right.

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(3) Cash.

A cash deposit made with the city finance department may be used as part of the required financial guarantee in those instances where the subdivider elects to have the city install some or all of the public improvements.

(E) Amounts of Financial Guarantees.

The subdivider shall submit either a financial guarantee in one of the forms listed in [Sec. 153.01.24\(D\)](#), Forms of Financial Guarantees, for an amount determined by the city engineer in accordance with the following:

- (1) Subdivider Installed Improvements. For basic improvements to be installed by the subdivider, the required financial guarantee shall include all of the following fixed or estimated costs:
 - (a) Costs of the basic improvements identified in [Sec. 153.01.23\(B\)\(1\)](#), Basic Improvements.
 - (b) Engineering, to include subdivider's design, construction management, surveying, inspection, and drafting.
 - (c) Twenty-five percent contingency or add-on to the costs in paragraphs (a) and (b) above; and
 - (d) Estimated cost of energy for street lights for the first two years of operation.
- (2) City Installed Improvements.

For basic improvements to be installed by the city, the required financial guarantee shall be the sum of the following fixed or estimated costs:

- (a) A cash deposit in an amount equal to 25 percent of the estimated cost of installing the specified public improvements as determined by the city engineer, which costs would include charges incurred by the city for legal, planning, engineering and administration associated with the installation project(s). The deposit shall be applied to the costs of such installations, with the remainder of the costs specially assessed, in the manner provided by Minnesota Statutes, over a period of five years together with interest thereon.
- (b) In lieu of the cash deposit, the subdivider may elect to have the city provide 100 percent of the cost of such installations, which costs shall be assessed over a period of five years. In such event, the subdivider shall post a letter of credit for 60 percent of the cost of assessments, which letter of credit shall be released after the subdivider pays the principal and interest on said assessments for two years and which letter of credit shall be separate from any other letters of credit associated with the subdivider's project.

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CHAPTER 153 SUBDIVISIONS 153.01.35 Approval and Acceptance of Basic Improvements

(F) Other Cash Requirements.

The subdivider will be responsible for additional cash requirements which must be furnished to the city at the time of final plat approval. The subdivider shall not proceed with any improvements until these cash requirements have been paid to the city. The cash requirements may include:

- (1) Park dedication fees (**See Sec. 153.03**);
- (2) Utility charges and fees. This may include sewer availability charges (SAC), water availability charges (WAC), and trunk fees;
- (3) Special assessments including interest;
- (4) The city's legal, engineering administration, and construction observation fees;
- (5) Costs associated with traffic control and street signs to be installed in the plat by the city;
- (6) Map upgrade fee; and
- (7) Other charges or fees as determined by the city.

153.01.35 Approval and Acceptance of Basic Improvements

The financial guarantee shall be held by the city until:

- (A) The subdivider vouches, by certified letter to the City, that the conditions required by the City for approval under this Chapter have been satisfied; and
- (B) The City Engineer determines that the conditions required for approval have been met
- (C) No financial guarantee shall be released in full until the following has occurred:
 - (1) All improvements have been completed and public improvements have been accepted by the city engineer.
 - (2) Iron monuments for lot corners have been installed.
 - (3) All financial obligations to the city have been satisfied.
 - (4) Reproducible record plans of all public improvements as required by the city engineer have been furnished to the city by the subdivider. Such record plans shall be certified to be true and accurate by the registered engineer responsible for the installation of the improvements.
 - (5) A warranty/maintenance guarantee has been provided as described in **Sec. 153.01.26**, Warranty/Maintenance Guarantee.
 - (6) A title insurance policy approved by the city attorney indicating that the improvements are free and clear of any and all liens and encumbrances.

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CHAPTER 153 SUBDIVISIONS

153.01.36 Warranty/Maintenance Guarantee

- (D) If the City Engineer finds that all conditions of this chapter and the development agreement have been satisfied, the City shall release and return to the applicant any and all financial securities tied to the requirements within 30 days
 - (1) If the City fails to release and return the letters of credit within the 30-day period, any interest accrued will be paid to the applicant, pursuant to Minn. Stat. 462.358, as may be amended
- (E) If the City Engineer determines that the conditions required for approval have not been satisfied, the City shall send written notice within seven business days upon receipt of the certified letter indicating to the applicant which specific conditions have not been met.
 - (1) The City shall require a maintenance or performance bond from any subcontractor that has not yet completed all remaining requirements.

153.01.36 Warranty/Maintenance Guarantee

- (A) The subdivider shall submit either a warranty/maintenance bond or a letter of credit for an amount determined by the city engineer.
- (B) The required warranty period for materials and workmanship from the utility contractor installing public sewer and water mains shall be two years from the date of final written city acceptance of the work.
- (C) The required warranty period for all work relating to street construction, including concrete curb and gutter, sidewalks and trails, materials and equipment shall be subject to one year from the date of final written acceptance, unless the wearing course is placed during the same construction season as the bituminous base course. In those instances, the subdivider shall guarantee all work, including street construction, concrete curb and gutter, sidewalks and trails, material and equipment for a period of two years from the date of final written city acceptance of the work.
- (D) The required warranty period for trees and landscaping is one growing season following installation.
- (E) The required warranty period for erosion control will be as established in the development agreement.

153.01.37 Insurance

- (A) The subdivider shall take out and maintain or cause to be taken out and maintained until six months after the city has accepted the public improvements, public liability and property damage insurance covering personal injury, including death, and claims for property damage which may arise out of subdivider's work or the work of its subcontractors or by one directly or indirectly employed by any of them.
- (B) Limits for the coverage shall be in accordance to the city's current requirements.

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CHAPTER 153 SUBDIVISIONS

153.01.38 Penalty

- (C) The city shall be named as an additional insured on the policy, and the subdivider shall file with the city a certificate evidencing coverage prior to the city signing the plat.
- (D) The certificate shall provide that the city must be given ten days advance written notice of the cancellation of the insurance.

153.01.38 Penalty

- (A) Any subdivider who violates, omits, neglects or refuses to comply with the provisions or the enforcement of this chapter or who sells, offers for sale, or leases any portion of land which is in violation of this chapter, shall be guilty of a misdemeanor.
- (B) Each day that a violation is committed, or permitted to exist, shall constitute a separate offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this chapter, and the city may pursue, by appropriate actions or proceedings, any or all additional remedies.

ARTICLE 02 REVIEW PROCESS

PART 1 MINOR SUBDIVISIONS

153.02.11 Applicability

- (A) This section is intended to provide for an expedited procedure for the subdivision of land by use of a **certificate of survey** when it is proposed to subdivide land that is already in a recorded subdivision plat.
- (B) Land to be subdivided as a minor subdivision shall be a lot (or lots) of record in a recorded subdivision plat. The subdivision of land that is not part of a recorded plat requires the land to be platted or re-platted through a major subdivision process.
- (C) The maximum number of parcels or building sites to be created from one platted lot shall not exceed three; and the maximum number of parcels or building sites to be created from two platted lots shall not exceed three,
- (D) No subdivision of land shall result in the creation of a substandard (non-buildable) lot, according to the current zoning classification, with the exception of existing outlots.
- (E) Any affected lot or outlot shall not be allowed to be subdivided by use of a certificate of survey more than one time.
- (F) The need for general utility easements or drainage easements or improvements shall be resolved prior to the approval of the subdivision.
- (G) The dedication of land to the public for a street or street right-of-way shall not be allowed by use of a certificate of survey.

153.02.12 Pre-Application Meeting

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CHAPTER 153 SUBDIVISIONS

153.02.13 Submittal

- (A) A pre-application meeting pursuant to 153.01.15 is suggested prior to submitting a Minor Subdivision application.

153.02.13 Submittal

- (A) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the Council, for processing the minor subdivision.
- (B) The Zoning Administrator shall review the application and within 15 business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.

(C) **Criteria for Complete Submittal**

No submittal to the City shall be considered complete without receipt of three paper copies and one electronic copy of the following:

- (1) A completed application form;
- (2) Evidence of ownership or enforceable option on the property;
- (3) A certificate of survey of the existing property with an accurate boundary description of the property
- (4) A certificate of survey of the proposed property with an accurate boundary description of the new lot(s)
 - (a) The certificate of survey for filing or recording shall be drawn at current acceptable engineering design standards with a scale.
 - (b) The certificate of survey shall measure no less than eight and one-half inches by 11 inches. The certificate of survey shall be drawn to a scale not greater than 100 feet to the inch unless another suitable scale is approved by the City Engineer ~~and/or Planning and Zoning Commission~~. (Example: one inch equals 200 feet would be unacceptable.)
- (5) Site plan of the property showing
 - (a) Locations and dimensions of existing features, such as structures, impervious surfaces, trees, fences/retaining walls, waterbodies and wetlands; all such elements shall also include an indication if they are proposed to remain or be demolished
 - (b) Proposed subdivision of the property, with dimensions of the new lots showing lot area, lot width, and setbacks

153.02.14 Review Process

- (A) Application Distributed

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CHAPTER 153 SUBDIVISIONS

153.02.15 Issuance of Decision

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

(B) Review & Decision

- (1) When the Zoning Administrator determines the application to be complete, the item shall be reviewed by the Planning and Zoning Commission at the next regularly scheduled Commission meeting; after review, the Planning and Zoning Commission shall make a recommendation to the City Council to approve, approve with conditions or not approve the subdivision activities.
- (2) The City Council shall, within 90 days of the Planning and Zoning Commission recommendation, approve, approve with conditions or not approve the subdivision activities.

(C) Criteria for Review

- (1) In making the determination, whether or not the minor subdivision is to be allowed, the City Council shall make the following findings:
 - (a) The proposed subdivision is not in conflict with the comprehensive plan of the city
 - (b) The proposed subdivision will not disrupt the character of the neighborhood
 - (c) The proposed subdivision does not result in the creation of a substandard (non-buildable) lot, according to the current zoning classification
- (2) Assessments shall be paid in full prior to the approval of the subdivision.

153.02.15 Issuance of Decision

(A) Recording

- (1) The subdivider shall file and record the certificate of survey with attached legal descriptions within 30 days from the date of approval by the City Council. One copy shall be filed with the City Clerk, and one copy shall be recorded with the County Recorder. All fees for filing or recording shall be paid by the subdivider.
- (2) The City Clerk shall file the certificate of survey and attached legal descriptions with the original subdivision plat map in the City Administrator's record.

(B) Effect of Approval

- (1) No building permits shall be issued prior to filing and recording the certificate of survey, and legal descriptions, with the required City and County officials.

PART 2 CONCEPT PLAN

153.02.21 Applicability

provision for calling a special meeting?

what if payments are not made within the 90 days?


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CHAPTER 153 SUBDIVISIONS

153.02.22 Submittal

- (A) The Concept Plan and any accompanying information shall serve as a basis for discussion between the subdivider and the city and is intended to provide the subdivider with an advisory review.
- (B) The Concept Plan process is not mandatory. This process may be initiated at any time by an applicant who wishes to gain information and guidance from the Planning and Zoning Commission and City Council regarding a specific development concept before entering into binding agreements, incurring substantial expense, or filing a Preliminary Plat application.
- (C) For more complex proposals, it is suggested that the applicant participate in a Concept Plan review process before proceeding to a Preliminary Plat application.

153.02.22 Submittal

- (A) The applicant shall file the completed application form  together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the Council, for processing the concept plan.

- (B) Criteria for Complete Submittal:

can this fee be deducted from the preliminary plat application? just thinking about encouraging discussion rather than hammering it out at the preliminary plat stage

No submittal to the City shall be considered complete without receipt of three paper copies and one electronic copy of the following:

- (1) A completed application form;
- (2) A Concept Plan, drawn to scale, including the following:
 - (a) Scale and north point;
 - (b) Boundaries of entire parcel of land;
 - (c) Proposed subdivision name;
 - (d) Name and address of property owner;
 - (e) Name and address of subdivider;
 - (f) Zoning classification of proposal and adjacent lands;
 - (g) Names of existing streets;
 - (h) General street design and general design of other surface improvements such as sidewalks and trails;
 - (i) General lot layout, including number of proposed lots and dimensions of those lots (lot area, lot width);
 - (j) Information of adjacent lands;
 - (i) Parcel boundaries
 - (ii) Parcel ID numbers

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CHAPTER 153 SUBDIVISIONS

153.02.23 Review Process

- (iii) Property Owner
- (k) Areas of open space or park dedication;
- (l) Areas for stormwater retention; and
- (m) Existing natural features including wetlands, water bodies, significant tree stands, steep slopes, and floodplain areas

153.02.23 Review Process

- (A) The Zoning Administrator shall review the application and Concept Plan and refer them to City Staff for review.
- (B) The Planning and Zoning Commission shall review the Concept Plan and provide feedback to the applicant.
- (C) The City Council shall review the Concept Plan and provide feedback to the applicant.
- (D) This process is intended to inform the applicant of the purpose and objectives of these regulations, the Comprehensive Plan, and duly adopted plan implementation devices of the City.
- (E) Discussions that occur are not binding on the City and do not constitute official assurances or representations on the City.



but are given in "good faith"? just thinking why someone would sign up for this if it costs more and regulated - just seems if something is being asked, something should be given back ...

PART 3 PRELIMINARY PLAT

153.02.31 Applicability

- (A) A Preliminary Plat application shall be submitted to the City when any of the following apply:
 - (1) The applicant is proposing to create four (4) or more lots as part of a subdivision; or
 - (2) The applicant is proposing to change the exterior boundaries of an existing plat; or
 - (3) Successive divisions with a five (5) year period creating five (5) or more parcels or building sites (i.e. lots or outlots) of 1 to 1½ acres each or less; or
 - (4) The proposed subdivision does not qualify to be processed as a minor subdivision

153.02.32 Pre-Application Meeting

- (A) If an applicant has not completed a concept plan process as specified in **Sec. 153.02.3**, a pre-application meeting pursuant to **153.01.15** is required prior to submitting a Preliminary Plat application.

153.02.33 Submittal

- (A) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the Council, for processing the minor subdivision.

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CHAPTER 153 SUBDIVISIONS

153.02.33 Submittal

- (B) The Zoning Administrator shall review the application and within 15 business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.

- (C) Criteria for Complete Submittal

No submittal to the City shall be considered complete without receipt of three paper copies and one electronic copy of the following:

- (1) Certificate of Survey for the site showing the following:
- (a) Property boundary for entirety of parcel(s) to be subdivided and legal description of current property
 - (b) Wetland delineation
 - (c) Existing topography at two-foot contours
 - (d) Location of Floodplain and regulatory flood elevation*
 - (e) ← ?
- (2) Preliminary Plat conforming substantially to the format referenced in **MS § 505.021**, as may be amended from time to time, and specifically include:
- (a) Date, scale, north point;
 - (b) Property boundary for entirety of parcel to be subdivided
 - (c) Proposed subdivision name and all intended street names according to the municipality's street naming and numbering system;
 - (d) Name and address of the subdivider, surveyor and engineer preparing plat;
 - (e) Location and names of adjacent subdivisions and the owners of adjoining parcels of unsubdivided land;
 - (f) Zoning classification of lands to be subdivided and all adjacent lands and proposed zoning, if different than existing zoning;
 - (g) Topographic map of the area showing two-foot contour intervals. All areas of the subdivision to be platted with a slope greater than 25% must be clearly indicated;
 - (h) Location, widths and names of all existing, platted or dedicated elements of the following:
 - (i) streets, including cul-de-sac names (i.e., place or circle),
 - (ii) easements, railroad and utility rights-of-way,  private streets?
 - (iii) sidewalks,
 - (iv) parks,

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153.02.33 Submittal

- (v) watercourses and drainage ditches,
 - (vi) front, side, and rear yard dimensions for all permanent buildings and structures;
 - (i) Location, size and depth of all existing and/or proposed sanitary sewer, storm sewers, water mains, hydrants and catch basins. Location and proposed design of storm water retention areas when required;
 - (j) Other data within 300 feet of the exterior boundaries of the area being subdivided as may be required by the Planning and Zoning Commission;
 - (k) Identification and location of existing or potential wetlands. Water elevations of adjoining lakes, rivers and streams at date of survey and their approximate high and low water elevations. All elevations shall refer to the established United States Coast and Geodetic Survey and/or United States Geodetic Survey Datum;
 - (l) When the subdivision borders a lake, river or stream the contour line above the indicated flood fringe boundary of the lake, river or stream shall be shown on the plat;
 - (m) The layout and width of all new streets, sidewalks, rights-of-way and easements and the approximate angles of street intersections;
 - (n) Length and bearings of the exterior boundaries of the land being subdivided;
 - (o) Dimensions of all lots to the nearest foot;
 - (p) Square footage of all lots;
 - (q) All lots shall be numbered by beginning the numbering with number one and numbering each lot progressively, through the block in which they are situated. All blocks shall be numbered progressively, by beginning the numbering with the number one and numbering each block progressively through each plat. Consecutive lot or block numbering shall not be continued from one plat into another and one lot plats should have both a lot and block number;
 - (r) Approximate radii of all curves and lengths of all tangents; and
 - (s) Approximate location and area of all property to be dedicated for public use or reserved by deed covenant for use by all property owners in the development with a statement of the conditions of the dedication or reservation
- (3) The preliminary plat shall be drawn to currently acceptable engineering design standards with a scale not greater than one inch equals 100 feet unless another

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coordinate with Minor
Subdivisions

CHAPTER 153 SUBDIVISIONS

153.02.34 Review Process

suitable scale is approved by the **Municipal Engineer and/or Planning and Zoning Commission**. (Example: One inch equals 200 feet would be unacceptable.)

(4) Preliminary Construction Plans showing the following:

- (a) Grading and Drainage Plans
 - (i) Grading Plan
 - (ii) Erosion Control Plan
 - (iii) Seeding Plan
 - (iv) Grading Details
- (b) Street and Utility Plans
 - (i) Sanitary and Watermain Plan
 - (ii) Storm Sewer Schedule
 - (iii) Storm Sewer Construction Plan
 - (iv) Drintile Plan (if applicable)
 - (v) Street Construction Plan
 - (vi) Lighting and Signage Plan
 - (vii) Street and Utility Details
- (c) Landscape Plan

153.02.34 Review Process

(A) Application Distributed

- (1) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

(B) Hearing on the Application

- (1) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with **Sec. 153.01.19**

~~(2) The Planning and Zoning Commission shall hold the public hearing and may table the application for further investigation if necessary.~~



(C) Review & Decision

- (1) Upon the conclusion of the public hearing, the Planning and Zoning Commission shall recommend to the City Council either preliminary approval of the subdivision,

may table the application for
further investigation if
necessary, or

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CHAPTER 153 SUBDIVISIONS

153.02.35 Issuance of Decision

preliminary approval of the subdivision subject to conditions, or denial of the subdivision

- (a) If the Planning and Zoning Commission recommends denial, it shall express its recommendation for disapproval and its reasons therefor.
 - (b) Any plan given a conditional recommendation for approval shall be revised to meet the requirements of the conditions and three paper and electronically transmitted copies shall be resubmitted to the Zoning Administrator.
- (2) Upon receiving a recommendation from the Planning and Zoning Commission, the City Council shall review and approve, approve conditionally, or deny the Preliminary Plat application *can Council table its decision?*
 - (a) The City Council shall state, in writing, its findings for approval or denial, as well as any conditions of approval.
- (D) Criteria for Review
 - (1) In making their determination, the Planning and Zoning Commission and City Council shall consider the following:
 - (a) Consistency with the design standards and other requirements of this chapter;
 - (b) Consistency with the city's comprehensive plan or other adopted plans applicable to the area;
 - (c) Consistency with Chapter 154 of this code of ordinances;
 - (d) The physical characteristics of the site, including but not limited to topography, erosion and flooding potential, development or use contemplated; and
 - (e) The proposed development's potential for a negative fiscal or environmental impact upon the city.

153.02.35 Issuance of Decision

(A) Notification

Following the decision by the City Council, the Zoning Administrator shall notify the applicant of the Council's action and reasons thereof.

(B) Recording

The city shall maintain a record of all approved preliminary plat applications including a copy of the application, materials, review dates and such other information as may be appropriate. A record of applications which were not approved shall also be maintained for record keeping purposes.


pursuant to the City's record retention schedule

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CHAPTER 153 SUBDIVISIONS

153.02.36 Preliminary Plat Amendment

(C) Effect of Approval

- (1) The approval of a preliminary plat is an acceptance of the general layout as submitted and indicates to the applicant that they may proceed toward fulfilling the necessary steps for approval of the Final Plat in accordance with the terms of approval.
- (2) Upon approval of the preliminary plat by the Council, the applicant shall submit the Final Plat to the City Council within one year after the approval of the Preliminary Plat or approval of the Preliminary Plat shall be considered void.
- (3) Prior to the expiration of the Preliminary Plat approval, the City Council may extend the approval for an additional year.
 - (a) The applicant shall submit such a request in writing to the Zoning Administrator at least 30 days in advance of the expiration date and the City Council shall consider the extension at the next regularly scheduled meeting.  is a special meeting allowed?
 - (b) The request for an extension shall specify the term of extension, and designate a new extension date.
 - (c) The extension shall not be subject to an additional fee and only one extension may be granted per Preliminary Plat.

153.02.36 Preliminary Plat Amendment


- (A) Requested amendments to the Preliminary Plat shall follow the same procedure outlined in this Section. Should the applicant desire to amend the Preliminary Plat as approved, they may resubmit an amended Plat which shall follow the same procedure, except for the fee, unless the amendment is, in the opinion of the Zoning Administrator, of such scope as to constitute a new Plat, in which case it shall be re-filed.

PART 4 FINAL PLAT

153.02.41 Applicability

- (A) An approved Preliminary Plat shall be on file with the City prior to applying for a Final Plat that substantially conforms to the Preliminary Plat.
- (B) The Final Plat may, if permitted by the City Council, constitute only that portion of the approved Preliminary Plat which the applicant proposes to record at the time.

153.02.42 Submittal

- (A) The application for a Final Plat shall be submitted no later than one (1) year after the date of approval of the Preliminary Plat; otherwise the Preliminary Plat and Final Plat will be considered void unless an extension is requested in writing by the applicant and granted by the City.  this is stated above - should only be in one place

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153.02.42 Submittal

- (B) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the Council, for processing the **minor subdivision**. ← ?
- (C) The Zoning Administrator shall review the application and within 15 business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.
- (D) Criteria for Complete Submittal is mylar required for filing with county?
- No submittal to the City shall be considered complete without receipt of three **paper** copies and one electronic copy of the following: →
- (1) If the applicant has complied with all conditions and requirements of applicable regulations and all conditions and requirements upon which the preliminary approval is expressly conditioned either through performance or the execution of appropriate agreements assuring performance
 - (2) Final Plat including:
 - (a) Date, scale, north point;
 - (b) Subdivision name and all street names;
 - (c) Location of the plat by quarter section, section, town and range;
 - (d) Location and names of adjacent subdivisions;
 - (e) Exact location, widths and names of all existing platted or dedicated streets, cul-de-sac names (i.e., place or circle), sidewalks, easements, railroad and utility rights-of-way, parks, watercourses and drainage ditches within the boundaries of the land to be subdivided;
 - (f) Identification and location of existing or potential wetlands. Water elevations of adjoining lakes, rivers and streams at date of survey and their approximate high and low water elevations. All elevations shall refer to the established United States Coast and Geodetic Survey and/or United States Geodetic Survey Datum;
 - (g) When the subdivision borders a lake, river or stream the contour line above the indicated flood fringe boundary of the lake, river or stream shall be shown on the plat;
 - (h) Exact location and width of all new streets, their angle of intersection, length of arcs, radii, points of curvature and tangent bearings;
 - (i) Exact location and width of all easements, and a statement of easement rights;

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153.02.42 Submittal

- (j) Exact length and bearings or angles of the exterior boundaries of the land being subdivided;
 - (k) Exact dimensions of all lots;
 - (l) All lots shall be numbered by beginning the numbering with number one and numbering each lot progressively, through the block in which they are situated. All blocks shall be numbered progressively, by beginning the numbering with the number one and numbering each block progressively through each plat. Consecutive lot or block numbering shall not be continued from one plat into another and one lot plats should have both a lot and block number;
 - (m) Exact location and area of all land to be dedicated for public use or reserved by deed covenant for common use of all property owners with the purpose indicated thereon. All lands dedicated for public use, other than streets, shall be marked "Dedicated to the Public";
 - (n) Accurate location and material of all permanent reference monuments including lot corners which shall be marked in accordance with current surveying standards;
 - (o) Certificate of the registered land surveyor preparing the plat, that the plat as presented, fully complies with the requirements of this chapter, and the platting laws of the state relative to the surveying, dividing and mapping of land; that the plat is a correct representation of all exterior boundaries of the land surveyed; that the plat represents a survey made by the surveyor and that all monuments indicated thereon exist and their location, size and material are correctly shown;
 - (p) A certificate issued by the authorized county officials stating that there are no unpaid taxes or special assessments on any of the lands included in the plat;
 - (q) A certificate by the owner or owners dedicating to the public for full public use all street and street rights-of-way and other lands designated as "Dedicated to the Public" and the granting of utility easements as shown on the plat;
 - (r) A certificate of Planning and Zoning Commission approval signed by the Planning and Zoning Commission Chair; and
 - (s) A certificate of approval by the City Council signed by the Mayor and Administrator.
- (3) **Final Construction Plans** of the following:
- (a) Grading and Drainage Plans



where is this addressed?

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CHAPTER 153 SUBDIVISIONS

153.02.43 Review Process



- (i) Grading Plan
- (ii) Erosion Control Plan
- (iii) Seeding Plan
- (iv) Grading Details
- (b) Street and Utility Plans
 - (i) Sanitary and Watermain Plan
 - (ii) Storm Sewer Schedule
 - (iii) Storm Sewer Construction Plan
 - (iv) Draintile Plan (if applicable)
 - (v) Street Construction Plan
 - (vi) Lighting and Signage Plan
 - (vii) Street and Utility Details
- (c) Landscape Plan

153.02.43 Review Process

(A) Application Distributed

- (1) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

(B) Review & Decision

- (1) When the Zoning Administrator determines the application to be complete, the item shall be scheduled to be reviewed by the City Council at a regular meeting. special meeting option? 
- (2) The City Council shall review and approve, approve conditionally, or deny the Final Plat application. table option? 
- (3) The City Council shall state, in writing, its findings for approval or denial, as well as any conditions of approval.

(C) Criteria for Review

In considering the Final Plat application, the City Council shall consider the following factors:

- (1) Substantial conformance with the approve Preliminary Plat and all conditions of approval;
- (2) Conformance with this Chapter and all other applicable ordinances, rules, and regulations; and,

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CHAPTER 153 SUBDIVISIONS

153.02.44 Issuance of Decision

- (3) Consistency with the Comprehensive Plan's vision, mission, values, and policies.

153.02.44 Issuance of Decision

(A) Notification

Following the decision by the City Council, the Zoning Administrator shall notify the applicant of the Council's action and reasons thereof.

(B) Recording

- (1) The final plat for recording, after approval by the City Council, shall substantially conform to **MS § 505.021**, as may be amended from time to time.
- (2) After the Final Plat has been approved by the City Council, all conditions of approval have been met, and required improvements are either installed or a contract and sureties insuring their installation is filed, the applicant shall file the Final Plat and Development Agreement with the County Recorder. Recording of the Final Plat and all associated conditions of approval must be completed within one year of final approval.
- (3) Failure to record the Final Plat, development agreement, and all associated conditions of approval within one year of final approval so shall result in the requiring of a new Preliminary Plat which must be reviewed in accordance with the procedure set out in this Chapter to ensure compliance with any new requirements.
- (4) The City shall distribute copies of the approved Final Plat to all approving agencies, affected utilities, and other affected agencies for their files.

(C) Effect of Approval

- (1) Once the Final Plat has been recorded, activity may commence on the site and shall meet the installation of improvements as established in this Chapter, or as otherwise agreed upon within the Development Agreement with the City.
- (2) Grading on the site may occur prior to recording of the Final Plat and development agreement if a grading permit has been issued by the Zoning Administrator

PART 5 VARIANCES ← state statute requirements?



153.02.51 Applicability ← should the heading be "intent and purpose"

- (A) The standards and requirements of this chapter may be modified by the City Council in accordance with the comprehensive plan safeguarded by appropriate restrictions, conditions and adequate provisions for necessary community facilities and without detriment to the public interest. No variance shall be granted which shall have the effect of nullifying the **intent and purpose** of this chapter.

153.02.52 Pre-Application Meeting

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153.02.53 Submittal

- (A) A pre-application meeting pursuant to 153.01.15 is suggested prior to submitting a Variance application

153.02.53 Submittal

- (A) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the Council, for processing the variance.
- (B) The Zoning Administrator shall review the application and within 15 business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.

- (C) Criteria for Complete Submittal

No submittal to the City shall be considered complete without receipt of the following:

- (1) Complete variance application
- (2) Narrative from applicant explaining why a variance from this Chapter is needed

153.02.54 Review Process

- (A) Application Distributed

- (1) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

- (B) Hearing on the Application

- (1) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with [Sec. 153.01.19](#).
- (2) The Planning and Zoning Commission shall hold the public hearing and may table the application for further investigation if necessary.

- (C) Review & Decision

- (1) Following the public hearing, the Planning and Zoning Commission shall recommend approval, conditional approval, or denial of the Subdivision Variance request and shall transmit the request and application along with its recommendations to the City Council.
- (2) Upon receiving a recommendation from the Planning and Zoning Commission, the City Council shall review and approve, approve conditionally, or deny the Subdivision Variance application by majority vote.
- (3) The City Council shall state, in writing, its findings for approval or denial, as well as any conditions of approval.

table option here?

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CHAPTER 153 SUBDIVISIONS

153.02.55 Issuance of Decision

(D) Criteria for Review

In considering the Subdivision Variance application, the City Council shall consider the following factors:


- (1) The requested Subdivision Variance is in harmony with the general purposes and intent of this Chapter;
- (2) The requested Subdivision Variance is consistent with the Comprehensive Plan and all other applicable City plans;
- (3) The applicant has established that there are special circumstances or conditions, such as topography, drainage, or other natural occurring characteristics, affecting the property such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of the land; and
- (4) The impact the variance will have on the public health, safety, and welfare of other property in the vicinity in which the property is situated.

153.02.55 Issuance of Decision

(A) Notification

- (1) Following the decision by the City Council, the Zoning Administrator shall notify the applicant of the Council's action and reasons thereof.

(B) Recording

- (1) A certified copy of the authorizing resolution, containing identifiable description and any specific requirements for approval, shall be recorded by the applicant with the County.
- (2) A copy of a decision granting a Subdivision Variance in a floodplain district shall be mailed to the district office of the Minnesota Department of Natural Resources within 10 days of the decision.  **by the city?**

(C) Effect of Decision

- (1) Violations of the conditions of a Subdivision Variance shall void the Variance.
- (2) Whenever within one year after granting a Subdivision Variance the work as permitted by the Variance shall not have been completed, then the Variance shall become null and void unless a petition for extension of time in which to complete the work has been granted to the Council.
 - (a) The extension shall be requested in writing and filed with the Zoning Administrator at least 30 days before the expiration of the original Subdivision Variance. There shall be no charge for the filing of the petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the Subdivision Variance or appeal. The petition shall be presented to the City Council for a decision.

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CHAPTER 153 SUBDIVISIONS

153.03.11 Applicability

- (b) A second extension shall require a new public hearing.
- (3) A Subdivision Variance application which has been denied shall not be submitted, in an exact or substantially similar form, for at least 12 months from the date of denial.

ARTICLE 03 SUBDIVISION DESIGN STANDARDS

PART 1 GENERAL STANDARDS

153.03.11 Applicability

- (A) The subdivision design standards contained in this chapter are to assure that the style, character and form of new developments will conform to minimum requirements promoting the health, safety and general welfare of the public. In addition to these regulations and to ensure that future developments are consistent with the growth objectives and goals of the community, subdivisions shall conform to the comprehensive development plan of the municipality, or any part thereof, and the official map, zoning ordinance and any other applicable ordinances of the municipality.
- (B) Each subdivision shall be designed in compliance with the standards of this section, unless an exception is granted in compliance with Section 8.5.16, Variance.

153.03.12 General Standards

- (A) Monuments
 - (1) Official permanent monuments shall be placed as required by Minn. Stat. §505.021 (as may be amended).
 - (2) All monument markers shall be correctly in place upon final grading and installation of utilities.
 - (3) The city will not issue building permits for a lot within a plat until monuments have been placed for that lot.
 - (4) All United States, state, county or other official bench marks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position.
- (B) Subdivision Names
 - (1) The proposed name of the subdivision shall not duplicate or too closely approximate phonetically, the name of any other subdivision in the city or county. The city shall have final authority to designate the name of the subdivision.
- (C) Street Names
 - (1) Street names shall be named according to the municipality's street naming and numbering system, The Zoning Administrator shall have discretion to alter the city

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CHAPTER 153 SUBDIVISIONS

153.03.13 Land Requirements

street naming system, when appropriate, in order to avoid confusion to the traveling public.

(D) Debris and Waste

- (1) No items and materials such as cut trees, diseased trees, timber, debris, earth, rocks, stones, soil, junk, rubbish or other waste materials of any kind shall be left or deposited in any area of the subdivision at the time of expiration of the development agreement or dedication of public improvements, whichever occurs sooner.
- (2) No such items and materials as listed above shall be buried in any land, or left or deposited on any lot or street at the time of the issuance of a certificate of occupancy, and removal of those items and materials shall be required prior to issuance of any certificate of occupancy in a subdivision.

153.03.13 Land Requirements

- (A) Land shall be suited to the purpose for which it is to be subdivided. No preliminary plans shall be approved if the site is not suitable for purposes of the kind proposed by reason of potential flooding, topography or adverse earth or rock formation.
- (B) Land subject to hazards to life, health or property shall not be subdivided for residential purposes until all hazards have been eliminated or unless adequate safeguards against the hazards are provided by the subdivision plan.
- (C) Proposed subdivisions shall be coordinated with existing nearby municipalities or neighborhoods so that the community as a whole may develop harmoniously.

153.03.14 Wetland and Floodplain Areas

- (A) Where the subdivision of a lot or tract of land contains watercourse, floodable areas or wetlands the land shall at the city's option be:
 - (1) Dedicated to the city as a park, parkway, open space or other public use;
 - (2) Carried in a private easement in the individual deeds affected with no allowance for building construction therein;
 - (3) Developed in accordance with a plan setting forth provisions for sediment control, water management, maintenance of landscaped features and indicating any change that will be made in the natural condition of the earth and its effect, if any, upon watercourses, lakes, streams, wetlands and drainage ways.
- (B) The Planning and Zoning Commission and City Council shall review the option selected and approve or disapprove the dedication, private easement or development plan.
- (C) In no case shall land be subdivided which is held unsuitable by the City or the Commissioner of the State Department of Natural Resources for the proposed use because of flooding, inadequate water supply or sewage disposal capabilities or any other

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CHAPTER 153 SUBDIVISIONS 153.03.15 Construction Setback Requirements from Pipelines

feature likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the City.

153.03.15 Construction Setback Requirements from Pipelines

(A) Purpose.

The purpose of this section is to increase public safety by requiring that new development be set back from pipeline locations.

(B) Applicability.

This section applies to new residential and other development. It does not apply to development that has occurred or for which development permits have been issued before the effective date of the ordinance codified in this section.

(C) Setback.

Buildings and places of public assembly subject to this section shall not be constructed closer to the pipeline than the boundary of the pipeline easement.

(D) Variances.

Variance procedures adopted by the city under M.S. §§ 366.10 to 366.19, 394.21 to 394.37, or 462.351 to 462.365, as may be amended from time to time, shall apply.

PART 2 BLOCKS AND LOTS

153.03.21 Blocks

The length, width and shape of blocks shall be determined with due regard to the following:

- (A) The provision of adequate building sites suitable to the particular need of the type of use contemplated;
- (B) Zoning requirements as to lot size and dimensions;
- (C) Needs for convenient access, circulation, control and safety of traffic;
- (D) Limitations and opportunities afforded by topography and other natural features; and
- (E) Block lengths shall not exceed 800 feet.

153.03.22 Lots

- (A) The size, width, shape and orientation of lots and the building setback line shall be appropriate for the type of development and use contemplated.
- (B) Parcel remnants smaller in area than allowed by zoning are not allowed and must be made part of another lot.
- (C) Lot dimensions shall conform to Chapter 154.
- (D) Side lot lines shall be as near to right angles or radial to street lines as possible.

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CHAPTER 153 SUBDIVISIONS

153.03.31 Easements

- buildable lots only? what about outlots?*
- (E) Every lot shall have street access for fire protection, utilities and other necessary services.
 - (F) Lots shall not be so excessive in depth that they block desirable access to adjacent property. The Planning and Zoning Commission may require dedication of land for future streets in excessively deep lots.

PART 3 EASEMENTS & UTILITIES

153.03.31 Easements

- (A) Easements for public utilities may be required by the Planning and Zoning Commission, Park Board, City Engineer and essential public utilities. Where the easements are determined to be necessary, they shall be provided along the rear and side lot lines and shall be a minimum of ten feet in width with a minimum five feet of the easement on each adjacent property being divided.
- (B) Where a watercourse, drainage way channel or stream traverses a subdivision, there shall be provided a storm water easement for drainage right-of-way conforming substantially with the lines of the watercourse.
 - (1) If it is deemed advisable by the City Engineer, the watercourse or drainage way may be re-established to conform with the proposed street pattern, in which case suitable storm drainage or retention facilities shall be installed as directed by the City Engineer.

153.03.32 Water Supply

- (A) Extensions of the public water supply system shall, when available, be designed so as to provide public water service to each lot. *buildable?*
- (B) Water supply for all areas shall be designed to meet regulations and recommended standards of the City and the State Department of Health. Where connection with a public water system is feasible, the public water facilities shall be utilized.
- (C) When the subdivision is located within the service area of a public water supply system, water mains not less than six inches in diameter shall be constructed throughout the entire subdivision in such a manner as to serve adequately all lots and tracts with connection to the public system together with shut-off valves and fire hydrants at intervals of not greater than 600 feet.

153.03.33 Sanitary Sewer

- (A) Extensions of the public sanitary sewer system shall, when available, be designed so as to provide sewer service to each lot.
- (B) Sewerage for all subdivisions shall be designed to meet regulations and standards of the City and the State Pollution Control Agency. Where connection with a central sewer system is feasible, the central sewer facilities shall be utilized.

is this just for sewer? could also include electrical, but it's under the sewer heading

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CHAPTER 153 SUBDIVISIONS

153.03.41 General Design

- (C) Where feasible, all utility service lines shall be placed underground and within easements or dedicated rights-of-way. All drainage and other utility installations which traverse privately-owned property shall be protected by proper easements and/or legal agreements.

PART 4 STREET DESIGN

153.03.41 General Design

no division between public or private streets = all streets must conform - I think this is good since if the public / garbage trucks / emergency services are going to use them, they should be consistent

- (A) The street system of a proposed subdivision shall be designed to facilitate adequate traffic circulation within the subdivision and from the subdivision to adjacent areas.
- (B) Street arrangements, character, width, grade, location, sight distance and surface material shall be related to existing or planned streets, topography, convenience and safety and their intended ultimate function.

153.03.42 Streets by Type ← are there street sections to reference?



(A) Arterial Streets

The arrangement of arterial streets in a subdivision shall conform to the official street map and provide for the continuation or projection of existing streets in adjacent areas; or conform to a plan approved by the Planning and Zoning Commission where topographic or other conditions make continuance or conformance to existing streets impracticable.

(B) Collector Streets

Collector streets shall be properly related to arterial streets and designed in a manner so as to supplement the arterial street system, but not serve in lieu thereof.

(C) Local Streets

Local streets shall be designed to benefit from the topography, to discourage through traffic and to provide the minimum amount of streets necessary for safe access to adjacent properties. The use of curvilinear and cul-de-sac streets may be allowed where necessary, but are to be discouraged.

(D) Frontage Road

Where the subdivision abuts upon, or contains an existing or proposed highway, major thoroughfare or railroad right-of-way, the Planning and Zoning Commission may require reverse frontage lots with appropriate screen plantings in the non-access roads parallel to and on either side of the highway, major thoroughfare or railroad right-of-way providing access to adjacent properties and affording separation of through and local traffic.

(E) Alleys

- (1) Dead-end alleys are prohibited, except where natural or other features makes it impossible to continue them.

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CHAPTER 153 SUBDIVISIONS

153.03.42 Streets by Type

- (a) Where dead-end alleys are unavoidable, they shall be provided with adequate turnaround facilities at the dead-end as determined by the Planning and Zoning Commission.
- (2) Alleys shall not be permitted in any residential areas unless a secondary means of access to certain property is necessary due to topography or other exceptional circumstances.
- (F) Minimum Street Design

Streets shall be designed to meet the minimal standards established in **Table #1**

Table #1

Minimum Street Design

Street Type	Rights-of-Way	Surface Width		Minimum horizontal curve radii	Minimum tangent between curves	Minimum grade	Maximum grade
		Curb and gutter	Open Ditch				
Arterial	80 feet	44 feet	48 feet	850 feet	200 feet	0.4%	5%
Collector	66 feet	36 feet	24 feet	400 feet	150 feet	0.4%	7%
Local street in Residential subdivision	66 feet	36 feet	24 feet	200 feet	100 feet	0.4%	10%
Local street in Commercial subdivision				100 feet	100 feet		7%
Local street in Industrial subdivision				400 feet	150 feet		5%
Alley	30 feet	20 feet	20 feet	200 feet	100 feet	0.4%	10%
Base specifications: As specified by City Engineer and the City Council							
Pavement specifications: As specified by the City Engineer and City Council; in mixed use districts, use the most restrictive standard							

- (G) Cul-de-sacs
 - (1) Proposed streets designed to have one end permanently closed shall not exceed 400 feet in length, except where the Planning and Zoning Commission has approved additional length due to property limitations or large lot size.
 - (2) Cul-de-sac development is discouraged and will only be considered as an exception, due to topography.
 - (3) Turnarounds shall be provided at the permanently closed end of all streets and shall have a minimum right-of-way radius of 60 feet and a minimum radius of 48 feet to face of curb.

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153.03.43 Other Design Elements

- (4) For phased developments or any streets with a temporarily closed end, turnarounds shall be provided with a turning radius as determined by the City Fire Chief

153.03.43 Other Design Elements

(A) Intersections

- (1) All streets shall intersect at right angles or as close thereto as possible.
 - (a) No street shall intersect another at an angle of less than 70 degrees.
 - (b) More than two streets intersecting at the same location shall be prohibited.
 - (c) Street jogs with centerline offsets shall be avoided.
- (2) When the Planning and Zoning Commission finds it necessary for reason of safety and the protection of property, property lines at street intersections shall be rounded with a radius of 15 feet. The Planning and Zoning Commission may permit comparable cords in lieu of the rounded corners.

(B) Walkways

- (1) All public walkways shall be constructed in conformance with **Chapter 94**.

(2) Multi-Use Trails

All multi-use trails shall be constructed with the following standards:

- (a) ...

PART 5 STORMWATER, SURFACE WATER, DRAINAGE, WATER QUALITY, AND EROSION CONTROL

153.03.51 Generally

- (A) The following improvements will be required for all new subdivisions within the corporate limits of the municipality and to the specifications as adopted by the City Council.
- (B) Where the provisions of state law or other City regulation or Ordinance set higher standards than those of this subchapter, the provisions of the laws, regulations or ordinances shall apply.

153.03.52 Stormwater

- (A) All storm sewer improvements/construction shall be constructed in conformance with **Chapters 52 and 53**.
- (B) Subdivision Design
 - (1) All subdivision design shall incorporate adequate provisions for stormwater runoff consistent with the City of Kasson standard detail plates and engineering guidelines.

Commented [LC1]: This section only covers the design of sidewalks, not trails – we need to add trail design standards to subdivision

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153.03.52 Stormwater

- (2) At the time each plat or replat is approved, a connection charge shall be made for past, present or future storm sewer costs, payable in cash, and shall be deposited in the "city surface water management fund". The monies so collected will be used in accordance with the Kasson comprehensive drainage plan.
 - (3) Connection charges shall be determined as set forth in the city fee schedule, on file with the city.
 - (4) The cash payment may be deferred, at an interest rate determined by resolution of the city council, to the time the first stage of development takes place, so long as the terms of deferment are set forth in a developer's agreement executed by the city and the owner of the plat.
- (C) Postconstruction Water Quality Criteria:
 - (1) Postconstruction stormwater runoff quality measures shall meet the standard for the NPDES general construction permit.
 - (2) The water quality control volumes necessary to meet the NPDES general construction permit that are satisfied using infiltration or filtration technologies (filtration only on type C and D soils) can count toward the volume control requirements of these standards.
 - (3) Ponds with overflows or outlets located below the seasonally high water table are allowed only where it can be demonstrated that there is a reasonable need for such an outlet to control seepage damage to existing structures.
 - (4) Redevelopment projects are required to incorporate water quality BMPs to the extent practical.
- (D) Peak Runoff Rate Control Criteria:
 - (1) A hydrograph method based on sound hydrologic theory will be used to analyze runoff for the design or analysis of flows and water levels.
 - (2) Runoff rates for proposed activities and development shall:
 - (a) Apply land cover conditions existing in **[YEAR]** as the baseline for existing conditions in runoff calculations.
 - (b) Not exceed existing runoff rates for the 1-year and 10-year critical duration storm events.
- (E) Runoff Volume Control Criteria:
 - (1) Development that creates one acre or more of new impervious surface must incorporate volume control practices into the design sufficient to hold the runoff volume for the 2-year, 24-hour storm at predevelopment conditions.

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153.03.52 Stormwater

- (2) Credits for site design are the preferred methods for meeting the volume control requirements and shall be considered prior to the design of infiltration or filtration facilities.
- (3) The water quality control volumes necessary to meet the NPDES general construction permit that are satisfied using infiltration or filtration technologies (filtration only on type C and D soils) can count toward the volume control requirements of these standards.
- (4) When using infiltration for volume control, infiltration volumes and facility sizes shall be calculated:
 - (a) Using the appropriate hydrological soil group classification and saturated infiltration rate shown below:
 - (i) Hydrologic soil type A: 0.30 inch per hour;
 - (ii) Hydrologic soil type B: 0.15 inch per hour;
 - (iii) Hydrologic soil type C: 0.07 inch per hour; or
 - (b) Using documented site specific infiltration or hydraulic conductivity measurements completed by a licensed soil scientist or engineer; or
 - (c) Using the method provided in the "Minnesota Stormwater Manual" volume 2 (MPCA 2005) pages 18 through 21 of chapter 12-INF.
 - (i) The design shall consider the infiltration rates of the least permeable horizon within the first five feet (5') below the bottom of the infiltration practice.
 - (ii) The system shall be capable of infiltrating the required volume in seventy two (72) hours.
- (5) Constructed infiltration facilities, such as infiltration basins and trenches:
 - (a) Can only be used if there is pretreatment of stormwater runoff designed to protect the infiltration system from clogging with sediment and to protect groundwater quality;
 - (b) Cannot be used within four hundred feet (400') of a municipal or other community supply well or within one hundred feet (100') of a private well unless specifically allowed by an approved wellhead protection plan;
 - (c) Cannot be used for runoff from fueling and vehicle maintenance areas and industrial areas with exposed significant materials;
 - (d) Cannot be used on areas with less than three feet vertical separation from the bottom of the infiltration system and the seasonal high water table;
 - (e) Cannot be used in type D soils.

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CHAPTER 153 SUBDIVISIONS

153.03.52 Stormwater

- (6) Infiltration areas must be fenced or otherwise protected from disturbance before the land disturbing activity starts.
 - (7) Volume control amounts may be waived by the City Engineer for sites with predominately type C and D soils, or where a shallow water table prevents construction of infiltration systems, provided the following are met in order of decreasing preference:
 - (a) Credits and site design practices to minimize the creation of connected impervious surfaces are used to the extent practical.
 - (b) Underdrains are used to promote filtration instead of infiltration.
 - (8) Vegetation used in conjunction with infiltration systems must be tolerant of urban pollutants, and the range of soil moisture conditions anticipated.
- (F) Drainage Alteration:
- (1) Outlets from landlocked basins with a tributary drainage area of 100 acres or more will be allowed, provided such outlets are consistent with other portions of these standards, state and federal regulations, and the downstream impacts, riparian impacts, and habitat impacts of such outlets have been analyzed and no detrimental impacts result. The analysis and determination of detrimental impacts shall:
 - (a) Use a hydrograph method based on sound hydrologic theory to analyze runoff for the design or analysis of flows and water levels;
 - (b) Ensure a hydrologic regime consistent with the peak runoff rate control criteria and the runoff volume control criteria of these standards;
 - (c) Ensure the outlet does not create adverse downstream flooding or water quality conditions, or materially affect stability of downstream major waterways;
 - (d) Maintain dead storage within the basin to the extent possible while preventing damage to property adjacent to the basin;
 - (e) Ensure that the low floors of new structures adjacent to the basin are set consistent with the floodplain alterations standards; and
 - (f) Ensure that proposed development tributary to the landlocked basin has incorporated runoff volume control practices to the extent practical.
 - (2) Artificial drainage, flow obstruction, and diversions involving waterways, public waters, public water wetland, wetlands with drainage areas of 640 acres or more will be allowed provided such alterations or diversions are consistent with other portions of these standards, state and federal regulations, and the downstream impacts, riparian impacts and habitat impacts of such alterations or diversions

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CHAPTER 153 SUBDIVISIONS

153.03.53 Soil Erosion and Sedimentation Control

have been analyzed and no detrimental impacts result. Proposals for drainage alterations and diversions shall demonstrate that:

- (a) There is a reasonable necessity for such drainage alteration or diversion to improve or protect human health and safety, or to improve or protect aquatic resources;
 - (b) Reasonable care has been taken to avoid unnecessary injury to upstream and downstream land;
 - (c) The utility or benefit accruing to the land on which the drainage will be altered reasonably outweighs the gravity of the harm resulting to the land receiving the burden; and
 - (d) The drainage alteration or diversion is being accomplished by reasonably improving and aiding the normal and natural system of drainage according to its reasonable carrying capacity, or in the absence of a practicable natural drain, a reasonable and feasible artificial drainage system is being adopted.
- (3) Drainage alterations, diversions, and landlocked basin outlets shall be provided with stable channels and outfall.

153.03.53 Soil Erosion and Sedimentation Control

- (A) The following management practices shall be applied to all development and earth moving activities.
- (1) All development shall conform to the natural limitations presented by the topography and soil in order to create the best potential for preventing soil erosion.
 - (2) Best management practices for erosion control and sediment control shall be applied to each development/construction site.
 - (3) Slopes over 18% in grade shall not be developed.
 - (4) Development on slopes with a grade between 12% and 18% shall be carefully reviewed to ensure that adequate measures have been taken to prevent erosion, sedimentation and structural damage.
 - (5) Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.
 - (6) 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 lands shall be exposed at any one period of time and no exposure shall exceed 60 days unless extended by the Council.

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153.03.54 Exposed slopes.

- (7) Where the topsoil is removed, sufficient arable soil shall be set aside for re-spreading over the developed area. The topsoil shall be restored to a depth of four inches and shall be of a quality at least equal to the soil quality prior to development.
- (8) The natural drainage system shall be used, as far as feasible for storage and flow of runoff except that no storm water drainage shall be discharged to marshlands, swamps or wetlands. Storm water drainage shall be discharged to retention basins or other treatment facilities. Temporary storage areas or retention basins scattered throughout developed areas shall be encouraged to reduce peak flow, erosion damage and construction cost.
- (9) Public and private properties adjacent to the development site shall be protected from the effects of sedimentation. Any violations of this provision must be corrected by the owner to the satisfaction of the city within five days of receiving notification of such. If the violation is not remedied within the time period specified, the city may correct the problem and assess the costs incurred to the property owner.

153.03.54 Exposed slopes.

- (A) The following control measures shall be taken to control erosion during construction.
 - (1) No exposed slopes should be steeper in grade than one foot vertical for every four feet horizontal.
 - (2) At the foot of each exposed slope, a channel and berm should be constructed to control runoff. The channelized water should be diverted to a sedimentation basin (debris basin, silt basin or silt trap) before being allowed to enter the natural drainage system.
 - (3) Along the top of each exposed slope, a berm should be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind the berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. The measures should consist of either an asphalt paved flow apron and drop chute laid down the slope or a flexible slope drain. At the base of the slope drain or flow apron, a gravel energy dissipater should be installed to prevent erosion at the discharge end.
 - (4) Exposed slopes shall be protected by hydroseeding which will effectively prevent erosion considering the degree of the slope, soils material and expected length of exposure.
 - (5) Control measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated that they will as effectively protect exposed slopes.

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CHAPTER 153 SUBDIVISIONS

153.03.55 Preservation of natural drainageways.

153.03.55 Preservation of natural drainageways.

(A) Waterways.

- (1) Every effort shall be made to retain the natural drainage systems in the city including existing wetlands and ponds. Aboveground runoff disposal waterways may be constructed to augment the natural drainage system.
- (2) The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten-year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.
- (3) No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.
- (4) The banks of the waterway shall be protected with permanent vegetation.
- (5) The banks of the waterway shall not exceed one foot vertical for every four feet horizontal in gradient.
- (6) The gradient of the waterway bed shall not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.
- (7) The bend of the waterway shall be protected with turf, sod or City Engineer approved materials.
- (8) If the flow velocity in the waterway is such that erosion of the turf side wall will occur and the velocity cannot be decreased via velocity control structures, then other City Engineer approved materials may replace turf on the side walls. Either gravel or riprap would be allowed to prevent erosion at these points.

(B) Sediment control of waterways.

- (1) To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures shall be incorporated throughout the contributing watershed.
- (2) Temporary pervious sediment traps could consist of a construction of bales of hay with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. The structures would serve as temporary sediment control features during the construction state of development. Development of housing and other structures shall be restricted from the area on either side of the waterway required to channel a 25-year storm.
- (3) Permanent impervious sediment control structures consist of sediment basins (debris basins, de-silting basins or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.

ARTICLE 04 LAND DEDICATION

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CHAPTER 153 SUBDIVISIONS

153.04.11 Purpose

PART 1 GENERAL STANDARDS

153.04.11 Purpose

- (A) The provisions of this section are intended by the city to be an exercise of the authority granted pursuant to **M.S. § 462.358, Subd. 2(b)**, as may be amended from time to time, to require that a reasonable portion of any proposed subdivision of residential lands within the city be dedicated to the public or preserved as community parks, playgrounds or open space; or that a reasonable cash payment be received from the subdivider in lieu thereof in order to facilitate development of similar facilities.

153.04.12 Scope

- (A) The provisions of this section shall apply for a subdivision or resubdivision (where the resubdivision causes an increased demand on parks) of lands that are:
- (1) classified pursuant to this code as being located in a residential zoning district; or,
 - (2) classified as being in a nonresidential district at the time of the application, but are intended to be developed following their subdivision in a manner requiring their designation as a residential zoning district; or,
 - (3) used for high density housing units that are permitted by other means such as conditional use permits; or,
 - (4) properly zoned or platted for housing developments consisting of three or more units.
- (B) Upon consideration of the particular type of development proposed in the subdivision, and especially in large scale neighborhood unit developments, the City may require the dedication or reservation of areas of sites suitable to the needs created by the development for schools, parks, trails and other neighborhood purposes as may be described as future goals within the comprehensive plan.
- (C) Reservation of future park land.
- (1) At the discretion of the City Council, upon recommendation of the Planning and Zoning Commission, a subdivider may dedicate more land than would be required by the formulas established by this chapter and receive a written credit against future park land dedication requirements.
 - (2) The credit shall attach to the relieved land and remain with the relieved land, regardless of change in ownership thereof.
- (D) Subdivision changes.
- In the event a subdivider deviates from the approved preliminary plat in a final plat, or replats property already platted, or where the use of property is changed from a nonresidential use to a residential use, the owner or subdivider shall be obligated to

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CHAPTER 153 SUBDIVISIONS

153.04.13 Minimum Amount of Dedication

provide additional land or fee to compensate for the increased demand on the park system.

- (E) Final platting of a portion of an approved preliminary plat.
 - (1) Whenever a subdivider applies for approval of a final plat which contains only a portion of the land encompassed in the approved preliminary plat, the subdivider shall be responsible for making a dedication of park land or financial contribution as required, which is proportional to the area of the final plat.
 - (2) The conditions of the allowances shall be in the form and manner prescribed and approved by the county.
- (F) Multi-plat developments.
 - (1) At the sole discretion of the Council, the City may enter into an agreement with the applicant for a development containing multiple plats concerning the timing and sequence of park land dedication.
 - (2) Notwithstanding any provision in this chapter to the contrary, the multiple plat agreement shall determine the time when the required park land dedication for multiple plat developments shall occur.

153.04.13 Minimum Amount of Dedication

- (A) The City shall establish by Ordinance the monetary value of the park land dedication.
 - (1) This fee shall be periodically reviewed by the Planning and Zoning Commission, Park Board and City Council.
 - (2) The fee shall be paid prior to recording the final plat of the subdivision.
 - (3) All payments collected shall be placed in the appropriate park acquisition and development fund established for the city.
- (B) The City Council shall reserve the right to negotiate independently with any property owner in the community to acquire land(s) to be used for community parks. The monetary dedications from any or all subdivisions can be used for these acquisitions or to expand existing facilities.
- (C) The City reserves the right to acquire lands within a subdivision, in accordance with the comprehensive land use plan, at the time of platting for a future park or an addition to an existing park. These lands can be donated by the owner as a credit against current or future dedication requirements.
- (D) Following dedication of lands as provided herein, no person shall remove trees, vegetation or topsoil therefrom, nor shall the lands be used for the purpose of stockpiling of earth or construction material, without written permission from the City.

153.04.14 Marketability of Title

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CHAPTER 153 SUBDIVISIONS

153.04.14 Marketability of Title

(A) Generally

- (1) Prior to the dedication, a person proposing to subdivide the land shall deliver to the City Attorney for examination an up to date abstract of title or registered property certificate for examination, or a title opinion by a person licensed to practice law in the state.
- (2) If the examination of title by the City Attorney, or the title opinion indicated that title is not marketable, no subdivision of the land shall occur until such steps are taken by the subdivider to permit marketable title to be conveyed to the City by dedication upon the lands' subdivision or by a subsequent separate conveyance.

(B) Exceptions.

- (1) The title to lands proposed to be subdivided shall not be deemed unmarketable pursuant to this section by virtue of the fact that a mortgage or other equitable interest in the lands is held by a person other than the subdivider; or that the lands are subject to the lien of a special assessment.
- (2) Provided that, any conveyance or other act of the subdivider which thereafter conveys to the city title to the lands dedicated shall be free and clear of any equitable interest or mortgage.

(C) Special assessments; real estate taxes.

- (1) The City shall be responsible for the payment of any future special assessments levied on the lands dedicated pursuant to this section.
- (2) Payment of real estate taxes payable on the land dedicated in the year of dedication shall be prorated between the city and the person subdividing the property.

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150.01.11 Purpose

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CHAPTER 150 DEFINITIONS

ARTICLE 01 DEFINITIONS

PART 1 PURPOSE

150.01.11 Purpose

- (A) The language set forth in the text of this Title shall be interpreted in accordance with the following rules of construction:
- (1) The singular number includes the plural and 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 permissive; and
 - (4) The masculine gender includes the feminine and neuter.
- (B) For the purpose of this Title, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words not defined have the meaning given by the latest edition of Merriam-Webster's Collegiate Dictionary.

PART 2 DEFINITIONS

150.01.21 A.

ACCESSORY DWELLING UNIT. A self-contained dwelling unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is located within or attached to an existing residential dwelling.

ACCESSORY STRUCTURE [BUILDING]. A structure detached from a principal structure located on the same lot and customarily incidental and subordinate to the principal structure or use.

ACCESSORY USE. A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

ALLEY. A service roadway, dedicated to the public, providing a secondary means of public access to abutting property and not intended for general traffic circulation.

ALTERATION. Any change or rearrangement in the supporting members of any existing building, such as bearing walls, columns, beams, girders or interior partitions, as well as any change in doors, windows, means of ingress or egress, or any enlargement to or demolition of a building or a structure, whether horizontally or vertically, or the moving of a building or a structure from one location or another.

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AMENITY. A natural or created feature that enhances the aesthetic quality, visual appeal or makes more attractive or satisfying a particular property, place or area (such as flowers, trees, architecture, cleanliness or paint).

ANIMAL [PET] SERVICES. Establishments primarily engaged in the sale, grooming, retail of supplies or veterinary care of pets/non-agricultural animals; these uses do not include boarding of animals (see KENNELS).

ANNEXATION. The incorporation of a land area into an existing community with a resulting change in the boundaries of that community.

ANTENNA. Any device or equipment used for the transmission or reception of electromagnetic waves, which may include omni-directional antenna, directional antenna or parabolic antenna.

APPURTENANCES. The visible, functional or ornamental objects accessory to and part of buildings.

AUTOMOBILE FUEL STATION/SERVICE STATION. The retail dispensing or sales of vehicular fuels; servicing and repair of automobiles; and including as an accessory use the sale and installation of lubricants, tires, batteries and similar vehicle accessories.

AUTOMOBILE REPAIR, MAJOR. General repair, rebuilding or reconditioning engines, motor vehicles or trailers, collision service, including body, frame or fender straightening or repair, overall painting or paint job; vehicle steam cleaning.

AUTOMOBILE REPAIR, MINOR. Minor repairs, incidental body and fender work, painting and upholstering, replacement or parts and motor services to passenger automobiles and trucks not exceeding 9,000 pounds gross weight, but not including any operation specified under "automotive repair-major".

AUTOMOBILE WRECKING YARD. Any place where damaged, inoperable, or obsolete machinery such as cars, trucks and trailers, or parts thereof, are stored, bought, sold, accumulated, exchanged, disassembled, or handled.

150.01.22 B.

BAR [TAVERN]. Premises used primarily for the sale or dispensing of liquor by the drink for on-site consumption and where food may be available for consumption on the premises as accessory to the principal use.

BASEMENT. The portion of a building which is wholly or one-half or more below the average grade of the ground level adjoining the building. If the height from the average grade level to the first tier of floor beams or joists is five feet or more, the **BASEMENT** shall be considered a story.

BED AND BREAKFAST [GUEST HOUSE or TOURIST HOME]. Any dwelling providing certain rooms in excess of those used by members of the family, as herein provided, which are rented primarily to the traveling public, on a short term basis, customarily overnight or for a weekend.

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BLOCK. A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways or any other barrier to continuity of development.

BOARD OF ADJUSTMENTS AND APPEALS. The Board of Adjustments and Appeals shall be composed of the members of the City Council as authorized by M.S. § 462.354, Subd. 2, as may be amended from time to time.

BREWERY. Establishments that brew, bottle, and sell ales, beers, meads, and/or similar malt liquors.

BREW PUB. A small brewery accessory to a bar or restaurant, generally limited to selling its beer for consumption on the premises where it is brewed, excepting only “growlers” for off-site consumption as defined by M.S. § 340A.101, as may be amended from time to time.

BUFFERYARD. A combination of open spaces, landscaped areas, fences, walls, berms used to physically separate and screen one use or property from another so as to visually shield or block noise, lights or other nuisances.

BUILDABLE AREA. The area of a lot remaining after the minimum yard and open space requirements of Chapter 154 have been met.

BUILDING. Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of any person, animal or chattel of property of any kind. Any portion completely separated from every other part of a building by division walls from the ground up and without openings, shall be deemed as a separate building.

BUILDING COVERAGE. The ratio of the horizontal area measured from the exterior surface of the exterior walls of the ground floor of all principal and accessory buildings on a lot to the total lot area.

BUILDING LINE. A line parallel to the street line touching that part of a building closest to the street.

BUILDING OFFICIAL. The authorized representative of the City, licensed by the state, to enforce the State Building Code.

BUILDING RECORDS. Includes such items as new construction permits; new construction building inspection records; building permits for the alteration or remodeling of structures; inspection records for the alteration or remodeling of structures; and building permit and inspection records for the repair of damaged structures.

BUILDING SETBACK LINE. See **SETBACK LINE**.

BUILDING SERVICES. Establishments primarily engaged in the retail of hardware and similar supplies for home building or repairs as well as services related to such supplies; examples include, but are not limited to: plumbing, heating, and electrical sales/show rooms, paint wallpaper/home decorating supplies.

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150.01.23 C.

BUSINESS SERVICES. Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment services; management and consulting services; protective services, equipment rental and leasing; commercial research; development and testing; photo finishing; and personal supply services.

150.01.23 C.

CERTIFICATE OF SURVEY. A correct representation of a survey, showing all distances correctly and the placement of all monuments and boundaries correctly, which is prepared and signed by a registered land surveyor under the laws of the state.

CHILD. An individual 12 years of age or younger.

CHILD CARE FACILITY. A place (or building) other than the child's dwelling in which care, supervision and guidance of a child unaccompanied by parents, guardian or custodian is provided on a regular basis for a period of less than 24 hours a day, whether operated for profit or nonprofit.

CHURCH. See **PLACE OF WORSHIP.**

CLINIC. An institution providing diagnostic, therapeutic or preventive treatment of humans by either doctors, physicians, dentists, other medical personnel, psychologists or social workers or a combination thereof, acting in concert and in the same building, where patients are not usually lodged overnight.

CO-LOCATION. The location of more than one antenna or set of antennas on the same wireless communication tower or structure.

COLUMBARIUM. A vault with niches for urns containing ashes of cremated bodies.

COMMERCIAL RECREATION FACILITY, INDOOR. Facilities located within a building or enclosed structure operated as a business and shall include, but are not limited to, banquet halls, pool halls, skating rinks, indoor swimming pools, bowling alleys, movie theaters, arcades, jump center, and other similar businesses. Such businesses may also provide accessory snack bar, restaurant, retail sales of related items, and other support facilities.

COMMERCIAL RECREATION, OUTDOOR. Land or facilities operated as a business that shall include, but are not limited to: outdoor swimming pools, amusement parks, and other similar businesses; this use does not include golf courses/country clubs and accessory uses. Such facility may also provide accessory snack bar, restaurant, retail sales of related items, and other support facilities.

COMMERCIAL USE. Activity involving the sale of goods or services carried out for profit.

COMPREHENSIVE PLAN. The adopted official statement of the City Council of the City of Kasson that sets forth a compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, official street map, a transportation plan and recommendations for plan execution.

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The Comprehensive Plan represents a compilation of recommendations for future development of the municipality, from the municipality's constituents and appointed commissions, which are adopted by the Planning and Zoning Commission and the City Council.

CONCEPT PLAN. A concept, informal map of a proposed subdivision or site plan of sufficient accuracy to be used for the purpose of discussion and classification.

CONDITIONAL USE. A specific type of structure or land use listed in Chapter 154 that may be allowed, after an in-depth review procedure and with appropriate conditions or restrictions as provided.

CONDITIONAL USE PERMIT. A permit issued by the approving agency stating that the conditional use meets all conditions set forth in Chapter 154.

CONDOMINIUM. A building, or group of buildings, in which dwelling units, offices or floor area are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

CONTRACTOR YARD. Any land or buildings used primarily for the storage of equipment, vehicles, machinery (new or used), building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any contracting trades or business; such businesses include landscaping, construction, and excavation.

CONTIGUOUS. Next to, abutting or touching and having a boundary, or portion thereof, that is coterminous.

CONVENIENCE STORE. Any retail establishment offering for sale prepackaged food products, household items, newspapers and magazines, and sandwiches and other freshly prepared foods, such as salads, for off-site consumption.

150.01.24 D.

DAY CARE HOME. Restricted to a family dwelling in which foster care, supervision and training for children of school or pre-school age out of their own home is provided during part of the day, which is less than 24 hours with no overnight accommodations or facilities and children are delivered and removed daily and for which all licenses shall be obtained.

DECK LINE. The intersection of two roof surfaces of a mansard roof forming the highest horizontal line of the steeper roof slope.

DISTILLERY. Establishments involved in the production and distillation of alcoholic spirits, including whiskey, rum, brandy, gin, and other distilled spirits for nonindustrial use.

DISTRIBUTION FACILITY. An establishment engaged in the receipt, storage and distribution of goods, products, cargo and materials, including transshipment by boat, rail, air or motor vehicle.

DWELLING. A structure or portion thereof that is used exclusively for human habitation.

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DWELLING UNIT. One or more rooms, designed, occupied or intended for occupancy as a separate living quarter, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

DWELLING, SINGLE FAMILY DETACHED. One dwelling that is not attached to any other dwelling by any means.

DWELLING, SINGLE FAMILY ATTACHED [TWINHOME, TOWNHOUSE, ROWHOUSE]. A one-unit dwelling attached to one or more dwelling units by a common vertical wall, with each dwelling located on a separate lot, sometimes referred to as zero lot line development.

DWELLING, TWO-UNIT [DUPLEX]. A building on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

DWELLING, THREE-UNIT [TRIPLEX]. A building containing three dwelling units, each of which has direct access to the outside or to a common hall.

DWELLING, FOUR-UNIT [QUADRUPLEX]. Four attached dwellings in one building in which each unit has two open space exposures and shares one or two walls with adjoining units.

DWELLING, MULTI-FAMILY. A building containing five or more dwelling units, including units that are located one over the other.

150.01.25 E.

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

EGRESS. An Exit.

ELECTROMAGNETIC RADIATION. Any radiation made up of electromagnetic waves; a general term for hertzian waves, gamma rays, X-rays, light, ultra-violet, infra-red (heat) and radio waves. For the purpose of this Chapter, this shall include radar and microwaves.

ENGINEER. Any person practicing as a professional engineer shall be duly licensed and certified under the guidelines stipulated in M.S. Ch. 326, as may be amended from time to time, for their particular field.

EQUIPMENT SERVICES. Establishments primarily engaged in the display, sale, and minor repair of electronics, appliances, and other household/office equipment; examples include, but are not limited to: radio and television shops, appliance shops, small appliance repair.

ERECTED. Assembled, raised, built, constructed, reconstructed, moved upon or any physical operation on the premises required for a building, excavation, fall, drainage and the like.

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150.01.26 F.

ESSENTIAL SERVICES. Services and utilities needed for the health, safety and general welfare of the community, such as underground, surface or overhead electrical, gas, telephone, steam, water, sewerage, communications and including generating switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, transmitters and receivers, valves and other utilities and the equipment, buildings, structures and appurtenances necessary for the systems to furnish an adequate level of service for the area in which it is located including cable television.

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

EXTENDED CARE FACILITY. A long-term facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged, or a governmental medical institution.

150.01.26 F.

FAA. Federal Aviation Administration.

FAMILY. Any number of persons inhabiting a dwelling unit comprising a single housekeeping unit and related by blood, marriage, adoption or any unrelated person who resides therein as though a member of the family including the domestic employees.

FARM. A parcel of land which is used for agricultural activities including cropping, pasture and raising of livestock or fowl for commercial purposes.

FCC. Federal Communication Commission.

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 OR FLOODWAY FRINGE. The portion of the floodplain outside of the floodway.

FLOODPLAIN. The beds proper and the areas adjoining wetlands, lakes or watercourses which have been or hereafter may be covered by the regional flood.

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

FLOOR AREA. for the purposes of §154.07.21, Off-Street Parking, in the case of offices, merchandising or service types of uses, shall mean the gross floor area used or intended to be used for services to the public as customers, patrons, clients, patients or tenants, including areas occupied for fixtures and equipment used for display or sale of merchandise.

FLOOR AREA, GROUND. The area within the exterior walls of the principal structure as measured from the outside walls at the ground floor level, not including garages or enclosed or

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150.01.27 G.

unenclosed porches and not including attached utility or accessory rooms having three or more exterior sides.

FOOD RETAIL. Establishments primarily engaged in the sale of consumable goods, with possibility of on-site food production (cooking/baking) for sales on premises only; examples include: grocery stores, food markets, super markets, delicatessens, candy shops, and bakeries.

FRONTAGE. The side of a lot abutting on a street; the front lot line.

150.01.27 G.

GARAGE, MUNICIPAL. A structure owned or operated by a municipality and used primarily for the parking and storing of vehicles owned by the general public.

GARAGE, PRIVATE RESIDENTIAL. A structure that is accessory to a residential building and that is used for the parking and storage of vehicles owned and operated by the residents thereof and that is not a separate commercial enterprise available to the general public.

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

GARAGE, REPAIR. Any building, premises and land in which or upon which a business, service or industry involving the maintenance, servicing, repair or painting of vehicles is conducted or rendered.

GRADE.

(A) The average elevation of the land around a building; and

(B) The percent of rise or descent of a sloping surface.

GREENBELT. An open area that may be cultivated or maintained in a natural state surrounding development or used as a buffer between land uses or to mark the edge of an urban or developed area.

GREENHOUSE. A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment; regardless of materials, a greenhouse shall be considered a structure.

150.01.28 H.

HARDCOVER. See **IMPERVIOUS SURFACE.**

HEIGHT. The vertical distance of a structure which, for the purpose of these Chapters, will be measured from the lowest elevation of the finished grade surrounding the structure to the highest point of the structure.

HISTORIC SITE. A structure or place of outstanding historical and cultural significance and designated as such by state or federal government or agency.

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150.01.29 I.

HOME BUSINESS. A home occupation or profession conducted within the dwelling unit or an existing accessory structure, solely by the owner and/or residents of the dwelling, which is detectable from off of the premises and is usually characterized by activity not normally present within a residential parcel or neighborhood. A **HOME BUSINESS** shall require a conditional use permit. (Example: **HOME BUSINESSES** may involve the storage of trade inventory incidental to the service; equipment; repair or assembly service requiring equipment other than customarily found in a dwelling or accessory structure.)

HOME OCCUPATION. Any activity carried out for gain in a residents dwelling unit, solely by the owner and/or residents of that unit, that is confined to the interior of that unit so as to be undetectable from what is normally present within a residential dwelling unit and does not qualify as a home business.

HOSPITAL. An institution providing primary health services and medical surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices and staff residences.

HOTEL. A facility offering transient lodging accommodations to the general public and providing additional services, such as restaurants, meeting rooms, entertainment and recreational facilities.

150.01.29 I.

IMPERVIOUS SURFACE. Any material which prevents, impedes, or slows infiltration or absorption of storm water directly into the ground at the rate of absorption of vegetation-bearing soils, including, but not limited to, buildings, asphalt, concrete, gravel, aggregate and other surfaces, as determined by the City Engineer.

IMPOUNDING WATER. The activity of gathering and enclosing water or creating areas of open water.

INCIDENTAL. Subordinate and minor in significance and bearing a reasonable relationship with the primary use.

INFRASTRUCTURE. Facilities and services needed to sustain industry, residential, commercial and all other land use activities.

INGRESS. Access or entry.

INOPERATIVE shall mean incapable of movement under their own power and in need of repairs. All exterior storage material not included as a permitted use, accessory use or conditional use, or otherwise permitted by provisions of this Chapter, may be considered as refuse.

INTERMEDIATE CARE FACILITY. A facility that provides, on a regular basis, personal care, including dressing and eating and health-related care and services, to individuals who require the assistance, but who do not require the degree of care and treatment that a hospital or skilled nursing facility provides.

150.01.210 J.

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150.01.211 K.

JUNK. Any scrap, waste, reclaimable material or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed or other use or disposition.

JUNKYARD. Any area, lot, land, parcel, building or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage or disposal of junk.

150.01.211 K.

KENNEL[ANIMAL BOARDING]. A commercial establishment in which dogs or domesticated animals are housed, bred, boarded, or sold, all for a fee or compensation.

150.01.212 L.

LANDSCAPE.

- (A) An expanse of natural scenery; and
- (B) Lawns, trees, plants and other natural materials, such as rock and wood chips, and decorative features, including, sculpture, patterned walks, fountains and pools.

LIQUOR, OFF-SALE. The commercial sale of intoxicating beverages for consumption off premises, in compliance with Minnesota State Statute and licensing requirements.

LIQUOR, ON-SALE. The commercial sale of intoxicating beverages for consumption on premises, in compliance with Minnesota State Statute and licensing requirements.

LIVE/WORK UNIT. A building or space within a building used jointly for commercial and residential purposes where the residential use of the space is secondary or accessory to the primary use as a place of work.

LONG-TERM CARE FACILITY. An institution or a distinct part of an institution that is licensed or approved to provide health care under medical supervision for 24 or more consecutive hours to two or more patients who are not related to the governing authority or its members by marriage, blood or adoption.

LOT. A piece or parcel of land occupied or to be occupied by building, or use, or by other activity permitted thereon and including the open spaces required under this Title.

LOT, CORNER. A lot or parcel of land abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees.

LOT, DOUBLE FRONTAGE. A lot that fronts upon two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot.

LOT, INTERIOR. A lot other than a corner lot.

LOT, NONCONFORMING. See **NONCONFORMING LOT.**

LOT, SUBSTANDARD. A parcel of land that has less than the minimum area or minimum dimensions required in the zone in which the lot is located.

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150.01.213 M.

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

LOT COVERAGE. The portion of the lot that is covered by impervious surfaces.

LOT DEPTH. The average distance measured from the front lot line to the rear lot line.

LOT FRONTAGE. The length of the front lot line measured at the street right-of-way line.

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

LOT LINE, FRONT. The lot line separating a lot from a street right-of-way.

LOT LINE, REAR. The lot line opposite and most distant from the front lot line. In the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

LOT LINE, SIDE. Any lot line other than a front or rear lot line.

LOT OF RECORD. A lot that exists as shown or described on a plat or deed in the records of the local Registry of Deeds.

LOT WIDTH. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line, measured at the minimum required building setback line, unless otherwise stated.

150.01.213 M.

MAKERSPACE [STUDIO]. A space primarily used as a work room for at least one artist or creator that may be open to the public for demonstrations, classes, and retail sales. Studios are generally for the purpose of on-site production of painting, pottery (ceramics), sculpture, photography, cinematography, animation, or the making of music.

MANUFACTURED HOME. A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected, on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it, and which complies with the Manufactured Home Building Code, as referred to in MS 327.31.

MANUFACTURING. Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins or liquors.

MANUFACTURING, LIGHT. The processing or fabrication of certain materials or products where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emission which will disturb or endanger neighboring properties.

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150.01.214 N.

MANUFACTURING, HEAVY. An establishment engaged in manufacturing, assembly, fabrication, packaging or other industrial processing of products primarily from extracted or raw materials or the bulk storage and handling of such products and materials, or an industrial establishment having potential to produce noise, dust, glare, odors or vibration beyond its property line.

MAUSOLEUM. A tomb or a building with vaults for the entombment of a number of bodies.

MINOR SUBDIVISION. Buildable subdivisions of three new lots or less created and recorded by the dividing of an existing subdivision of record.

MOBILE HOME. A structure, transportable in one or more sections, which generally meets the definition of a Manufactured Home but is not compliant with the Manufactured Home Building Code, or was constructed prior to July 1, 1972.

MONUMENT. Concrete and/or metal markers utilized to establish survey points and lot boundaries. All **MONUMENTS** must be set by a licensed land surveyor.

MOTEL. An establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

MUSEUM. *An establishment for preserving and exhibiting artistic, historical, scientific, natural, or man-made objects of interest. Such activity may include the sale of the objects collected and memorabilia, the sale of crafts work and artwork, boutiques, and the holding of meetings and social events.*

150.01.214 N.

NONCONFORMING LOT. A lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of this Chapter, but that fails by reason of the adoption, revision or amendment to conform to the present requirements of the zoning district.

NONCONFORMING SIGN. Any sign lawfully existing prior to the effective date of this Chapter, or amendment thereto, that does not conform to all the standards and regulations of the adopted or amended ordinance.

NONCONFORMING STRUCTURE OR BUILDING. A structure or building, the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to this Chapter, but that fails by reason of the adoption, revision or amendment to conform to the present requirements of the zoning district.

NONCONFORMING USE. A use or activity that was lawful prior to the adoption, revision or amendment of this Chapter, but that fails by reason of the adoption, revision or amendment to conform to the present requirements of the zoning district.

NUISANCE. An interference with the enjoyment and use of property.

NURSERY/GREENHOUSE. A business growing and selling trees, flowering and decorative plants and shrubs.

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150.01.215 O.

NURSING HOME. See **INTERMEDIATE CARE FACILITY, EXTENDED CARE FACILITY** and **LONG-TERM CARE FACILITY**.

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

150.01.215 O.

OFFICE. A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government and generally furnished with desks, tables, files and communication equipment.

OFFICE BUILDING. A building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity, and may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand and child care facilities.

OFFICIAL MAP. An ordinance in map form adopted by the governing body that conclusively shows the location and width of proposed streets, public facilities, public areas and drainage rights-of-way.

OFF-SITE PARKING. Parking provided for a specific use, but located on a site other than the one on which the specific use is located.

OFF-STREET PARKING SPACE. A temporary storage area for a motor vehicle that is directly accessible to an access aisle and that is not located on a dedicated street right-of-way.

ON-STREET PARKING. A temporary storage area for a motor vehicle that is located on a dedicated street right-of-way.

OPEN SALES LOT. Any open land used or occupied for the purpose of buying, selling and/or renting merchandise and for the storing of some prior to sale.

OPEN SPACE. Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment.

OUTDOOR STORAGE. The keeping, outside of an enclosed structure, of any goods, junk, material, merchandise or vehicles, in the same place for more than 24 hours.

OVERLAY ZONE. A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone.

150.01.216 P.

PARCEL. A contiguous lot or tract of land owned and recorded as the property of the same persons or controlled by a single entity.

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150.01.216 P.

PARK. Area of public land developed and maintained for both active and passive recreational pursuits, including tot-lots, playgrounds, neighborhood parks, play fields and special purpose areas.

PARKING AREA. Any public or private area, under or outside of a building or structure, designed and used for parking motor vehicles including parking lots, garages, private driveways and legally designated areas of public streets.

PARKING LOT. A temporary storage area for motor vehicles, not located in an R-1 or R-1A zoning district.

PARKING, SHARED. Joint use of a parking area for more than one use.

PARKING SPACE. A space for the parking of a motor vehicle within a public or private parking area.

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

PERFORMANCE STANDARDS. A set of criteria or limits relating to certain characteristics that a particular use or process may not exceed.

PERMIT. Written governmental permission issued by an authorized official, empowering the holder thereof to do some act not forbidden by law, but not allowed without the authorization.

PERMITTED USE. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

PERMITTED WITH STANDARDS USE. Any use allowed in a zoning district that is subject to the restrictions applicable to that zoning district as well as use-specific restrictions, as listed in Article 06.

PERSON. A corporation, company, association, society, firm, partnership or joint stock company, as well as an individual, a state and all political subdivisions of a state or any agency or instrumentality thereof.

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

PLANNED UNIT DEVELOPMENT (PUD). An area of a minimum contiguous size, as specified by ordinance, to be planned, developed, operated and maintained according to plan as a single entity and containing one or more structures with appurtenant common areas.

PRELIMINARY PUD PLAN. All required maps, information and documents as set forth in the PUD regulations and as required by the Planning and Zoning Commission

FINAL PUD PLAN. A map made to measurable scale and all associated documents which present a description and definition of the design requirements of the PUD to be recorded with the property.

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PLANNING AND ZONING COMMISSION. A governmental agency appointed by the governing body according to M.S. § 394.30, as may be amended from time to time.

PLAT.

- (A) A map representing a tract of land showing the boundaries and location of individual properties and streets; and
- (B) A map of a subdivision or site plan.

PLAT, FINAL. A map of all or a portion of a subdivision or site plan that is presented to the approving authority of final approval.

PLAT, PRELIMINARY. All required maps, information and documents as set forth in the subdivision regulations and as required by the Planning and Zoning Commission for preliminary approval.

PRELIMINARY APPROVAL. The conferral of certain rights, prior to final approval, after specific elements of a development have been approved by the approving authority and agreed to by the applicant.

PRINCIPAL STRUCTURE [BUILDING]. The primary structure in which the predominant permitted use of the lot is conducted or accomplished.

PRINCIPAL USE. The primary or predominant use of any lot or parcel.

PRINTING. A commercial printing operation involving a process that is considered printing, imprinting, reproducing, or duplicating images and using printing methods including but not limited to offset printing, lithography, web offset, flexographic, and screen process printing.

PROFESSIONAL SERVICES. Establishments primarily engaged in providing services provided by a member of a recognized profession, typically requiring a license, certification, and/or any such similar training for the conduct of that profession; examples include, but are not limited to: medical clinics, dental clinics, eye clinics, architects, attorneys, and engineers.

PROHIBITED USE. A use that is not permitted in a zoning district.

PUBLIC HEARING. A meeting announced and advertised in advance and open to the public, with the public given an opportunity to talk and participate.

PUBLIC NOTICE. The advertisement of a public hearing in a paper of general circulation, and through other media sources, indicating the time, place and nature of the public hearing and where the application and pertinent documents may be inspected.

PUBLIC UTILITY. A closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety and welfare.

PUBLIC UTILITY FACILITIES. See **ESSENTIAL SERVICES**.

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REACH. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or human-made obstruction.

RECREATION FACILITY. A place designed and equipped for the conduct of sports and leisure-time activities.

RECREATIONAL VEHICLE. A vehicular-type portable structure without permanent foundation that can be towed, hauled or driven and primarily designed as a temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

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

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

RE-PLAT. A change in a recorded subdivision if the change affects any street layout, affects any area reserved for public use or diminishes the size of any lot.

RESIDENTIAL HEALTH CARE FACILITY. Residences usually occupied by the frail elderly that provide rooms, meals, personal care and health monitoring services under the supervision of a professional nurse and that may provide other services, such as recreational, social and cultural activities, financial services and transportation.

RESTAURANT. An establishment where food and drink are prepared, served and consumed primarily within the principal structure.

RETAIL, GENERAL. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of the goods; examples include, but are not limited to: department, variety, clothing, furniture, antique, gift, drug, hardware, and book stores, news shops, flower shops, and show rooms for retail.

REVIEWING AGENCIES. Reviewing agencies may include, but are not limited to, the City Engineer, School Board, utility companies, Park Board, County Surveyor, Department of Natural Resources, Planning and Zoning Commission, MN DOT, Dodge County Highway Department, City Attorney, City Council and any additional government agencies City, State or Federal, as dictated by Statute.

REZONE. To change the zoning classification of particular lots or parcels of land.

RIGHT-OF-WAY.

- (A) A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied by a road, crosswalk, railroad, electric

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transmission lines, oil or gas pipeline, water line, sanitary storm sewer and other similar uses; and

(B) Generally, the right of one to pass over the property of another.

ROOF. The outside top covering of a building.

ROOF, FLAT. A roof that is not pitched and the surface of which is generally parallel to the ground.

ROOF, GABLE. A ridged roof forming a gable at both ends of the building.

ROOF, GAMBREL. A gabled roof with two slopes on each side, the lower steeper than the upper.

ROOF, HIP. A roof with sloping ends and sides.

ROOF, MANSARD. A roof with two slopes on each of four sides, the lower steeper than the upper.

ROOF, SHED. A roof with one slope.

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SCRAP / SALVAGE STORAGE YARD. Any area, lot, land, parcel, building or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage or disposal of scrap, waste, reclaimable material or debris.

SCREENING. A method of visually shielding or obscuring an abutting or nearby use or structure from another by fencing, walls, berms, or densely planted vegetation.

SELF-STORAGE FACILITY [RENTAL STORAGE UNIT]. A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

SETBACK. The distance between the building and any lot line.

SETBACK, AVERAGE. The mean setback from a street right-of-way of buildings on both sides of a lot.

SETBACK LINE. The line that is the required minimum distance from any lot line and that establishes the area within which a structure must be erected or placed.

SHORT TERM VACATION RENTAL. A dwelling, or portion thereof, that is used for accommodations or lodging of guests paying a fee or other compensation for a period of less than 30 consecutive days.

SIGN. A publicly displayed message using words, letters, symbols or pictures, bearing information, warning, advertising or other.

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SIGN, A-FRAME OR SANDWICH BOARD. An advertising sign that is normally in the shape of an "A" or some derivation thereof, located on the ground, easily movable, not permanently attached and two sided.

SIGN, ANIMATED/FLASHING. A sign that features simulated motion, either illuminated or not illuminated. If illuminated, a sign that has a light source not constant in intensity or color at all times, which creates the illusion of motion through graphic animation, and other motion such as flashing, blinking, revolving or rotating light. Electronic message signs are specifically exempt.

SIGN, AREA IDENTIFICATION. A freestanding sign which identifies the name of a neighborhood, a residential subdivision, a multiple-residential complex consisting of three or more structures or ten or more units, a shopping center consisting of three or more separate structures, an industrial area consisting of three or more structures or any combination of the above.

SIGN, BANNER. Any sign of fabric or similar material that is mounted to a pole, fence, building or similar structure at one or more edges. National, state or municipal flags shall not be considered a ***BANNER***.

SIGN, BILLBOARD TYPE. A freestanding sign advertising or containing information which may or may not pertain to the business on the property where the sign is located.

SIGN, CONSTRUCTION/PROJECT. A temporary sign erected on the premises prior to or during the period of construction. These signs typically indicate the names of the architects, engineers, landscape architects, contractors or similar artisans, and/or owners, financial supporters, sponsors and similar individuals or firms having a role or interest with respect to the structure or project, and rental, sale or lease information.

SIGN, ELECTRONIC MESSAGE. Any sign that by electronic means conveys a text message or series of messages, including, but not limited to, time and temperature.

SIGN, FINDER. Temporary signs used to direct the reader to a temporary event such as an open house or garage sale, the signs shall not exceed eight square feet and shall only be displayed for up to seven days, during the events.

SIGN, FREESTANDING. A self-supporting sign resting on or supported by means of poles, standards or any other type of base anchored to the ground.

SIGN, GRAPHICS. A sign which is an integral part of the building facade. The sign is painted directly on, carved in or otherwise permanently imbedded in the facade. Signs in shop windows are included unless they qualify as auxiliary signs.

SIGN, MARQUEE. A structure attached to and projecting from a wall of building, located above an entrance, which is designed to identify a business or use located on the premises or to advertise present or scheduled events on the premises.

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SIGN, OFFICIAL. A sign placed by an authorized government body including, but not limited to, street, traffic and highway signs, posted legal notices, parking signs.

SIGN, PORTABLE. Any sign temporary in nature, not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to: signs designed to be transported by means of wheels; balloons used as signs; umbrellas used for advertising, except that advertising umbrellas may be used in conjunction with the operation of a restaurant; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless the vehicle is used for normal day-to-day operations of a business. Specifically excluded are A-frame and sandwich board signs.

SIGN, PROJECTING. A sign, other than a wall sign, which attaches to and projects from a structure or building facade.

SIGN, ROOF. A sign mounted on the roof of a building or which depends upon a parapet wall for support.

SIGN, WALL. A sign mounted parallel to a building facade or other vertical building surface (which should not be mounted more than 18 inches from the wall surface to which they are attached).

SIMILAR USE. A use that has the same characteristics and the specifically cited uses in terms of the following: trip generation and type of traffic, parking and circulation, utility demands, environmental impacts, physical space needs and clientele.

SITE PLAN. A plan, to scale, showing uses and structures proposed for a parcel of land as required by the regulations; includes lot lines, streets, building sites, reserved open space, buildings, major landscape features—both natural and manmade, the locations of proposed utility lines, and any other information that may be required in order that an informed decision can be made by the approving authority.

SOLAR ENERGY SYSTEM, ACCESSORY. A solar energy system which is directly connected to or designed to serve the energy needs of the primary use.

SOLAR FARM, COMMUNITY. A solar array composed of multiple solar panels on ground-mounted rack or poles which is not directly connected to or designed to serve the energy needs of the primary use but rather for the primary purpose of wholesale sales of generated electricity or a financial proxy for retail power. Solar farms include but are not limited to community solar gardens. A community solar system may be either an accessory or a principal use.

STEEP SLOPE. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

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STORY. The portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it and including those basements used for the principal use.

STREET. Any vehicular way that:

- (A) Is an existing state, county or municipal roadway;
- (B) Is shown upon a plat approved pursuant to law;
- (C) Is approved by other official action; or
- (D) Is shown on a plat duly filed and recorded in the office of the County Recorder prior to the appointment of a government body with the power to review plats; includes the land between the street lines, whether improved or unimproved.

STREET TYPE.

- (A) ***ALLEYS.*** A service roadway, dedicated to the public, providing a secondary means of public access to abutting property and not intended for general traffic circulation.
- (B) ***ARTERIAL.*** Streets carrying large volumes of local traffic between widely separated areas of the community and which may be designated as county state aid highways.
- (C) ***COLLECTOR.*** Streets which carry traffic from minor streets to arterial streets and highways, including the principal entrance streets of a residential subdivision and streets used for circulation within the developments.
- (D) ***CUL-DE-SAC.*** A short street having one end open to traffic and the opposite end permanently terminated by a circular turn-around for vehicles.
- (E) ***FRONTAGE.*** Streets which are adjacent and parallel to highways or arterial streets and provide access to abutting properties.
- (F) ***HIGHWAYS.*** Streets carrying large volumes of relatively fast moving traffic and are designated as either interstate, federal, state, county or municipal state aid highways.
- (G) ***LOCAL.*** Streets which are used principally for access to abutting properties, especially residential properties.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles and other similar items.

STUDIO. See ***MAKERSPACE.***

SUBDIVIDER. Any person having an interest in land that is the subject of an application for subdivision.

SUBDIVISION. The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale, development or lease.

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CHAPTER 150 Definitions

150.01.219 T.

SWIMMING POOL. Any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, aboveground and on-ground swimming pools; hot tubs; portable and non-portable spas; and fixed-in-place wading pools.

150.01.219 T.

TOWER. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, (e.g., monopoles and similar structures).

TOWER ACCESSORY STRUCTURE. Any structure located at the base of a tower for housing receiving or transmitting equipment.

TOWER HEIGHT. The distance measured from the ground level at the base of the tower or structure to the highest point on a tower or structure.

150.01.220 U.

UTILITY EASEMENT. The right-of-way acquired by a utility or governmental agency to locate utilities, including all types of pipelines, telephone and electric cables and towers.

150.01.221 V.

VARIANCE. A modification of a specific permitted development standard required in this Title, to allow an alternative development standard not stated as acceptable in the this Title, but only as applied to a particular property for the purpose of alleviating a practical difficulty or unique circumstance, as defined and elaborated upon in this Title.

150.01.222 W.

WALKWAY. A right-of-way or easement dedicated to public use which cuts across or into a block to facilitate pedestrian access to adjacent streets and properties.

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

WATER RESOURCE. Any lake, creek, pond, or wetland.

WHOLESALE TRADE [WHOLESALE ESTABLISHMENT/RETAIL]. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, individuals or companies.

WINERY. A processing facility used for the fermenting and processing of fruit juice into wine; or the refermenting of still wine into sparkling wine.

WIRELESS COMMUNICATION. Any personal wireless services as defined in the Federal Communications Act of 1996, including FCC licensed commercial wireless telecommunications services such as cellular, personal communication services (PCS), paging and similar services that currently exist or may be developed.

150.01.223 Y.

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CHAPTER 150 Definitions

150.01.224 Z.

YARD. An open space that lies between the principal structure or structures and the nearest lot line. The minimum required yard as set forth in the ordinance is unoccupied and unobstructed from the ground upward; except, as may be specifically provided in this Title.

YARD, FRONT. A space extending the full width of a 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 the principal structure and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line.

YARD, REQUIRED. The open space between a lot line and the yard line within which no structure shall be located except as provided in Chapter 154.

YARD, SIDE. A space extending from the front yard to the rear yard between the principal structure and the side lot line and measured perpendicular from the side lot line to the closest point of the principal structure.

YARD AREA. The total square footage of the property.

YARD DEPTH. The shortest distance between a lot line and a yard line.

150.01.224 Z.

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.

ZONE. A specifically delineated area or district in a municipality within which uniform regulations and requirements govern the use, placement, spacing and size of land and buildings.

ZONING. The delineation of districts and the establishment of regulations governing the use, placement, spacing and size of land and buildings.

ZONING DISTRICT. A part, zone or geographic area within the municipality within which certain zoning or development regulations apply.

ZONING MAP. The map or maps that are a part of the zoning ordinance and delineate the boundaries of zone districts.

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Code of Ordinances**

CHAPTER 151 Building Regulations; Construction 151.01.11 Adoption of the State Building Code

CHAPTER 151 BUILDING REGULATIONS; CONSTRUCTION

ARTICLE 01 GENERAL PROVISIONS

PART 1 ADMINISTRATION

151.01.11 Adoption of the State Building Code

- (A) The State Building Code, as adopted by the Commissioner of Administration pursuant to M.S. § 326B.101 through § 326B.194, as may be amended from time to time, rules and regulations established, adopted and published from time to time by the State Commissioner of Administration, through the Building Codes and Standards Division is hereby adopted by reference with the exception of the optional chapters. The State Building Code is hereby incorporated in this subchapter as if fully set out herein.
- (B) No building or structure shall hereafter be constructed, altered, repaired or removed, except in conformity with the provisions of this Chapter or in conformity with the State Building Code.
- (C) The application, administration and enforcement of the code shall be in accordance with M.S. § 326B.101 through § 326B.194, as may be amended from time to time, and state rules promulgated by the Commissioner of Administration and any amendments thereto.

151.01.12 Board of Appeals; Created

- (A) The City Council shall appoint a Board of Appeals which shall consist of two members of the City Council and a third member appointed by the City Council from the public.
- (B) A person aggrieved by the decision of the Building Official as to the application of the code, including any rules adopted pursuant to State Statute, may, within 30 days of the decision, appeal to the Board of Appeals.
- (C) The Board of Appeals may affirm, reverse or modify the decision of the Building Official. However, the Board of Appeals shall have no authority to waive the specific requirements of the State Building Code.
- (D) Any person aggrieved by the final decision of the Board of Appeals as to the application of the code may appeal the decision to the Commissioner of Administration pursuant to M.S. § 326B.139, as may be amended from time to time.

151.01.13 Building Official; Appointed

- (A) The Building Official for the City shall be a certified Building Official under the laws of the state. The Building Official shall be appointed by the City Council annually.
- (B) The Building Official shall be responsible for the enforcement of the State Building Code within the City. The Building Official shall inspect all buildings or structures during

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CHAPTER 151 Building Regulations; Construction 151.01.14 Removal or Restoration of Unsafe or Dangerous Buildings

construction to see that the provisions of the law are complied with and that construction is completed safely.

- (C) Whenever, in the opinion of the Building Official, by reason of defective or illegal work (work without a permit) in violation of a provision of this Chapter, the continuance of a building operation is contrary to the law and the public welfare, he or she may order all further work to be stopped until the condition in violation has been remedied.

151.01.14 Removal or Restoration of Unsafe or Dangerous Buildings

- (A) Any building or structure within the City limits that may be or shall, at any time hereafter, be deemed dangerous or unsafe by the Building Official shall, unless made safe and secure, be taken down and removed in compliance with Minnesota Pollution Control Agency guidelines within 90 days of determination. Upon failure to restore or remove the building or structure within 90 days, the City will have the building or structure demolished and assess the costs incurred to the property owner.
- (B) A building or structure declared unsafe by the Building Official may be restored to safe condition; provided that, if the damage or cost of reconstruction or restoration is in excess of 50 percent of the assessed value of the building or structure, the building or structure, if constructed or restored, shall be made to conform with the requirements for new buildings hereafter erected.

151.01.15 Permits; Fees

- (A) No building or structure shall be erected, altered or moved until a building permit has been obtained from the Building Official stating that the building or structure, according to the plans for its erection or alteration, complies with this subchapter and other building laws or ordinances and health laws or ordinances which are new or may hereafter be in force. The failure to obtain a building permit as required by this section prior to the commencement of work shall result in a building permit fee and penalty which shall be set by Ordinance.
- (B) Application for a building permit shall be made to the City Administrator on forms to be furnished by the City Administrator. Each application for a permit to construct or alter a building or structure shall be accompanied by proper information as required for permit issuance.
 - (1) The Building Official shall issue a building permit only after the application, together with the building plans, has been approved.
 - (2) A permit shall expire if the building or work authorized by the permit is not commenced within six months from the date of the permit.
- (C) The Building Official may extend the time for action by the permittee for a period not exceeding 180 days, upon written request by the permittee holding an unexpired permit showing a good and satisfactory reason.

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CHAPTER 151 Building Regulations; Construction

151.01.16 Permit Fee Surcharge

- (1) No permit shall be extended more than once. All building permits issued are nontransferable.
- (2) The fee for a building permit and the fee for an extension of a building permit may be set from time to time by Ordinance, refer to the City Fee Schedule.
- (D) No building shall be demolished in the City until a demolition permit has been obtained from the City Administrator, stating that the building may be demolished.
 - (1) The demolition process, including the grading of the lot, shall be completed within 30 days of the date of issuance of the demolition permit.
 - (2) Any vacant or unoccupied building shall be secured so that the same is not open to trespass during the demolition process.
 - (a) If a vacant or unoccupied building is deemed hazardous, due to the fact that the building is open to trespass and has not been secured, the City Council may order the building secured and shall cause notice to the owner of the premises, or his or her agent, by delivering a copy to him or her or by mailing it to him or her at his or her last known address. Service by mail is complete upon mailing.
 - (b) If the owner or agent of the building fails to comply with the order within ten days after the order is served upon him or her, the governing body shall cause the building to be properly secured, and the cost thereof may be charged against the real estate pursuant to M.S. § 463.21 *et seq.*, as may be amended from time to time.
 - (c) The fee for a demolition permit shall be set by Ordinance.
 - (3) A cash deposit will be required prior to the issuance of a demolition permit.
 - (a) The deposit will be refunded to the permittee when the work has been completed to the satisfaction of the City Building Official.
 - (b) The required cash deposit, based on the square foot size of the building to be demolished, shall be set by Ordinance.

151.01.16 Permit Fee Surcharge

In addition to the permit fees mentioned above, a surcharge shall be collected on all permits issued for work governed by the State Building Code and the surcharge shall be remitted to the state in accordance with M.S. § 326B.106, as may be amended from time to time.

151.01.17 Building Records Retrieval and Copying Charges

- (A) A fee in an amount to be determined by the City Council shall be charged to persons requesting building records to defray the cost of retrieval and copying of same.
- (B) The fee for the retrieval and copying of the building records shall be payable to the City Administrator.

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CHAPTER 151 Building Regulations; Construction

151.01.18 Penalty

- (C) The fee for the retrieval and copying of building records may be revised from time to time and set by Ordinance.

151.01.18 Penalty

- (A) Any person violating any provision of this Chapter for which no specific penalty is prescribed shall be subject to § 10.99.
- (B) A violation of this Chapter and the State Building Code and rules adopted pursuant thereto shall be a misdemeanor and the maximum misdemeanor penalties shall apply.

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Code of Ordinances**

CHAPTER 152 Manufactured Homes

152.01.11 Permit Required

CHAPTER 152 MANUFACTURED HOMES

ARTICLE 01 GENERAL PROVISIONS

PART 1 ADMINISTRATION

152.01.11 Permit Required

No manufactured homes shall be installed until an approved Manufactured Home Installation Permit has been obtained from the City Building Official.

152.01.12 Application; Fee

Application for a Manufactured Home Installation Permit shall be made on forms to be furnished by the City Administrator. The fee for a manufactured home installation permit shall be at a rate set annually by Ordinance.

152.01.13 Inspection Generally

- (A) Following installation of the manufactured home, the City Building Official shall inspect the manufactured home installation to determine whether or not it is in violation of any provisions of the State Statutes or Administrative Rules.
- (B) There shall be no occupancy of a manufactured home until physical inspection of the manufactured home has been completed and approval of the installation has been given, but occupancy shall not preclude the physical inspection of the manufactured home installation, including utilities.
- (C) In the event that the inspection reveals that a manufactured home installation or a manufactured home accessory structure installation is in violation of any provisions of State Statutes or Administrative Rules, the City Building Official shall serve on the owner or dealer/installer a notice of violations setting forth in what respect the State Statutes or Administrative Rules have been violated. Violations shall be corrected as specified in the notice.

152.01.14 Permit Required For Installation of Accessory Structure; Application; Fee; Inspection

- (A) Permits for the installation of manufactured home accessory structures shall be obtained by the owner of the manufactured home or the owner's agent prior to placement.
- (B) The application and fee for the permit shall be as specified in § 152.01.11. The City Building Official shall inspect a manufactured home accessory structure installation to determine whether or not the installation is in violation of any provisions of the State Statutes or Administrative Rules.

152.01.15 Penalty

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CHAPTER 152 Manufactured Homes

152.01.15 Penalty

Any person who violates or fails to comply with any of the provisions of this Chapter shall be guilty of a misdemeanor and be punishable as defined by law. Each day that the violation continues shall constitute a separate offense.

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CHAPTER 153 SUBDIVISIONS

153.01.11 Purpose

CHAPTER 153 SUBDIVISIONS

ARTICLE 01 GENERAL PROVISIONS

PART 1 INTRODUCTORY PROVISIONS

153.01.11 Purpose

- (A) Any person platting, re-platting or dividing property for purposes of transfer of title or separate description shall do so under the provisions of this Chapter. This Chapter sets forth the minimum requirements deemed necessary to ensure and protect the health, safety and welfare of the public. More specifically, the provisions of this Chapter are designed to:
- (1) Assure that, to the maximum extent possible, all lands will be developed for the best possible use with adequate protection against deterioration and obsolescence;
 - (2) Assure that effective protection is given to the natural resources of the community, especially ground water and surface waters;
 - (3) Encourage well-planned subdivisions through the establishment of adequate design standards;
 - (4) Discourage inferior developments that might adversely affect the local tax base;
 - (5) Create neighborhoods which will be of lasting credit to the community;
 - (6) Facilitate adequate provisions for transportation and other public facilities;
 - (7) Secure and protect the rights of the public with respect to public lands, waters and the development of recreational facilities;
 - (8) Improve land records by the establishment of standards for surveys and plats;
 - (9) Safeguard the interests of the public, the homeowner, the subdivider and units of local government;
 - (10) Provide a common ground for understanding between developers and local units of government;
 - (11) Prevent, where possible, excessive governmental operating and maintenance costs; and
 - (12) Preserve agricultural and other open lands.
- (B) Efforts shall be made to conserve natural resources and advantageously utilize all natural features and vegetation on the property to minimize soil erosion. Consideration will be given to eliminate any form of underground or surface water pollution.

153.01.12 Authority

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CHAPTER 153 SUBDIVISIONS

153.01.13 Administration

This Chapter is enacted pursuant to M.S. § 462.358, as may be amended from time to time. When allowed, any provisions of this Chapter that impose restrictions which are more restrictive than those imposed by provisions of Minnesota State Statute or Ordinances, the provisions of this Chapter shall govern.

153.01.13 Administration

- (A) The provisions of this Chapter shall be administered by the City Council in cooperation with the Planning and Zoning Commission and Zoning Administrator, or authorized representative of Zoning Administrator, who shall be appointed by the City Council.
- (B) The Planning and Zoning Commission and Zoning Administrator shall provide assistance to the City Council in the administration of this Chapter and their recommendations shall be advisory in nature. Specifically, the Planning and Zoning Commission shall review all subdivision applications, hold public hearings and make recommendations to the Council.

153.01.14 Amendments

- (A) The Planning and Zoning Commission may, of its own motion or upon petition, cause to be prepared amendments supplementing or changing the regulations herein established. All proposed amendments, together with the recommendation of the Planning and Zoning Commission, shall be submitted to the City Council for adoption.

PART 2 COMMON PROCEDURES AND REQUIREMENTS

153.01.21 Authority to File Applications

- (A) Subdivision applications for an individual property may be initiated by:
 - (1) The owner of the property that is the subject of the application; or
 - (2) An agent authorized by the owner of the property that is the subject of the application, which may include a lessee of the property. Evidence of such authorization shall be the signature of the property owner on the application.
- (B) If the property subject to an application is under more than one ownership, all owners or their authorized agents shall join in filing the application.

153.01.22 Pre-application Meeting

- (A) Pre-application meetings may be mandatory or voluntary based on the application type.
- (B) A pre-application meeting is an informal discussion between a potential applicant and City staff regarding a possible project subject to this Title. The Zoning Administrator shall determine which City staff shall attend the pre-application meeting.
- (C) The purpose of the pre-application meeting is to assist the applicant in identifying the type of approvals needed, the potential review criteria, and the information to be contained in the application(s).
- (D) Discussions that occur during pre-application meetings are not binding on the City and do not constitute official assurances or representations on the City.

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153.01.23 Fees

153.01.23 Fees

- (A) A cash filing fee payable to the City shall be paid following receipt of the application. This fee shall be in the amount which has been set by Ordinance and will be used for public expense and/or development fees in connection with the consideration of the subdivision application by the Planning and Zoning Commission and Council.
- (B) Applications will not be processed or considered complete until the filing fee is paid to the City.
- (C) All other applicable fees that may be set by the Council shall also accompany the application.

153.01.24 Withdrawal of any Applications

- (A) Any request for withdrawal of an application shall be submitted in writing to the Zoning Administrator.
- (B) In all cases where the applicant has requested withdrawal of an application, the associated fee paid and any costs incurred by the City in the processing of an application shall not be refunded.

153.01.25 Timelines for Review

- (A) Action on Preliminary Subdivision Requests
 - (1) In compliance with M.S. § 462.358, as may be amended from time to time, the City shall take action to approve or deny applications for preliminary subdivisions within 120 days of receiving a completed application.
 - (2) If the City cannot take action to approve or deny the application within 120 days of receiving the completed application, an extension request may be approved by the applicant in writing.
- (B) Action on Final Subdivision Request

In compliance with M.S. § 462.358, as may be amended from time to time, once the City has preliminarily approved a subdivision request, the applicant shall submit an application for final subdivision approval; the City shall take action to approve or deny applications for Final Plats within 60 days of receiving a completed application.

153.01.26 Public Hearing

- (A) For all subdivision procedures which require a public hearing, the procedures established in §154.02.21(J) shall apply.

PART 3 SUBDIVISION APPROVAL REQUIRED

153.01.31 Applicability

- (A) Applications for subdivisions shall be classified as one of the following types:

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153.01.32 Exemptions

- (1) Minor Subdivision where a lot division or consolidation results in three or less parcels under certain conditions, as established in § 153.02.11.
- (2) Major Subdivisions, where:
 - (a) A lot division creates three or more parcels, lots, or tracts or where the division necessitates the creation of streets, roads, or alleys for residential, commercial, industrial, or other use or any combination thereof; or
 - (b) Any change in the lot line(s) or the establishment of the lot line(s) of a parcel, lot, or tract not previously platted.
- (B) Prohibition Related to Building Permits
 - (1) No lot, parcel, or tract created after the effective date of this Chapter shall be issued a building permit unless the lot, parcel or tract has been created in compliance with the subdivision regulations of the City.
 - (2) Outlots are deemed unbuildable and no building permit shall be issued for such properties, except in the case of public park facilities and essential services.

153.01.32 Exemptions

- (A) Subdivision approval is not required for those separations where all the resulting parcels, tracts, lots or interests will be:
 - (1) 20 acres or larger in size and 500 feet in width for residential uses; or
 - (2) Five acres or larger in size for commercial and industrial uses;
- (B) Subdivision approval is not required for separations creating cemetery lots; and
- (C) Subdivision approval is not required for separations resulting from court orders or the adjustment of a lot line by the relocation of a common boundary.

153.01.33 Development Agreement Required

- (A) Purpose

It is the purpose of this section to ensure that a subdivider follows the conditions of approval and properly installs the basic improvements required in a plat. Whenever a subdivision includes any public improvements or whenever a major subdivision includes other conditions of approval, the subdivider shall enter into a Development Agreement with the City, setting forth the conditions under which the subdivision is approved.
- (B) Required Improvements
 - (1) Basic Improvements.

As required by the approval, and any conditions therein, all of the following required improvements to be installed under the provisions of this section shall be designed

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153.01.33 Development Agreement Required

and constructed in accordance with the design standards of this Chapter, and approved by and subject to the inspection of the City Engineer prior to approval:

- (a) Streets;
 - (b) Sanitary sewer;
 - (c) Watermain;
 - (d) Surface water facilities (pipes, ponds, rain gardens, and similar improvements);
 - (e) Grading and erosion control;
 - (f) Sidewalks/trails;
 - (g) Street lighting;
 - (h) Street signs and traffic control signs;
 - (i) Wetland mitigation; and
 - (j) Monuments required by Minnesota State Statutes.
- (2) Other Improvements.

The subdivider shall arrange for the installation of private utilities including, but not limited to, telecommunications cabling, electrical and natural gas service following the backfilling of the curb and gutter.

(C) Installation of Basic Improvements

- (1) The subdivider shall arrange for the installation of all required improvements in the development subject to the Development Agreement.
 - (a) All of the City's expenses incurred as the result of the required improvements shall be paid to the City by the subdivider including but not limited to legal, planning, engineering and inspection expenses incurred in connection with approval and acceptance of the plat, the preparation of the Development Agreement, review of construction plans and documents, and all costs and expenses incurred by the City in monitoring and inspecting fulfillment of the Development Agreement.
 - (b) The subdivider shall reimburse the City for costs incurred in the enforcement of the Development Agreement, including engineering and attorneys' fees.
- (2) The City Council reserves the right to, in its sole discretion, elect to install all or any part of the basic improvements required under the provisions of this section and assess the costs to the benefiting property owners pursuant to M.S. Ch. 429, as may be amended from time to time.

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153.01.33 Development Agreement Required

- (3) Unless separate written approval has been given by the City as provided for in § 153.02.44(C)(2), within the plat or land to be platted, the subdivider may not grade or otherwise disturb the earth, remove trees, construct sewer lines, water lines, streets, utilities, public or private improvements, or any buildings within the plat or land to be platted until all the following conditions have been satisfied:
 - (a) The Development Agreement has been fully executed by both parties and filed with the City Clerk;
 - (b) The necessary security has been received by the City;
 - (c) The plat has been filed with the county recorder's office;
 - (d) The construction plans have been approved and signed by the City Engineer; and
 - (e) The City has issued a letter that all conditions have been satisfied and that the subdivider may proceed.
 - (4) The improvements shall be installed in accordance with this Chapter, City standard specifications for utilities and street construction, and the City's engineering standard specifications.
 - (a) The subdivider shall submit plans and specifications that have been prepared by a registered professional engineer to the City for approval by the City Engineer.
 - (b) The City shall, at the subdivider's expense, provide all on-site inspection and soil testing to certify that the construction work meets the City's standards and approved plans.
 - (5) All labor and work shall be done and performed in the best and most workmanlike manner and in strict conformance with the approved plans and specifications.
 - (a) No deviations from the approved plans and specifications will be permitted unless approved in writing by the City Engineer.
 - (b) The subdivider shall not do any work or furnish any materials not covered by the plans and specifications and special conditions of the Development Agreement, for which reimbursement is expected from the City, unless such work is first ordered in writing by the City Engineer as provided in the specifications.
- (D) Time of Performance
- (1) The subdivider shall complete all required basic improvements no later than one year following the commencement of work on the improvements, except:
 - (a) Where weather precludes completion;

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153.01.34 Financial Guarantees

- (b) For street lighting; and
 - (c) For the wearing course of streets.
- (2) Where weather precludes completion, the timeline for completion of the improvements may be extended an additional six months upon approval in writing of the Zoning Administrator.
- (3) The subdivider shall complete street lighting within two years following the initial commencement of work on the required basic improvements.
- (4) Neither curb and gutter nor bituminous pavement shall be installed between November 15 and April 15. The final wear course on streets shall be installed between May 15 and October 1 the first summer after the base layer of asphalt has been in place one freeze thaw cycle. Any deficiencies in the base asphalt, curb or other improvements must be repaired by the subdivider at its own cost prior to final paving. The subdivider may, however, request an extension of time from the City Engineer. If an extension is granted, it shall be conditioned upon updating the security posted by the subdivider to reflect cost increases and the extended completion date. Final wear course placement outside of this time frame must have the written approval of the City Engineer.

153.01.34 Financial Guarantees

- (A) Subsequent to execution of the Development Agreement, but prior to approval of a signed Final Plat for recording, the subdivider shall provide the City with a financial guarantee in the form of a letter of credit from a bank, cash escrow, or other form of security acceptable to the City. A letter of credit or cash escrow shall be in an amount as determined by the City Engineer.
- (B) It shall be the responsibility of the subdivider to insure that a submitted financial guarantee shall continue in full force and effect until the City Engineer has approved and the City Council has accepted all of the required improvements. The City Engineer thereby is authorized to release the guarantee or reduce the amount of the guarantee as provided in §153.01.35, Approval and Acceptance of Basic Improvements.
- (C) When any instrument submitted as a financial guarantee contains provision for an expiration date, after which the instrument may not be drawn upon, notwithstanding the status of the Development Agreement or of the required improvements, the expiration date shall be December 31 or the closest business day in the case of weekends and legal holidays.
 - (1) Further, the financial guarantee shall be deemed automatically extended without change for six months from the expiration date unless 60 days prior to the expiration date the financial institution notifies the City in writing by certified mail that it does not elect to renew the financial guarantee for an additional period.

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- (2) If the instrument is not to be renewed and has not been released by the City Engineer, another acceptable financial guarantee in the appropriate amount shall be submitted at least 60 days prior to the expiration.
 - (3) The term of any extension shall be approved by the City Engineer and subject to the requirements of this section.
 - (4) Upon receipt of an acceptable substitute financial guarantee, the City Engineer may release the original guarantee.
- (D) Forms of Financial Guarantees
 - (1) Letter of Credit

If the subdivider posts a letter of credit as a guarantee, the credit shall:

 - (a) Be irrevocable;
 - (b) Be from a bank approved by the City;
 - (c) Be in a form approved by the City;
 - (d) Be for a term sufficient to cover the completion, maintenance and warranty periods identified in this section; and
 - (e) Require only that the City present the credit with a sight draft and an affidavit signed by the City Administrator or the City Administrator's designee attesting to the City's right to draw funds under the credit.
 - (2) Cash Escrow

If the subdivider posts a cash escrow as a guarantee, the escrow instructions approved by the City shall provide that:

 - (a) The subdivider will have no right to a return of any of the funds except as provided in § 153.01.35, Approval and Acceptance of Basic Improvements; and
 - (b) The escrow agent shall have a legal duty to deliver the funds to the City whenever the City Administrator presents an affidavit to the agent attesting to the City's right to receive funds whether or not the subdivider protests that right.
 - (3) Cash

A cash deposit made with the City finance department may be used as part of the required financial guarantee in those instances where the subdivider elects to have the City install some or all of the public improvements.
- (E) Amounts of Financial Guarantees

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153.01.34 Financial Guarantees

The subdivider shall submit either a financial guarantee in one of the forms listed in § 153.01.34(D), Forms of Financial Guarantees, for an amount determined by the City Engineer in accordance with the following:

(1) Subdivider Installed Improvements

For basic improvements to be installed by the subdivider, the required financial guarantee shall include all of the following fixed or estimated costs:

- (a) Costs of the basic improvements identified in § 153.01.33(B)(1), Basic Improvements;
- (b) Engineering, to include subdivider's design, construction management, surveying, inspection, and drafting;
- (c) 25 percent contingency or add-on to the costs in paragraphs (a) and (b) above; and
- (d) Estimated cost of energy for street lights for the first two years of operation.

(2) City Installed Improvements

For basic improvements to be installed by the City, the required financial guarantee shall be the sum of the following fixed or estimated costs:

- (a) A cash deposit in an amount equal to 25 percent of the estimated cost of installing the specified public improvements as determined by the City Engineer, which costs would include charges incurred by the City for legal, planning, engineering and administration associated with the installation project(s). The deposit shall be applied to the costs of such installations, with the remainder of the costs specially assessed, in the manner provided by Minnesota State Statutes, over a period of five years together with interest thereon.
- (b) In lieu of the cash deposit, the subdivider may elect to have the City provide 100 percent of the cost of such installations, which costs shall be assessed over a period of five years. In such event, the subdivider shall post a letter of credit for 60 percent of the cost of assessments, which letter of credit shall be released after the subdivider pays the principal and interest on said assessments for two years and which letter of credit shall be separate from any other letters of credit associated with the subdivider's project.

(F) Other Cash Requirements

The subdivider will be responsible for additional cash requirements which must be furnished to the City at the time of Final Plat approval. The subdivider shall not proceed with any improvements until these cash requirements have been paid to the City. The cash requirements may include:

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- (1) Park dedication fees (See § 153.04.11 through § 153.04.14);
- (2) Utility charges and fees. This may include sewer availability charges (SAC), water availability charges (WAC), and trunk fees;
- (3) Special assessments including interest;
- (4) The City's legal, engineering administration, and construction observation fees;
- (5) Costs associated with traffic control and street signs to be installed in the plat by the City;
- (6) Map upgrade fee; and
- (7) Other charges or fees as determined by the City.

153.01.35 Approval and Acceptance of Basic Improvements

The financial guarantee shall be held by the City until:

- (A) The subdivider vouches, by certified letter to the City, that the conditions required by the City for approval under this Chapter have been satisfied; and
- (B) The City Engineer determines that the conditions required for approval have been met.
- (C) No financial guarantee shall be released in full until the following has occurred:
 - (1) All improvements have been completed and public improvements have been accepted by the City Engineer.
 - (2) Iron monuments for lot corners have been installed.
 - (3) All financial obligations to the City have been satisfied.
 - (4) Reproducible record plans of all public improvements as required by the City Engineer have been furnished to the City by the subdivider. Such record plans shall be certified to be true and accurate by the registered engineer responsible for the installation of the improvements.
 - (5) A warranty/maintenance guarantee has been provided as described in § 153.01.36, Warranty/Maintenance Guarantee.
 - (6) A title insurance policy approved by the City Attorney indicating that the improvements are free and clear of any and all liens and encumbrances.
- (D) If the City Engineer finds that all conditions of this Chapter and the Development Agreement have been satisfied, the City shall release and return to the applicant any and all financial securities tied to the requirements within 30 days.
 - (1) If the City fails to release and return the letters of credit within the 30-day period, any interest accrued will be paid to the applicant, pursuant to M.S. § 462.358, as may be amended from time to time.

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153.01.36 Warranty/Maintenance Guarantee

- (E) If the City Engineer determines that the conditions required for approval have not been satisfied, the City shall send written notice within seven business days upon receipt of the certified letter indicating to the applicant which specific conditions have not been met.
 - (1) The City shall require a maintenance or performance bond from any subcontractor that has not yet completed all remaining requirements.

153.01.36 Warranty/Maintenance Guarantee

- (A) The subdivider shall submit either a warranty/maintenance bond or a letter of credit for an amount determined by the City Engineer.
- (B) The required warranty period for materials and workmanship from the utility contractor installing public sewer and water mains shall be two years from the date of final written City acceptance of the work.
- (C) The required warranty period for all work relating to street construction, including concrete curb and gutter, sidewalks and trails, materials and equipment shall be subject to one year from the date of final written acceptance, unless the wearing course is placed during the same construction season as the bituminous base course. In those instances, the subdivider shall guarantee all work, including street construction, concrete curb and gutter, sidewalks and trails, material and equipment for a period of two years from the date of final written City acceptance of the work.
- (D) The required warranty period for trees and landscaping is one growing season following installation.
- (E) The required warranty period for erosion control will be as established in the Development Agreement.

153.01.37 Insurance

- (A) The subdivider shall take out and maintain or cause to be taken out and maintained until six months after the City has accepted the public improvements, public liability and property damage insurance covering personal injury, including death, and claims for property damage which may arise out of subdivider's work or the work of its subcontractors or by one directly or indirectly employed by any of them.
- (B) Limits for the coverage shall be in accordance to the City's current requirements.
- (C) The City shall be named as an additional insured on the policy, and the subdivider shall file with the City a certificate evidencing coverage prior to the City signing the plat.
- (D) The certificate shall provide that the City must be given ten days advance written notice of the cancellation of the insurance.

153.01.38 Penalty

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153.02.11 Applicability

- (A) Any subdivider who violates, omits, neglects or refuses to comply with the provisions or the enforcement of this Chapter or who sells, offers for sale, or leases any portion of land which is in violation of this Chapter, shall be guilty of a misdemeanor.
- (B) Each day that a violation is committed, or permitted to exist, shall constitute a separate offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this Chapter, and the City may pursue, by appropriate actions or proceedings, any or all additional remedies.

ARTICLE 02 REVIEW PROCESS

PART 1 MINOR SUBDIVISIONS

153.02.11 Applicability

- (A) This section is intended to provide for an expedited procedure for the subdivision of land by use of a certificate of survey when it is proposed to subdivide land that is already in a recorded subdivision plat.
- (B) Land to be subdivided as a minor subdivision shall be a lot (or lots) of record in a recorded subdivision plat. The subdivision of land that is not part of a recorded plat requires the land to be platted through a major subdivision process.
- (C) The maximum number of parcels or building sites to be created from one platted lot shall not exceed three; and the maximum number of parcels or building sites to be created from two platted lots shall not exceed three.
- (D) No subdivision of land shall result in the creation of a substandard (non-buildable) lot, according to the current zoning classification, with the exception of existing outlots.
- (E) Any affected lot or outlot shall not be allowed to be subdivided by use of a certificate of survey more than one time.
- (F) The need for general utility easements or drainage easements or improvements shall be resolved prior to the approval of the subdivision.
 - (1) This may include the vacation of existing easements and establishment of new easements for utility and drainage.
- (G) The dedication of land to the public for a street or street right-of-way shall not be allowed by use of a certificate of survey.

153.02.12 Pre-Application Meeting

A pre-application meeting pursuant to 153.01.15 is suggested prior to submitting a Minor Subdivision application.

153.02.13 Submittal

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153.02.14 Review Process

- (A) The applicant shall file the completed application, including required exhibits, with the Zoning Administrator and shall pay a filing fee, as established by the Council, for processing the minor subdivision.
- (B) The Zoning Administrator shall review the application and within 15 business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.
- (C) **Criteria for Complete Submittal**
No submittal to the City shall be considered complete without receipt of three paper copies and one electronic copy of the following:
 - (1) A completed application form.
 - (2) Evidence of ownership or enforceable option on the property;
 - (3) A certificate of survey of the existing property with an accurate boundary description of the property.
 - (4) A certificate of survey of the proposed property with an accurate boundary description of the new lot(s).
 - (a) The certificate of survey for filing or recording shall be drawn at current acceptable engineering design standards with a scale.
 - (b) The certificate of survey shall measure no less than eight and one-half inches by 11 inches. The certificate of survey shall be drawn to a scale not greater than 100 feet to the inch unless another suitable scale is approved by the City Engineer. (Example: one inch equals 200 feet would be unacceptable.)
 - (5) Site plan of the property showing:
 - (a) Locations and dimensions of existing features, such as structures, impervious surfaces, trees, fences/retaining walls, waterbodies and wetlands; all such elements shall also include an indication if they are proposed to remain or be demolished.
 - (b) Proposed subdivision of the property, with dimensions of the new lots showing lot area, lot width, and setbacks.

153.02.14 Review Process

- (A) **Application Distributed**
When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.
- (B) **Review and Decision**

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153.02.15 Issuance of Decision

- (1) When the Zoning Administrator determines the application to be complete, the item shall be reviewed by the Planning and Zoning Commission; after review, the Planning and Zoning Commission shall make a recommendation to the City Council to approve, approve with conditions or not approve the subdivision activities.
 - (2) The City Council shall, within 90 days of the Planning and Zoning Commission recommendation, approve, approve with conditions or not approve the subdivision activities.
- (C) Criteria for Review
 - (1) In making the determination, whether or not the minor subdivision is to be allowed, the City Council shall make the following findings:
 - (a) The proposed subdivision is not in conflict with the Comprehensive Plan of the City.
 - (b) The proposed subdivision will not disrupt the character of the neighborhood.
 - (c) The proposed subdivision does not result in the creation of a substandard (non-buildable) lot, according to the current zoning classification.
 - (2) Assessments shall be paid in full prior to the approval of the subdivision.

153.02.15 Issuance of Decision

- (A) Recording
 - (1) The subdivider shall file and record the certificate of survey with attached legal descriptions within 30 days from the date of approval by the City Council. One copy shall be filed with the City Clerk, and one copy shall be recorded with the County Recorder. All fees for filing or recording shall be paid by the subdivider.
 - (2) The City Clerk shall file the certificate of survey and attached legal descriptions with the original subdivision plat map in the City Administrator's record.
- (B) Effect of Approval
 - (1) No building permits shall be issued prior to filing and recording the certificate of survey, and legal descriptions, with the required City and County officials.

PART 2 CONCEPT PLAN

153.02.21 Applicability

- (A) The Concept Plan and any accompanying information shall serve as a basis for discussion between the subdivider and the City and is intended to provide the subdivider with an advisory review.

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153.02.22 Submittal

- (B) The Concept Plan process is not mandatory. This process may be initiated at any time by an applicant who wishes to gain information and guidance from the Planning and Zoning Commission and City Council regarding a specific development concept before entering into binding agreements, incurring substantial expense, or filing a Preliminary Plat application.
- (C) For more complex proposals, it is suggested that the applicant participate in a Concept Plan review process before proceeding to a Preliminary Plat application.
- (D) This process is intended to inform the applicant of the purpose and objectives of these regulations, the Comprehensive Plan, and duly adopted plan implementation devices of the City.

153.02.22 Submittal

- (A) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the Council, for processing the concept plan.

- (B) Criteria for Complete Submittal:

No submittal to the City shall be considered complete without receipt of three paper copies and one electronic copy of the following:

- (1) A completed application form;
- (2) A Concept Plan, drawn to scale, including the following:
 - (a) Scale and north point;
 - (b) Boundaries of entire parcel of land;
 - (c) Proposed subdivision name;
 - (d) Name and address of property owner;
 - (e) Name and address of subdivider;
 - (f) Zoning classification of proposal and adjacent lands;
 - (g) Names of existing streets;
 - (h) General street design and general design of other surface improvements such as sidewalks and trails;
 - (i) General lot layout, including number of proposed lots and dimensions of those lots (lot area, lot width);
 - (j) Information of adjacent lands;
 - (i) Parcel boundaries
 - (ii) Parcel ID numbers

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153.02.23 Review Process

- (iii) Property Owner
- (k) Areas of open space or park dedication;
- (l) Areas for stormwater retention; and
- (m) Existing natural features including wetlands, water bodies, significant tree stands, steep slopes, and floodplain areas.

153.02.23 Review Process

- (A) The Zoning Administrator shall review the application and Concept Plan and refer them to City Staff for review.
- (B) The Planning and Zoning Commission shall review the Concept Plan and provide feedback to the applicant.
- (C) The City Council shall review the Concept Plan and provide feedback to the applicant.
- (D) Discussions that occur are not binding on the City and do not constitute official assurances or representations of the City.

PART 3 PRELIMINARY PLAT

153.02.31 Applicability

- (A) A Preliminary Plat application shall be submitted to the City when any of the following apply:
 - (1) The applicant is proposing to create four or more lots as part of a subdivision; or
 - (2) The applicant is proposing to change the exterior boundaries of an existing plat; or
 - (3) Successive divisions within a five year period creating five or more parcels or building sites (i.e. lots or outlots) of 1 to 1½ acres each or less; or
 - (4) The proposed subdivision does not qualify to be processed as a minor subdivision.

153.02.32 Pre-Application Meeting

If an applicant has not completed a concept plan process as specified in § 153.02.21 through § 153.02.23, a pre-application meeting pursuant to §153.01.22 is required prior to submitting a Preliminary Plat application.

153.02.33 Submittal

- (A) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the Council, for processing the major subdivision.
- (B) The Zoning Administrator shall review the application and within 15 business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.

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153.02.33 Submittal

(C) Criteria for Complete Submittal

No submittal to the City shall be considered complete without receipt of three paper copies and one electronic copy of the following:

- (1) Certificate of Survey for the site showing the following:
 - (a) Property boundary for entirety of parcel(s) to be subdivided and legal description of current property.
 - (b) Wetland delineation.
 - (c) Existing topography at two-foot contours.
 - (d) Location of Floodplain and regulatory flood elevation.
- (2) Preliminary Plat conforming substantially to the format referenced in M.S. § 505.021, as may be amended from time to time, and specifically including:
 - (a) Date, scale, north point;
 - (b) Property boundary for entirety of parcel to be subdivided;
 - (c) Proposed subdivision name and all intended street names according to the municipality's street naming and numbering system;
 - (d) Name and address of the subdivider, surveyor and engineer preparing plat;
 - (e) Location and names of adjacent subdivisions and the owners of adjoining parcels of unsubdivided land;
 - (f) Zoning classification of lands to be subdivided and all adjacent lands and proposed zoning, if different than existing zoning;
 - (g) Topographic map of the area showing two-foot contour intervals. All areas of the subdivision to be platted with a slope greater than 25 percent must be clearly indicated;
 - (h) Location, widths and names of all existing, platted or dedicated elements of the following:
 - (i) streets, including cul-de-sac names (i.e., place or circle),
 - (ii) easements, railroad and utility rights-of-way,
 - (iii) sidewalks,
 - (iv) parks,
 - (v) watercourses and drainage ditches,
 - (vi) front, side, and rear yard dimensions for all permanent buildings and structures;

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- (i) Location, size and depth of all existing and/or proposed sanitary sewer, storm sewers, water mains, hydrants and catch basins. Location and proposed design of storm water retention areas when required;
 - (j) Other data within 300 feet of the exterior boundaries of the area being subdivided as may be required by the Planning and Zoning Commission;
 - (k) Identification and location of existing or potential wetlands. Water elevations of adjoining lakes, rivers and streams at date of survey and their approximate high and low water elevations. All elevations shall refer to the established United States Coast and Geodetic Survey and/or United States Geodetic Survey Datum;
 - (l) When the subdivision borders a lake, river or stream the contour line above the indicated flood fringe boundary of the lake, river or stream shall be shown on the plat;
 - (m) The layout and width of all new streets, sidewalks, rights-of-way and easements and the approximate angles of street intersections;
 - (n) Length and bearings of the exterior boundaries of the land being subdivided;
 - (o) Dimensions of all lots to the nearest foot;
 - (p) Square footage of all lots;
 - (q) All lots shall be numbered by beginning the numbering with number one and numbering each lot progressively, through the block in which they are situated. All blocks shall be numbered progressively, by beginning the numbering with the number one and numbering each block progressively through each plat. Consecutive lot or block numbering shall not be continued from one plat into another and one lot plats should have both a lot and block number;
 - (r) Approximate radii of all curves and lengths of all tangents; and
 - (s) Approximate location and area of all property to be dedicated for public use or reserved by deed covenant for use by all property owners in the development with a statement of the conditions of the dedication or reservation.
- (3) The Preliminary Plat shall be drawn to currently acceptable engineering design standards with a scale not greater than one inch equals 100 feet unless another suitable scale is approved by the City Engineer. (Example: One inch equals 200 feet would be unacceptable.)
- (4) Preliminary Civil Plans showing the following:

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- (a) Grading and Drainage Plans
 - (i) Grading Plan
 - (ii) Erosion Control Plan
 - (iii) Seeding Plan
 - (iv) Grading Details
- (b) Street and Utility Plans
 - (i) Sanitary and Watermain Plan
 - (ii) Storm Sewer Schedule
 - (iii) Storm Sewer Construction Plan
 - (iv) Draintile Plan (if applicable)
 - (v) Street Construction Plan
 - (vi) Lighting and Signage Plan
 - (vii) Street and Utility Details

153.02.34 Review Process

(A) Application Distributed

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

(B) Hearing on the Application

- (1) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with § 153.01.26.
- (2) The Planning and Zoning Commission shall hold the public hearing and may table the application for further investigation if necessary.

(C) Review and Decision

- (1) Upon the conclusion of the public hearing, the Planning and Zoning Commission shall recommend to the City Council either preliminary approval of the subdivision, preliminary approval of the subdivision subject to conditions, or denial of the subdivision.
 - (a) If the Planning and Zoning Commission recommends denial, it shall express its recommendation for disapproval and its reasons therefor.
 - (b) Any plan given a conditional recommendation for approval shall be revised to meet the requirements of the conditions and three paper and

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153.02.35 Issuance of Decision

electronically transmitted copies shall be resubmitted to the Zoning Administrator.

- (2) Upon receiving a recommendation from the Planning and Zoning Commission, the City Council shall review and approve, approve conditionally, or deny the Preliminary Plat application.
 - (a) The City Council may table the review or remand the issue back to the Planning and Zoning Commission if they deem necessary.
 - (b) The City Council shall state, in writing, its findings for approval or denial, as well as any conditions of approval.

(D) Criteria for Review

In making their determination, the Planning and Zoning Commission and City Council shall consider the following:

- (1) Consistency with the design standards and other requirements of this Chapter;
- (2) Consistency with the City's Comprehensive Plan or other adopted plans applicable to the area;
- (3) Consistency with Chapter 154 of the City Code;
- (4) The physical characteristics of the site, including but not limited to topography, erosion and flooding potential, development or use contemplated; and
- (5) The proposed development's potential for a negative fiscal or environmental impact upon the City.

153.02.35 Issuance of Decision

(A) Notification

Following the decision by the City Council, the Zoning Administrator shall notify the applicant of the Council's action and reasons thereof.

(B) Recording

The City shall maintain a record of all approved Preliminary Plat applications including a copy of the application, materials, review dates and such other information as may be appropriate. A record of applications which were not approved shall also be maintained for record keeping purposes pursuant to the City's record retention schedule.

(C) Effect of Approval

- (1) The approval of a Preliminary Plat is an acceptance of the general layout as submitted and indicates to the applicant that they may proceed toward fulfilling the necessary steps for approval of the Final Plat in accordance with the terms of approval.

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153.02.36 Preliminary Plat Amendment

- (2) Upon approval of the Preliminary Plat by the Council, the applicant shall submit the Final Plat to the City Council within one year after the approval, in compliance with § 153.02.42.
- (3) Prior to the expiration of the Preliminary Plat approval, the City Council may extend the approval for an additional year.
 - (a) The applicant shall submit such a request in writing to the Zoning Administrator at least 30 days in advance of the expiration date and the City Council shall consider the extension.
 - (b) The request for an extension shall specify the term of extension, and designate a new extension date.
 - (c) The extension shall not be subject to an additional fee and only one extension may be granted per Preliminary Plat.

153.02.36 Preliminary Plat Amendment

Requested amendments to the Preliminary Plat shall follow the same procedure outlined in this Section. Should the applicant desire to amend the Preliminary Plat as approved, they may resubmit an amended Plat which shall follow the same procedure, except for the fee, unless the amendment is, in the opinion of the Zoning Administrator, of such scope as to constitute a new Plat, in which such case it shall be re-filed.

PART 4 FINAL PLAT

153.02.41 Applicability

- (A) An approved Preliminary Plat shall be on file with the City prior to applying for a Final Plat that substantially conforms to the Preliminary Plat.
- (B) The Final Plat may, if permitted by the City Council, constitute only that portion of the approved Preliminary Plat which the applicant proposes to record at the time.

153.02.42 Submittal

- (A) The application for a Final Plat shall be submitted no later than one year after the date of approval of the Preliminary Plat; otherwise the Preliminary Plat and Final Plat will be considered void unless an extension is requested in writing by the applicant and granted by the City.
- (B) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the Council, for processing the Final Plat.
- (C) The Zoning Administrator shall review the application and within 15 business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.
- (D) Criteria for Complete Submittal

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153.02.42 Submittal

No submittal to the City shall be considered complete without receipt of three paper copies and one electronic copy of the following:

- (1) Final Plat including:
 - (a) Date, scale, north point;
 - (b) Subdivision name and all street names;
 - (c) Location of the plat by quarter section, section, town and range;
 - (d) Location and names of adjacent subdivisions;
 - (e) Exact location, widths and names of all existing platted or dedicated streets, cul-de-sac names (i.e., place or circle), sidewalks, easements, railroad and utility rights-of-way, parks, watercourses and drainage ditches within the boundaries of the land to be subdivided;
 - (f) Identification and location of existing or potential wetlands. Water elevations of adjoining lakes, rivers and streams at date of survey and their approximate high and low water elevations. All elevations shall refer to the established United States Coast and Geodetic Survey and/or United States Geodetic Survey Datum;
 - (g) When the subdivision borders a lake, river or stream the contour line above the indicated flood fringe boundary of the lake, river or stream shall be shown on the plat;
 - (h) Exact location and width of all new streets, their angle of intersection, length of arcs, radii, points of curvature and tangent bearings;
 - (i) Exact location and width of all easements, and a statement of easement rights;
 - (j) Exact length and bearings or angles of the exterior boundaries of the land being subdivided;
 - (k) Exact dimensions of all lots;
 - (l) All lots shall be numbered by beginning the numbering with number one and numbering each lot progressively, through the block in which they are situated. All blocks shall be numbered progressively, by beginning the numbering with the number one and numbering each block progressively through each plat. Consecutive lot or block numbering shall not be continued from one plat into another and one lot plats should have both a lot and block number;
 - (m) Exact location and area of all land to be dedicated for public use or reserved by deed covenant for common use of all property owners with the purpose

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indicated thereon. All lands dedicated for public use, other than streets, shall be marked "Dedicated to the Public";

- (n) Accurate location and material of all permanent reference monuments including lot corners which shall be marked in accordance with current surveying standards;
- (o) Certificate of the registered land surveyor preparing the plat, that the plat as presented, fully complies with the requirements of this chapter, and the platting laws of the state relative to the surveying, dividing and mapping of land; that the plat is a correct representation of all exterior boundaries of the land surveyed; that the plat represents a survey made by the surveyor and that all monuments indicated thereon exist and their location, size and material are correctly shown; and
- (p) Signature lines for certificates of approval:
 - (i) A certificate issued by the authorized county officials stating that there are no unpaid taxes or special assessments on any of the lands included in the plat;
 - (ii) A certificate by the owner or owners dedicating to the public for full public use all street and street rights-of-way and other lands designated as "Dedicated to the Public" and the granting of utility easements as shown on the plat;
 - (iii) A certificate of Planning and Zoning Commission approval signed by the Planning and Zoning Commission Chair; and
 - (iv) A certificate of approval by the City Council signed by the Mayor and Administrator.
- (2) Final Civil Plans of the following:
 - (a) Grading and Drainage Plans
 - (i) Grading Plan
 - (ii) Erosion Control Plan
 - (iii) Seeding Plan
 - (iv) Grading Details
 - (b) Street and Utility Plans
 - (i) Sanitary and Watermain Plan
 - (ii) Storm Sewer Schedule
 - (iii) Storm Sewer Construction Plan

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153.02.43 Review Process

- (iv) Draintile Plan (if applicable)
- (v) Street Construction Plan
- (vi) Lighting and Signage Plan
- (vii) Street and Utility Details

153.02.43 Review Process

(A) Application Distributed

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

(B) Review and Decision

- (1) When the Zoning Administrator determines the application to be complete, the item shall be scheduled to be reviewed by the City Council.
- (2) The City Council shall review and approve, approve conditionally, or deny the Final Plat application.
 - (a) The City Council may table the review if they deem more information is necessary
- (3) The City Council shall state, in writing, its findings for approval or denial, as well as any conditions of approval.

(C) Criteria for Review

In considering the Final Plat application, the City Council shall consider the following factors:

- (1) Substantial conformance with the approved Preliminary Plat and all conditions of approval;
- (2) Conformance with this Chapter and all other applicable ordinances, rules, and regulations; and,
- (3) Consistency with the Comprehensive Plan's vision, mission, values, and policies.

153.02.44 Issuance of Decision

(A) Notification

Following the decision by the City Council, the Zoning Administrator shall notify the applicant of the Council's action and reasons thereof.

(B) Recording

- (1) The Final Plat for recording, after approval by the City Council, shall substantially conform to M.S. § 505.021, as may be amended from time to time.

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153.02.51 Applicability

- (2) After the Final Plat has been approved by the City Council, all conditions of approval have been met, and required improvements are either installed or a contract and sureties insuring their installation is filed, the applicant shall file the Final Plat and Development Agreement with the County Recorder. Recording of the Final Plat and all associated conditions of approval must be completed within one year of final approval.
 - (3) Failure to record the Final Plat, Development Agreement, and all associated conditions of approval within one year of final approval shall result in the requiring of a new Preliminary Plat which must be reviewed in accordance with the procedure set out in this Chapter to ensure compliance with any new requirements.
 - (4) The City shall distribute copies of the approved Final Plat to all approving agencies, affected utilities, and other affected agencies for their files.
- (C) Effect of Approval
 - (1) Once the Final Plat has been recorded, activity may commence on the site as long as it meets the installation of improvements as established in this Chapter, or as otherwise agreed upon within the Development Agreement with the City.
 - (2) Grading on the site may occur prior to recording of the Final Plat and Development Agreement if a grading permit has been issued by the City Engineer.

PART 5 VARIANCES

153.02.51 Applicability

The standards and requirements of this chapter may be modified by the City Council in accordance with the Comprehensive Plan safeguarded by appropriate restrictions, conditions and adequate provisions for necessary community facilities and without detriment to the public interest. No variance shall be granted which shall have the effect of nullifying the intent and purpose of this chapter.

153.02.52 Pre-Application Meeting

A pre-application meeting pursuant to § 153.01.22 is suggested prior to submitting a Variance application

153.02.53 Submittal

- (A) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the Council, for processing the variance.
- (B) The Zoning Administrator shall review the application and within 15 business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.
- (C) Criteria for Complete Submittal

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153.02.54 Review Process

No submittal to the City shall be considered complete without receipt of the following:

- (1) Complete Variance application.
- (2) Narrative from applicant explaining why a variance from this Chapter is needed.

153.02.54 Review Process

(A) Application Distributed

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

(B) Hearing on the Application

- (1) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with § 153.01.26.
- (2) The Planning and Zoning Commission shall hold the public hearing and may table the application for further investigation if necessary.

(C) Review and Decision

- (1) Following the public hearing, the Planning and Zoning Commission shall recommend approval, conditional approval, or denial of the Subdivision Variance request and shall transmit the request and application along with its recommendations to the City Council.
- (2) Upon receiving a recommendation from the Planning and Zoning Commission, the City Council shall review and approve, approve conditionally, or deny the Variance application by majority vote.
- (3) The City Council shall state, in writing, its findings for approval or denial, as well as any conditions of approval.

(D) Criteria for Review

In considering the Subdivision Variance application, the City Council shall consider the following factors:

- (1) The requested Subdivision Variance is in harmony with the general purposes and intent of this Chapter;
- (2) The requested Subdivision Variance is consistent with the Comprehensive Plan and all other applicable City plans;
- (3) The applicant has established that there are special circumstances or conditions, such as topography, drainage, or other natural occurring characteristics, affecting the property such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of the land; and

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- (4) The impact the variance will have on the public health, safety, and welfare of other property in the vicinity in which the property is situated.

153.02.55 Issuance of Decision

(A) Notification

Following the decision by the City Council, the Zoning Administrator shall notify the applicant of the Council's action and reasons therefor.

(B) Recording

- (1) A certified copy of the authorizing resolution, containing identifiable description and any specific requirements for approval, shall be recorded by the applicant with the County.
- (2) A copy of a decision granting a Subdivision Variance in a floodplain district shall be mailed by the City to the district office of the Minnesota Department of Natural Resources within ten days of the decision.

(C) Effect of Decision

- (1) Violations of the conditions of a Subdivision Variance shall void the Variance.
- (2) Whenever within one year after granting a Subdivision Variance the work as permitted by the Variance shall not have been completed, then the Variance shall become null and void unless a petition for extension of time in which to complete the work has been granted to the Council.
 - (a) The extension shall be requested in writing and filed with the Zoning Administrator at least 30 days before the expiration of the original Subdivision Variance. There shall be no charge for the filing of the petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the Subdivision Variance or appeal. The petition shall be presented to the City Council for a decision.
 - (b) A second extension shall require a new public hearing.
- (3) A Subdivision Variance application which has been denied shall not be submitted, in an exact or substantially similar form, for at least 12 months from the date of denial.

ARTICLE 03 SUBDIVISION DESIGN STANDARDS

PART 1 GENERAL STANDARDS

153.03.11 Applicability

- (A) The subdivision design standards contained in this Chapter are to assure that the style, character and form of new developments will conform to minimum requirements promoting the health, safety and general welfare of the public. In addition to these regulations and to

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CHAPTER 153 SUBDIVISIONS

153.03.12 General Standards

ensure that future developments are consistent with the growth objectives and goals of the community, subdivisions shall conform to the comprehensive development plan of the municipality, or any part thereof, and the official map, zoning ordinance and any other applicable ordinances of the municipality.

- (B) Each subdivision shall be designed in compliance with the standards of this section, unless an exception is granted in compliance with § 153.02.51 through § 153.02.55, Variance.

153.03.12 General Standards

(A) Monuments

- (1) Official permanent monuments shall be placed as required by M.S. § 505.021, as may be amended from time to time.
- (2) All monument markers shall be correctly in place upon final grading and installation of utilities.
- (3) The City will not issue building permits for a lot within a plat until monuments have been placed for that lot.
- (4) All United States, state, county or other official bench marks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position.

(B) Subdivision Names

The proposed name of the subdivision shall not duplicate or too closely approximate phonetically, the name of any other subdivision in the City or county. The City shall have final authority to designate the name of the subdivision.

(C) Street Names

Street names shall be named according to the municipality's street naming and numbering system, The Zoning Administrator shall have discretion to alter the City street naming system, when appropriate, in order to avoid confusion to the traveling public.

(D) Debris and Waste

- (1) No items and materials such as cut trees, diseased trees, timber, debris, earth, rocks, stones, soil, junk, rubbish or other waste materials of any kind shall be left or deposited in any area of the subdivision through the completion of the Development Agreement or dedication of public improvements, whichever occurs sooner.
- (2) No such items and materials as listed above shall be buried in any land, or left or deposited on any lot or street at the time of the issuance of a certificate of occupancy, and removal of those items and materials shall be required prior to issuance of any certificate of occupancy in a subdivision.

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153.03.13 Land Requirements

153.03.13 Land Requirements

- (A) Land shall be suited to the purpose for which it is to be subdivided. No Preliminary Plats shall be approved if the site is not suitable for purposes of the kind proposed by reason of potential flooding, topography or adverse earth or rock formation.
- (B) Land subject to hazards to life, health or property shall not be subdivided for residential purposes until all hazards have been eliminated or unless adequate safeguards against the hazards are provided by the Preliminary Plat.
- (C) Proposed subdivisions shall be coordinated with existing nearby municipalities or neighborhoods so that the community as a whole may develop harmoniously.

153.03.14 Wetland and Floodplain Areas

- (A) Where the subdivision of a lot or tract of land contains watercourse, floodable areas or wetlands the land shall, at the City's option, be:
 - (1) Dedicated to the City as a park, parkway, open space or other public use;
 - (2) Carried in a private easement in the individual deeds affected with no allowance for building construction therein;
 - (3) Developed in accordance with a plan setting forth provisions for sediment control, water management, maintenance of landscaped features and indicating any change that will be made in the natural condition of the earth and its effect, if any, upon watercourses, lakes, streams, wetlands and drainage ways.
- (B) The Planning and Zoning Commission and City Council shall review the option selected and approve or disapprove the dedication, private easement or development plan.
- (C) In no case shall land be subdivided which is deemed unsuitable by the City or the Commissioner of the State Department of Natural Resources for the proposed use because of flooding, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the City.

153.03.15 Construction Setback Requirements from Pipelines

- (A) Purpose.

The purpose of this section is to increase public safety by requiring that new development be set back from pipeline locations.
- (B) Applicability.

This section applies to new residential and other development. It does not apply to development that has occurred or for which development permits have been issued before the effective date of the ordinance codified in this section.
- (C) Setback.

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153.03.21 Blocks

Buildings and places of public assembly subject to this section shall not be constructed closer to the pipeline than the boundary of the pipeline easement.

(D) Variances.

Variance procedures adopted by the City under M.S. § 366.10 to § 366.19, § 394.21 to § 394.37, or § 462.351 to § 462.365, as may be amended from time to time, shall apply.

PART 2 BLOCKS AND LOTS

153.03.21 Blocks

The length, width and shape of blocks shall be determined with due regard to the following:

- (A) The provision of adequate building sites suitable to the particular need of the type of use contemplated;
- (B) Zoning requirements as to lot size and dimensions;
- (C) Needs for convenient access, circulation, control and safety of traffic;
- (D) Limitations and opportunities afforded by topography and other natural features; and
- (E) Block lengths shall not exceed 800 feet.

153.03.22 Lots

- (A) Lot dimensions shall conform to Chapter 154; every lot shall be sized to meet the minimum dimensions established by the zoning district and use-specific standards
 - (1) Every lot that meets these minimum standards shall be considered “buildable”
 - (2) Outlots that do not meet these standards may be proposed for common open space, stormwater or other utilities, private streets, or open areas set aside for future subdivision; outlots shall not be considered “buildable.”
- (B) The size, width, shape and orientation of lots and the building setback line shall be appropriate for the type of development and use contemplated.
- (C) Parcel remnants smaller in area than allowed by zoning are not allowed and must be made part of another lot.
- (D) Side lot lines shall be as near to right angles or radial to street lines as possible.
- (E) Every lot shall have street access for fire protection, utilities and other necessary services.
- (F) Lots shall not be so excessive in depth that they block desirable access to adjacent property. The Planning and Zoning Commission may require dedication of land for future streets in excessively deep lots.

PART 3 EASEMENTS AND UTILITIES

153.03.31 Easements

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153.03.32 Utilities

- (A) Easements for public utilities may be required by the Planning and Zoning Commission, Park Board, City Engineer and essential public utilities. Where the easements are determined to be necessary, they shall be provided along the rear and side lot lines and shall be a minimum of ten feet in width with a minimum five feet of the easement on each adjacent property being divided.
- (B) Where a watercourse, drainage way channel or stream traverses a subdivision, there shall be provided a storm water easement for drainage right-of-way conforming substantially with the lines of the watercourse. The width of any easement shall be adequate to provide for unobstructed flow of storm runoff based on calculations made for the 100-year return period runoff and to provide a freeboard allowance of 1/2 foot above the design water surface level. The terms of the easement shall prohibit excavation, the placing of fill or structures, and any alterations which may adversely affect the flow of stormwater within any portion of the easement. Also, the landowner shall provide periodic maintenance to ensure proper runoff conveyance. Watercourses for which the 100-year floodplain is formally defined are also subject to the applicable floodplain regulations.
 - (1) If it is deemed advisable by the City Engineer, the watercourse or drainage way may be re-established to conform with the proposed street pattern, in which case suitable storm drainage or retention facilities shall be installed as directed by the City Engineer.

153.03.32 Utilities

Where feasible, all utility service lines shall be placed underground and within easements or dedicated rights-of-way. All drainage and other utility installations which traverse privately-owned property shall be protected by proper easements and/or legal agreements.

153.03.33 Water Supply

- (A) Extensions of the public water supply system shall, when available, be designed so as to provide public water service to each lot.
- (B) Water supply for all areas shall be designed to meet regulations and recommended standards of the City and the State Department of Health. Where connection with a public water system is feasible, the public water facilities shall be utilized.
- (C) When the subdivision is located within the service area of a public water supply system, water mains not less than six inches in diameter shall be constructed throughout the entire subdivision in such a manner as to serve adequately all lots and tracts with connection to the public system together with shut-off valves and fire hydrants at intervals of not greater than 600 feet.

153.03.34 Sanitary Sewer

- (A) Extensions of the public sanitary sewer system shall, when available, be designed so as to provide sewer service to each lot.

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153.03.41 General Design

- (B) Sewerage for all subdivisions shall be designed to meet regulations and standards of the City and the State Pollution Control Agency. Where connection with a central sewer system is feasible, the central sewer facilities shall be utilized.

PART 4 STREET DESIGN

153.03.41 General Design

- (A) The street system of a proposed subdivision shall be designed to facilitate adequate traffic circulation within the subdivision and from the subdivision to adjacent areas.
- (B) Street arrangements, character, width, grade, location, sight distance and surface material shall be related to existing or planned streets, topography, convenience and safety and their intended ultimate function.

153.03.42 Streets by Type

(A) Arterial Streets

The arrangement of arterial streets in a subdivision shall conform to the official street map and provide for the continuation or projection of existing streets in adjacent areas; or conform to a plan approved by the Planning and Zoning Commission where topographic or other conditions make continuance or conformance to existing streets impracticable.

(B) Collector Streets

Collector streets shall be properly related to arterial streets and designed in a manner so as to supplement the arterial street system, but not serve in lieu thereof.

(C) Local Streets

Local streets shall be designed to benefit from the topography, to discourage through traffic and to provide the minimum amount of streets necessary for safe access to adjacent properties. The use of curvilinear and cul-de-sac streets may be allowed where necessary, but are to be discouraged.

(D) Frontage Road

Where the subdivision abuts upon, or contains an existing or proposed highway, major thoroughfare or railroad right-of-way, the Planning and Zoning Commission may require reverse frontage lots with appropriate screening/plantings in the non-access roads parallel to and on either side of the highway, major thoroughfare or railroad right-of-way providing access to adjacent properties and affording separation of through and local traffic.

(E) Alleys

- (1) Dead-end alleys are prohibited, except where natural or other features makes it impossible to avoid.

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153.03.42 Streets by Type

- (a) Where dead-end alleys are unavoidable, they shall be provided with adequate turnaround facilities at the dead-end as determined by the City Engineer.
- (2) Alleys shall not be permitted in any residential areas unless a secondary means of access to certain property is necessary due to topography or other exceptional circumstances.
- (F) Minimum Street Design Table

Streets shall be designed to meet the minimal standards established in the table below

Street Type	Rights- of- Way	Surface Width		Minimum horizontal curve radii	Minimum tangent between curves	Minimum grade	Maximum grade
		Curb and gutter	Open Ditch				
Arterial	80 feet	44 feet	48 feet	850 feet	200 feet	0.4%	5%
Collector	66 feet	36 feet	24 feet	400 feet	150 feet	0.4%	7%
Local street in Residential subdivision	66 feet	36 feet	24 feet	200 feet	100 feet	0.4%	10%
Local street in Commercial subdivision				100 feet	100 feet		7%
Local street in Industrial subdivision				400 feet	150 feet		5%
Alley	30 feet	20 feet	20 feet	200 feet	100 feet	0.4%	10%
Base and Pavement specifications: As specified by the City Engineer and City Council; in mixed use districts, use the most restrictive standard. Minimum standard shall be 4" Bituminous pavement, 8" Aggregate Base, 12" of Granular Base							

- (G) Cul-de-sacs
 - (1) Proposed streets designed to have one end permanently closed shall not exceed 400 feet in length, except where the City Engineer has approved additional length due to property limitations or large lot size.
 - (2) Cul-de-sac development is discouraged and will only be considered as an exception, such as due to topography.
 - (3) Turnarounds shall be provided at the permanently closed end of all streets and shall have a minimum right-of-way radius of 60 feet and a minimum radius of 48 feet to face of curb.

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153.03.43 Other Design Elements

- (4) For phased developments or any streets with a temporarily closed end, turnarounds shall be provided with a turning radius as determined by the City Fire Chief
- (H) Open Ditch Street Design
 - (1) In areas of the city where geographical and topographical characteristics exist that would not be economically or feasibly served by standard subdivision criteria, the city may allow or require larger, more spacious lots and allow or require these areas to be served by an "open-ditch" street design.
 - (2) The following improvements will be required for all open ditch street sections within the corporate limits of the city.
 - (a) Water and sanitary sewer services must be extended to a point equal to or beyond the top of ditch backslopes.
 - (b) Surface drainage facilities and appurtenances as required by the City Engineer. All driveway drainage structures must be designed to a Q50 standard. All public street drainage structures must be designed to a Q100 standard.
 - (c) Aggregate base as required by the City Engineer. Minimum standards are ten inches compacted base finished to a width of 28 feet.
 - (d) Roadway surface of bituminous or concrete. Minimum standards are four inches compacted with a total surfaced width of 24 feet.
 - (e) Ditch sections to be approved by the City Engineer. Minimum standards are two-foot ditch, six-foot wide bottom and inslope/backslope grade not greater than four to one.
 - (f) Seeding, mulching and sodding or other restoration as required by the City Engineer.

153.03.43 Other Design Elements

- (A) Intersections
 - (1) All streets shall intersect at right angles or as close thereto as possible.
 - (a) No street shall intersect another at an angle of less than 70 degrees.
 - (b) More than two streets intersecting at the same location shall be prohibited.
 - (c) Street jogs with centerline offsets shall be avoided.
 - (2) When the City Engineer finds it necessary for reason of safety and the protection of property, property lines at street intersections shall be rounded with a radius of 15 feet. The City Engineer may permit comparable cords in lieu of the rounded corners.

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153.03.51 Generally

(B) Walkways

- (1) All public walkways shall be constructed in conformance with Chapter 94 of the City Code.
- (2) Multi-Use Trails

All multi-use trails shall be constructed in accordance with the MnDOT Bicycle Facility Design Manual, current edition
(www.dot.state.mn.us/bike/bycle-facility-design-manual.html).

**PART 5 STORMWATER, SURFACE WATER, DRAINAGE, WATER QUALITY,
AND EROSION CONTROL**

153.03.51 Generally

- (A) The following improvements will be required for all new subdivisions within the corporate limits of the municipality and to the specifications as adopted by the City Council.
- (B) Where the provisions of state law or other City regulation or Ordinance set higher standards than those of this subchapter, the provisions of the laws, regulations or ordinances shall apply.

153.03.52 Stormwater

(A) General Requirements

- (1) All storm sewer improvements/construction shall be constructed in conformance with Chapters 52 and 53 of the City Code.
- (2) All development with the exception of the construction of a single family dwelling on an existing lot of record, shall incorporate adequate provisions for stormwater runoff consistent with the City of Kasson standard detail plates, engineering guidelines and this Chapter.
- (3) Drainage discharge shall be managed so post-development runoff is equal to or less than pre-development.
- (4) No stormwater runoff or natural drainage water shall be so diverted or directed as to overload existing drainage systems or create flooding or the need for additional drainage structures on other private properties or public lands without proper and approved provisions being made for avoiding these conditions.

(B) Calculation Methodology

- (1) A hydrograph method based on sound hydrologic theory shall be used to analyze runoff for the design or analysis of flows and water levels.
- (2) The design of any permanent stormwater treatment system intended to meet the requirements of this Chapter shall be verified by routing the design storm

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153.03.52 Stormwater

hydrograph through the proposed facility using the storage indication method or other methodology demonstrated to be more appropriate.

- (3) A stormwater report which includes pre and post development plans, routings, hydrographs and any calculations required to demonstrate compliance with this Chapter shall be submitted to the City for approval.
- (4) Runoff rates for proposed activities and development shall:
 - (a) Apply land cover conditions existing as of the effective date of this Ordinance as the baseline for existing conditions in runoff calculations.
 - (b) Post-Development runoff rates shall be less than or equal to Pre-Development rates for the 2-year, 10-year and 100-year design storms, unless otherwise permitted by the City Engineer.
 - (c) Atlas 14 precipitation data shall be utilized for Pre and Post development runoff computations, or as approved by the City Engineer. .
- (C) Permanent Stormwater Treatment System
 - (1) Current NPDES general construction permit requirements shall apply.
 - (2) Permanent stormwater treatment systems facilities shall be designed and constructed in accordance with the Minnesota Stormwater Manual current edition and current NPDES general permit requirements.
 - (a) All permanent stormwater treatment systems shall be designed with an emergency overflow to pass runoff in the event of a blocked outlet control structure.
 - (b) The emergency overflow shall be designed and constructed to prevent erosion to the spillway.
 - (3) Infiltration areas must be fenced or otherwise protected from disturbance before the land disturbing activity starts.
 - (4) Vegetation used in conjunction with infiltration systems must be tolerant of urban pollutants, and the range of soil moisture conditions anticipated.
- (D) Stormwater Collection and Conveyance System
 - (1) Stormwater collection and conveyance systems shall be designed to convey the 10-year design storm.
 - (2) Permitted gutter flow width shall be determined based on the required roadway in conjunction with providing a 12 foot unobstructed travel lane for emergency vehicles. Swales shall be designed to convey the 100-year design storm.
- (E) Stormwater collection and conveyance systems shall be designed to safely pass the 100-year design storm.

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153.03.53 Soil Erosion and Sedimentation Control

- (F) Culverts, natural drainageways or other conveyance facilities shall be sized to accommodate the potential runoff from its entire developed upstream drainage area.

153.03.53 Soil Erosion and Sedimentation Control

The following management practices shall be applied to all development and earth moving activities:

- (A) All development shall conform to the natural limitations presented by the topography and soil in order to create the best potential for preventing soil erosion.
- (B) All required erosion and sedimentation control best management practices shall be installed prior to the start of any earthmoving activities.
- (C) Best management practices for erosion control and sediment control shall be applied to each development/construction site.
- (D) Development on slopes with grades greater than 12 percent shall be carefully reviewed to ensure that adequate measures have been taken to prevent erosion, sedimentation and structural damage.
- (E) For phase construction erosion and sediment control measures shall be coordinated between separate stages of development
- (F) Final plant covering or permanent surface treatment shall be installed as soon as possible after completion of final grading.
- (G) 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 lands shall be exposed at any one period of time and no exposure shall exceed 60 days unless extended by the Council.
- (H) Where the topsoil is removed, sufficient arable soil shall be set aside for re-spreading over the developed area. The topsoil shall be restored to a depth of four inches and shall be of a quality at least equal to the soil quality prior to development.
- (I) The natural drainage system shall be used, as far as feasible for storage and flow of runoff except that no storm water drainage shall be discharged to marshlands, swamps or wetlands. Storm water drainage shall be discharged to retention basins or other treatment facilities. Temporary storage areas or retention basins scattered throughout developed areas shall be encouraged to reduce peak flow, erosion damage and construction cost.
- (J) Public and private properties adjacent to the development site shall be protected from the effects of sedimentation. Any violations of this provision must be corrected by the owner to the satisfaction of the City within five days of receiving notification of such. If the violation is not remedied within the time period specified, the City may correct the problem and assess the costs incurred to the property owner.

153.03.54 Exposed Slopes

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CHAPTER 153 SUBDIVISIONS

153.03.55 Preservation of Natural Drainageways

The following control measures shall be taken to control erosion during construction:

- (A) No exposed slopes should be steeper in grade than one foot vertical for every four feet horizontal.
- (B) At the foot of each exposed slope, a channel and berm should be constructed to control runoff. The channelized water should be diverted to a sedimentation basin (debris basin, silt basin or silt trap) before being allowed to enter the natural drainage system.
- (C) Along the top of each exposed slope, a berm should be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind the berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. The measures should consist of either an asphalt paved flow apron and drop chute laid down the slope or a flexible slope drain. At the base of the slope drain or flow apron, a gravel energy dissipater should be installed to prevent erosion at the discharge end.
- (D) Exposed slopes shall be stabilized based on degree of the slope, soils material and expected length of exposure.
- (E) Control measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated that they will as effectively protect exposed slopes.

153.03.55 Preservation of Natural Drainageways

- (A) Waterways.
 - (1) Every effort shall be made to retain the natural drainage systems in the City including existing wetlands and ponds. Aboveground runoff disposal waterways may be constructed to augment the natural drainage system.
 - (2) The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten-year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.
 - (3) No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.
 - (4) The banks of the waterway shall be protected with permanent vegetation.
 - (5) The banks of the waterway shall not exceed one foot vertical for every four feet horizontal in gradient.
 - (6) The gradient of the waterway bed shall not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.
 - (7) The bend of the waterway shall be protected with turf, sod or other City Engineer approved materials.

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153.04.11 Purpose

- (8) If the flow velocity in the waterway is such that erosion of the turf side wall will occur and the velocity cannot be decreased via velocity control structures, then other City Engineer approved materials may replace turf on the side walls. Either gravel or riprap would be allowed to prevent erosion at these points.
- (B) Sediment control of waterways.
 - (1) To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures shall be incorporated throughout the contributing watershed.
 - (2) Temporary pervious sediment traps could consist of a construction of bales of hay with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. The structures would serve as temporary sediment control features during the construction state of development. Development of housing and other structures shall be restricted from the area on either side of the waterway required to channel a 25-year storm.
 - (3) Permanent impervious sediment control structures consist of sediment basins (debris basins, de-silting basins or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.

ARTICLE 04 LAND DEDICATION

PART 1 GENERAL STANDARDS

153.04.11 Purpose

The provisions of this section are intended by the City to be an exercise of the authority granted pursuant to M.S. § 462.358, Subd. 2(b), as may be amended from time to time, to require that a reasonable portion of any proposed subdivision of residential lands within the City be dedicated to the public or preserved as community parks, playgrounds or open space; or that a reasonable cash payment be received from the subdivider in lieu thereof in order to facilitate development of similar facilities.

153.04.12 Scope

- (A) The provisions of this section shall apply for a subdivision or resubdivision (where the resubdivision causes an increased demand on parks) of lands that are:
 - (1) classified pursuant to this code as being located in a residential zoning district; or,
 - (2) classified as being in a nonresidential district at the time of the application, but are intended to be developed following their subdivision in a manner requiring their designation as a residential zoning district; or,
 - (3) used for high density housing units that are permitted by other means such as conditional use permits; or,

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153.04.13 Minimum Amount of Dedication

- (4) zoned or platted for housing developments consisting of three or more units.
- (B) Upon consideration of the particular type of development proposed in the subdivision, and especially in large scale neighborhood unit developments, the City may require the dedication or reservation of areas of sites suitable to the needs created by the development for schools, parks, trails and other neighborhood purposes as may be described as future goals within the Comprehensive Plan.
- (C) Reservation of future park land
 - (1) At the discretion of the City Council, upon recommendation of the Planning and Zoning Commission, a subdivider may dedicate more land than would be required by the formulas established by this Chapter and receive a written credit against future park land dedication requirements.
 - (2) The credit shall attach to the relieved land and remain with the relieved land, regardless of change in ownership thereof.
- (D) Subdivision changes.

In the event a subdivider deviates from the approved Preliminary Plat in a Final Plat, or replats property already platted, or where the use of property is changed from a nonresidential use to a residential use, the owner or subdivider shall be obligated to provide additional land or fee to compensate for the increased demand on the park system.
- (E) Final platting of a portion of an approved Preliminary Plat
 - (1) Whenever a subdivider applies for approval of a Final Plat which contains only a portion of the land encompassed in the approved Preliminary Plat, the subdivider shall be responsible for making a dedication of park land or financial contribution as required, which is proportional to the area of the Final Plat.
 - (2) The conditions of the allowances shall be in the form and manner prescribed and approved by the county.
- (F) Multi-plat developments
 - (1) At the sole discretion of the Council, the City may enter into an agreement with the applicant for a development containing multiple plats concerning the timing and sequence of park land dedication.
 - (2) Notwithstanding any provision in this Chapter to the contrary, the multiple plat agreement shall determine the time when the required park land dedication for multiple plat developments shall occur.

153.04.13 Minimum Amount of Dedication

- (A) The City shall establish by Ordinance the monetary value of the park land dedication.

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153.04.14 Marketability of Title

- (1) This fee shall be periodically reviewed by the Planning and Zoning Commission, Park Board and City Council.
 - (2) The fee shall be paid prior to recording the Final Plat of the subdivision.
 - (3) All payments collected shall be placed in the appropriate park acquisition and development fund established for the City.
- (B) The City Council shall reserve the right to negotiate independently with any property owner in the community to acquire land(s) to be used for community parks. The monetary dedications from any or all subdivisions can be used for these acquisitions or to expand existing facilities.
- (C) The City reserves the right to acquire lands within a subdivision, in accordance with the comprehensive land use plan, at the time of platting for a future park or an addition to an existing park. These lands can be donated by the owner as a credit against current or future dedication requirements.
- (D) Following dedication of lands as provided herein, no person shall remove trees, vegetation or topsoil therefrom, nor shall the lands be used for the purpose of stockpiling of earth or construction material, without written permission from the City.

153.04.14 Marketability of Title

- (A) Generally
 - (1) Prior to the dedication, a person proposing to subdivide the land shall deliver to the City Attorney for examination an up to date abstract of title or registered property certificate for examination, or a title opinion by a person licensed to practice law in the state.
 - (2) If the examination of title by the City Attorney, or the title opinion indicated that title is not marketable, no subdivision of the land shall occur until such steps are taken by the subdivider to permit marketable title to be conveyed to the City by dedication upon the lands' subdivision or by a subsequent separate conveyance.
- (B) Exceptions
 - (1) The title to lands proposed to be subdivided shall not be deemed unmarketable pursuant to this section by virtue of the fact that a mortgage or other equitable interest in the lands is held by a person other than the subdivider; or that the lands are subject to the lien of a special assessment.
 - (2) Provided that, any conveyance or other act of the subdivider which thereafter conveys to the City title to the lands dedicated shall be free and clear of any equitable interest or mortgage.
- (C) Special assessments; real estate taxes

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153.04.14 Marketability of Title

- (1) The City shall be responsible for the payment of any future special assessments levied on the lands dedicated pursuant to this section.
- (2) Payment of real estate taxes payable on the land dedicated in the year of dedication shall be prorated between the City and the person subdividing the property.

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154.01.11 Title

CHAPTER 154 ZONING

ARTICLE 01 GENERAL PROVISIONS

PART 1 TITLE AND AUTHORITY

154.01.11 Title

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

154.01.12 Authority

Pursuant to the authority conferred by M.S. § 462.357, Laws of 1965, as may be amended from time to time, this Chapter is enacted.

154.01.13 Intent and Purpose

The intent of this Chapter is to:

- (A) Protect the public health, safety and general welfare of the community and people in the city;
- (B) Promote orderly development and redevelopment;
- (C) Promote, protect and conserve the character and preserve and enhance the stability of properties and areas within the city;
- (D) Prevent overcrowding of land and undue concentrations of structures by regulating land, buildings, yards and density of population;
- (E) Provide adequate light, air and convenience of access to property;
- (F) Prevent congestion in the public right-of-way;
- (G) Provide for compatibility of different land uses;
- (H) Protect against fire, explosion, noxious fumes and pollution of the environment;
- (I) Promote a visually pleasing environment throughout the community;
- (J) Provide for administration of this Chapter;
- (K) Provide for amendments; and
- (L) Prescribe penalties for violation of regulations.

154.01.14 Jurisdiction and Compliance

(A) Jurisdiction

The jurisdiction of this Chapter shall apply to all structures, lands, water and air within the corporate limits of the City of Kasson.

(B) Compliance

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154.01.15 Abrogation and Greater Restrictions

No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a proper zoning permit and full compliance with the provisions of this Chapter and all other applicable local, county and state regulations.

154.01.15 Abrogation and Greater Restrictions

It is not intended by this Chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, whenever this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.

154.01.16 Severability and Non Liability

- (A) If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.
- (B) If any application of this Chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.
- (C) The City does not guarantee, warrant or represent that only those areas designated as flood lands will be subject to periodic inundation and hereby asserts that there is no liability on the part of the City of Kasson, its agencies or employees for any flood damages, sanitation problems or structural damages that may occur as a result of reliance upon and conformance with this Chapter.

154.01.17 Relief from Personal Responsibility

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

PART 2 INTERPRETATION

154.01.21 General Application

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154.01.22 Relationship to the Comprehensive Plan

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be construed to be a limitation or repeal of any other power now possessed by the City of Kasson.

154.01.22 Relationship to the Comprehensive Plan

The regulations established herein are derived from and established in accordance with the City of Kasson Comprehensive Plan. This Title provides regulations to implement the goals, objectives, policies and recommendations of the City of Kasson Comprehensive Plan. References to the contents of the City of Kasson Comprehensive Plan are contained herein.

154.01.23 Repeal, Effective Date, and Transition Standards

(A) All other Ordinances or parts of Ordinances of the City inconsistent or conflicting with this Chapter, to the extent of the inconsistency or conflict only, are hereby repealed.

(B) Permits

The provisions of this Chapter shall apply to all permits filed on or after [MONTH DAY, 2020]. Permit applications on file before [MONTH DAY, 2020] shall be reviewed for compliance with the Title effective at the time of filing.

154.01.24 Conflicting Regulations or Provisions

(A) In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements. Wherever the Chapter imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of the Chapter shall govern except as otherwise provided in State Statutes or Rules.

(B) Where the provisions of state law or other City regulation or ordinance set higher standards than those of this Chapter, the provisions of the laws, regulations or ordinances shall apply.

154.01.25 Use of Graphics, Illustrations, Figures, Photos, and Cross-References

(A) Graphics, illustrations, figures, and photos are provided for illustrative purposes only and shall not be construed as regulations. Where a conflict may occur between the text and any graphic, illustration, figure, or photo, the text shall control.

(B) In some instances, cross-references between chapters, articles, parts, sections, and subsections are provided that include the chapter, division, section or subsection number along with the name of the reference. Where a conflict may occur between the given cross-reference number and name, the name shall control.

154.01.26 Nonconformities

(A) Purpose

(1) The purpose of this section is to provide for the regulation of nonconforming buildings, structures and uses and to specify those requirements, circumstances

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154.01.26 Nonconformities

and conditions under which nonconforming buildings, structures and uses will be operated and maintained.

(2) This Chapter establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that nonconforming buildings, structures and uses not be permitted to continue without restriction.

(3) Furthermore, it is the intent of this Chapter that all nonconforming uses shall be eventually brought into conformity.

(B) Continuation

Any structure or use lawfully existing upon the effective date of this Chapter shall not be enlarged, but may be continued at the size and in the manner of operation existing upon the date, except as hereinafter specified, or subsequently amended.

(C) Extension

A nonconforming structure or use may be improved; provided, no structural alterations or changes are made therein, except those required by law or ordinance or such as may be required for safety or such as may be necessary to secure or ensure the continued advantageous use of the building during its natural life.

(D) Maintenance of building or structure

Normal maintenance of a building or structure containing or related to a lawful nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not physically extend or intensify the nonconforming use.

(E) Damage to

(1) Any nonconforming building or structure damaged more than 50 percent of its then appraised value, exclusive of foundations at the time of damage by fire, collapse, explosion or acts of God or public enemy, shall not be restored or reconstructed and used as before the happening.

(2) If less than 50 percent damaged above the foundation, it may be restored, reconstructed or used as before; provided that:

(a) it is done within 12 months of the happening; and

(b) it be built of like or similar materials, or the architectural design and building materials are approved by the Planning and Zoning Commission.

(3) The extent of damage or destruction shall be the mean of a value of damage determined by the Building Official and the insurance agent. Each shall submit a statement of the value of damage to the City.

(F) Change in use

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154.01.31 Established

- (1) A nonconforming use cannot be changed to a comparable nonconforming use.
 - (2) Whenever a nonconforming use has been changed to a conforming use, it shall not thereafter be changed to a nonconforming use.
 - (3)
- (G) Discontinuance

In the event that a nonconforming use of any building, structure or land is discontinued for a period of one year, any future use of the building, structure or land shall be made to conform with the provisions of this Chapter.
- (H) Land

The nonconforming lawful use of land where a structure thereon is now so employed or existing at the time that this Chapter becomes effective may be continued provided:

 - (1) The nonconforming use of land shall not, in any way, be expanded, extended or intensified either on the same or adjoining property; and
 - (2) If the nonconforming use of land, existing at the time this Chapter became effective, is thereafter discontinued or changed, then the future use of the land shall be in conformity with the provisions of this Chapter.
- (I) Zone changes

The foregoing provisions relative to nonconforming uses shall apply to structures, buildings, land and uses which hereafter become nonconforming due to classification or reclassification of districts under this Chapter.

PART 3 OFFICIAL MAP

154.01.31 Established

- (A) The City of Kasson is hereby divided into Zoning Districts as shown upon a map designated as the Official Zoning Map of the City of Kasson, as may be updated periodically and all applicable amendments thereto and made a part of this Chapter.
- (B) The Official Zoning Map and all the notations, references and other information shown thereon are a part of this Zoning Ordinance and shall have the same force and effect as if the matters and information set forth by said map were fully described herein.
- (C) The Official Zoning Map shall be properly attested and kept on file along with the text of the Official Zoning Ordinance in the office of the City Clerk of the City of Kasson.

154.01.32 Map Interpretation

- (A) Except where referenced on the zoning map to lot lines or other designated lines by dimensions shown on the map, the district boundary lines follow the centerline of railroad right-of-way, streets, alleys, lakes or rivers as they existed at the time of the adoption of this Chapter.

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154.01.32 Map Interpretation

- (B) Questions concerning district boundary lines as shown on the zoning map shall be decided by the City Council after recommendation by the Planning and Zoning Commission.
- (C) Vacation of Streets and Alleys
 - (1) Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
 - (2) Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the vacated area shall not be affected by the procedure.
- (D) Annexations

Annexations to or consolidations with the City subsequent to the effective date of this Chapter shall be placed in the D-H Development Holding District at the time of annexation, unless the Annexation Ordinance places the land in another district, in accordance with the Comprehensive Plan.

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CHAPTER 154 ZONING

154.02.11 General Administration System

ARTICLE 02 ADMINISTRATION AND ENFORCEMENT

PART 1 ADMINISTRATION

154.02.11 General Administration System

The provisions of this Chapter shall be administered by the City Zoning Administrator, who shall be appointed by the City Council, or by an authorized representative of the Zoning Administrator.

154.02.12 Zoning Administrator

The Zoning Administrator shall enforce this Chapter and shall perform the following duties:

- (A) Issue permits related to Land Use and Zoning and maintain record thereof;
- (B) Conduct inspections of land uses and site features such as structures, impervious surfaces, and fences to determine compliance with the terms of this Chapter;
- (C) Maintain permanent and current records of this Chapter, including, but not limited to: maps, amendments, conditional uses, variances, appeals and applications therefor;
- (D) Examine applications to amend this Chapter and/or the Official Zoning Map, applications for conditional use permits and variance requests;
- (E) Examine site plans required for land use or zoning applications, including any proposed construction, alteration, repair, and enlargement of structures, and examine proposed uses for compliance with the provisions of this Chapter and endorse thereon the date of approval;
- (F) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334, as may be amended from time to time; and
- (G) Provide notification to applicants the approval or denial of their land use or zoning request.

154.02.13 Roles of Specific City Bodies in Zoning Administration

- (A) Planning and Zoning Commission
 - (1) The Planning and Zoning Commission shall provide assistance to the City Council and Zoning Administrator in the administration of this Chapter and the recommendation of the Planning and Zoning Commission shall be advisory in nature. Specifically, the Planning and Zoning Commission shall review, hold public hearings and make recommendations to the Council on all applications for zoning amendments, variances and conditional use permits using the criteria in this Chapter.
 - (2) The Planning and Zoning Commission shall periodically prepare and file with the City Council a report on the operations of this Chapter, as amended, including,

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when necessary, recommendations as to the enactment of amendments or supplements thereto.

(B) City Council

The City Council, the governing body of the City, taking into consideration the recommendations by the Planning and Zoning Commission, has ultimate authority to:

- (1) Make changes and amendments in zoning districts, the zoning map and supplementary floodplain zoning map, and to amend the text of this Chapter.
- (2) Make decisions on the approval of Conditional Use Permits.
- (3) Serve as the Board of Adjustment and Appeals to make decisions on the approval of Variances.

(C) Board of Adjustments and Appeals

- (1) A Board of Adjustments and Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this Chapter.
- (2) The City Council shall serve as a Board of Adjustment and Appeals. The Board shall have the powers and duties as set forth in M.S. § 462.357, Subd. 6, and § 462.359, Subd. 4, as may be amended from time to time.
- (3) The Board of Adjustments and Appeals shall have the power to vary or adapt the strict application of any of the requirements of this Chapter in exceptional cases where strict application would result in practical difficulty depriving the owner of the reasonable use of his or her land or building involved, but in no other uses except as specifically described.

PART 2 PROCEDURES

154.02.21 General Provisions

(A) Applicability

The requirements of this Chapter shall apply to all land use and zoning applications and procedures subject to review under this Chapter unless otherwise stated.

(B) Permits Required

Property owners or their agents shall obtain all required local, state, and federal permits prior to initiating any activities on their site.

(C) Authority to File Applications

- (1) Land use and zoning applications for an individual property may be initiated by:
 - (a) The owner of the property that is the subject of the application; or

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- (b) An agent authorized by the owner of the property that is the subject of the application, which may include a lessee of the property. Evidence of such authorization shall be the signature of the property owner.
 - (c) If the property subject to an application is under more than one ownership, all owners or their authorized agents shall join in filing the application.
 - (2) The Planning and Zoning Commission and City Council may initiate text and map amendments to this Chapter. If the subject of the amendment is a specific site or project, the Planning and Zoning Commission or City Council may initiate amendments with or without application from the owner.
- (D) Pre-application Meetings

A pre-application meeting is an informal discussion between a potential applicant and City staff regarding a possible project subject to this Chapter. The Zoning Administrator shall determine which City staff shall attend the pre-application meeting.

 - (1) The purpose of the pre-application meeting is to assist the applicant in identifying the type of approvals needed, the potential review criteria, and the information to be contained in the application(s).
 - (2) Discussions that occur during pre-application meetings are not binding on the City and do not constitute official assurances or representations on the City.
 - (3) Pre-application meetings are required or recommended based on application type.
- (E) Application Materials and Fees
 - (1) Each application for a permit or approval, or for an amendment of a permit or approval, shall include all those application materials listed in the “Criteria for Complete Submittal” subsection of each land use and zoning application described in § 154.02.22 through § 154.02.27.
 - (2) The City may reject an application not meeting the requirements of this Chapter or where the required fee or escrow has not been paid.
 - (3) Fees
 - (a) To defray administrative costs of processing of requests for variances, conditional uses and amendments to the official zoning map and text of this Chapter a base fee shall be paid by all applicants. The fee shall be set by ordinance of the City Council, as it may be amended from time to time.
 - (b) In order to defray the additional cost of processing applications (amendment, conditional use, variance, appeal) for development, all applicants shall pay the total cost of all materials for the request.
 - (i) Materials shall include, but not be limited to maps, graphs, charts, drawings and the like and all printing or reproduction of such materials.

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- (c) Fees shall be payable at the time applications are filed with the Zoning Administrator.
 - (i) No application shall be processed until the established fee has been paid.
 - (ii) A deposit to cover special materials will be established and required by the Zoning Administrator at the time the base fee is paid, if necessary.
- (F) Coordination of Applications
 - (1) Depending on the requirements of this Chapter, multiple applications may be required.
 - (2) The Zoning Administrator shall determine the order of application review based on the City Code, including this Chapter, and state requirements. Where possible, applications will be reviewed in tandem.
- (G) Technical Assistance

In making its decision, the City may determine that technical assistance is needed. The City may request assistance from any source that is qualified to provide it. The applicant shall be responsible for the cost of such technical assistance.
- (H) Withdrawal of any Applications
 - (1) Any request for withdrawal of an application shall be submitted in writing to the Zoning Administrator.
 - (2) In all cases where the applicant has requested withdrawal of an application, the associated fee paid and any costs incurred by the City in the processing of an application shall not be refunded.
- (I) 60-Day Rule
 - (1) In compliance with M.S. § 15.99, as may be amended from time to time, the City shall take action to approve or deny applications for conditional use permit, variances, and zoning amendments within 60 days of receiving a completed application.
 - (2) If the City cannot take action to approve or deny the application within 60 days of receiving the completed application, the City may extend the timeline for taking action before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification shall state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant in writing.
- (J) Public Hearing

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For all land use and zoning procedures which require a public hearing, the following shall apply:

- (1) Notice of the public hearing shall be published in the official newspaper of the municipality at least ten days prior to the date of the hearing.
- (2) The notice shall also be mailed not less than ten days to all property owners of record according to the county assessment records within 350 feet of the property.
- (3) A copy of the notice and list of the individuals and/or property owners and addresses to which the notices were sent shall be attested to by the Zoning Administrator and made part of official record. 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 Chapter has been made.
- (4) Each required notice shall include the following information:
 - (a) The name of the applicant.
 - (b) The address, property identification number, or other method of clearly identifying the property.
 - (c) The type of approval being sought.
 - (d) Contact information where additional information can be obtained.
 - (e) Date, time, and location of the public hearing.
 - (f) Right and procedure to receive notice of any appeal.
- (5) In the case of an appeal, mailed notice shall also be provided to any interested parties who have notified the City in writing that they would like to receive notice of the appeal.
- (6) If the application pertains to land within the Floodplain Management Overlay District under local management control, a copy of the application and notice of hearing shall be provided to the Minnesota Department of Natural Resources (DNR). The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(K) Notification of Decision

The Zoning Administrator shall provide notification to applicants the approval or denial of their land use or zoning request; if the request is denied, the Zoning Administrator shall notify the applicant in writing stating the reason for denial.

(L) Resubmittal of Denied Application

No land use or zoning application which has been denied wholly or in part may be resubmitted for at least one year from the date of its denial, unless substantial changes

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154.02.22 Site Plan Review

have been made which warrant reconsideration, as determined by the Zoning Administrator.

(M) Appeals

- (1) Appeals shall be taken within such time as shall be prescribed by the Board of Adjustments and Appeals by general rule, by filing with the Board a notice of appeal specifying the grounds thereon.
- (2) The Board shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the appellant and to the Planning and Zoning Commission and shall decide the same within a reasonable time.
- (3) The Board of Adjustments and Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination, as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer, commission or Council, from whom the appeal was taken and may issue or correct the issuance of a permit or take such other action as may be called for by the procedure in question.
- (4) The reason for the Board's decision shall be stated in writing.
- (5) Any person having an interest affected by the decision shall have the right to appeal to the District Court for the county.

154.02.22 Site Plan Review

(A) Applicability

- (1) Site Plan Review approval shall be required for all site alterations, construction, and change of uses for residential properties with three or more units and any non-residential properties.
- (2) This review may be part of a building permit approval process, or may be for land use and zoning activities not requiring a building permit, such as installation of fences and construction of impervious surfaces on a property.

(B) Pre-Application Meeting

A pre-application meeting pursuant to § 154.02.21(D) is recommended prior to submitting a Site Plan Review application.

(C) Submittal

- (1) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the Council, for processing the Site Plan Review application.

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- (2) The Zoning Administrator shall review the application and within 15 business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.
- (3) Criteria for Complete Submittal

No submittal to the City shall be considered complete without receipt of the following:

 - (a) A completed application form;
 - (b) Evidence of ownership or enforceable option on the property;
 - (c) A survey/site plan, to-scale, of the property, with the following:
 - (i) Property boundary.
 - (ii) Locations and dimensions of existing features, such as structures, impervious surfaces, fences/retaining walls, waterbodies and wetlands.
 - (iii) Locations and dimensions of proposed features, such as structures, impervious surfaces, fences/retaining walls, refuse storage areas.
 - (d) Additional elements, as may be required depending on the site and proposed use. These may be included within the site plan or as separate plan documents:
 - (i) Grading and drainage plan showing existing and proposed topography at two-foot contours.
 - (ii) Parking, Loading, and Circulation Plan.
 - (iii) Screening and Bufferyard Landscaping Plan.
 - (iv) Utility Plan.
- (D) Review Process
 - (1) Review and Decision
 - (a) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall review the application for compliance with the applicable zoning standards of this Chapter and shall have the authority to approve or deny the application.
 - (b) Before granting any site approval, the Zoning Administrator may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the Director of Public Works or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities.

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(2) Criteria for Review

In reviewing the application and materials for approval, the Zoning Administrator shall consider the following:

- (a) Compliance with the zoning standards of the base zoning district and any special district, including but not limited to: lot size, setbacks, building height, and impervious surface coverage.
- (b) Compliance with applicable use-specific standards, as detailed in Article 06 of this Chapter, Use Specific Standards.
- (c) Compliance with development standards, as detailed in Article 04 of this Chapter, which include, but are not limited to: general performance standards, parking, loading, and circulation standards, and screening and bufferyard landscaping standards.

(E) Issuance of Decision

(1) Notification

Upon decision of approval of the Site Plan Review application, the Zoning Administrator shall notify the applicant of approval and that the proposed activity may commence.

- (a) If the Site Plan Review be part of a building permit application process, commencement of proposed activity shall not be permitted until both the Site Plan Review and building permit are fully approved.
- (b) Should the decision of the Zoning Administrator be denial of the application, the Zoning Administrator shall provide the applicant reason for denial in writing.

(2) Recording

The City shall maintain a record of all approved Site Plan Review applications including a copy of the application, materials, review dates and such other information as may be appropriate. A record of applications which were not approved shall also be maintained for record keeping purposes.

- (a) If the Site Plan Review is for a use with use-specific standards, as listed within Article 06 of this Chapter, those standards and the application's compliance with those standards shall be included within the record maintained by the City.

(3) Effect of Approval

- (a) Approval of a Site plan review application shall expire in 12 months unless substantial work has commenced, or in 24 months after approval if the structure for which the Site Plan Review has been approved is not

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substantially completed. In the event of expiration, the applicant shall reapply for a Site Plan Review before commencing work on the structure.

- (b) Should the use of the property change or circumstances of the site differ from the approved Site Plan Review, including compliance with the use-specific standards listed in Article 06 of this Chapter, the approval shall no longer be considered upheld and the Zoning Administrator shall proceed through enforcement actions as described in §154.02.31 through §154.02.35.

154.02.23 Conditional Use Permits

(A) Applicability

The purpose of a Conditional Use Permit is to permit a use that would not be appropriate generally, but may be allowed with appropriate restrictions upon finding that:

- (1) Certain conditions as detailed in this Chapter exist;
- (2) The use or development conforms to the Comprehensive Plan; and
- (3) Is compatible with the existing area.

(B) Pre-Application Meeting

A pre-application meeting pursuant to § 154.02.21(D) is required prior to submitting a Conditional Use Permit application.

(C) Submittal

- (1) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the City Council, for processing the conditional use application.
- (2) The Zoning Administrator shall review the application and within 15 business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.

(3) Criteria for Complete Submittal

No submittal to the City shall be considered complete without receipt of the following:

- (a) A completed application form;
- (b) An accurate boundary description of the property;
- (c) Evidence of ownership or enforceable option on the property;
- (d) A development plan of the property showing the existing or proposed buildings, streets, access roads, driveways, parking spaces and signs;
- (e) Landscaping and screening plans; and

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- (f) Any submittal materials pertaining to a Site Plan Review, as listed in § 154.02.22, as may be required at the discretion of the Zoning Administrator.
- (g) Any additional information deemed necessary by the Zoning Administrator to determine the suitability of the particular site for the proposed use.

(D) Review Process

(1) Application Distributed

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

(2) Hearing on Application

- (a) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with § 154.02.21(J)
- (b) The Planning and Zoning Commission shall hold the public hearing and may table the application if necessary to study the application to determine possible adverse effects of the proposed conditional use and determine what additional requirements may be necessary to reduce any adverse effects.

(3) Review and Decision

- (a) Upon the conclusion of the public hearing, the Planning and Zoning Commission shall recommend to the City Council either approval of the Conditional Use Permit, approval of the Conditional Use Permit subject to amended or conditions, or denial of the Conditional Use Permit.
- (b) The City Council shall act upon the application within 30 days after receiving the recommendation of the Planning and Zoning Commission.

(4) Criteria for Review

- (a) In making the determination, whether or not the conditional use is to be allowed, the City Council shall consider:
 - (i) The effects of the proposed use on the Comprehensive Plan; and
 - (ii) The effects of the proposed use upon the health, safety and general welfare of occupants of surrounding lands.
- (b) Among other things, the City Council shall make the following findings where applicable:
 - (i) The proposed conditional use meets all of the applicable use-specific standards listed within Article 06 of this Chapter.

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- (ii) The use is not in conflict with the Comprehensive Plan of the City.
 - (iii) The use is consistent with the purpose of this Chapter and the purposes of the zoning district in which the applicant intends to locate the proposed use.
 - (iv) The use will not cause traffic hazards and the traffic generated by the proposed use can be safely accommodated on existing or planned street systems; and the existing public roads providing access to the site will not need to be upgraded or improved by the City in order to handle the additional traffic generated by the use.
 - (v) Adequate measures have been taken or are proposed to prevent or control offensive odor, fumes, dust, noise, vibration or lighting which would otherwise disturb the use of neighboring property.
 - (vi) Adequate utilities, parking, drainage and other necessary facilities will be provided.
 - (vii) The proposed use will not impede the normal and orderly development or improvements of the surrounding property.
 - (viii) The proposed use will not be injurious to the use and enjoyment of other property in the neighborhood and will not significantly diminish or impair the values of the property.
 - (ix) The use will not disrupt the character of the neighborhood.
 - (x) The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.
- (c) Additional conditions.

In permitting a new conditional use or in the amendment of an existing conditional use, the City may impose, in addition to the standards and requirements expressly specified by this Chapter, additional conditions which the City considers necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

- (i) Increasing the required yard setback dimension;
- (ii) Limiting the height, size or location of the buildings;
- (iii) Controlling the location and number of vehicle access points;
- (iv) Increasing the street width;
- (v) Increasing the number of required off-street parking spaces;
- (vi) Limiting the number, size, location or lighting of signs;

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- (vii) Requiring diking, fencing, screening, berming, landscaping or other facilities to protect adjacent or nearby property;
 - (viii) Designating sites for open space; and
 - (ix) Limiting the hours of operation.
- (E) Issuance of Approval
 - (1) Recording
 - (a) The City shall maintain a record of all conditional use permits issued including information on the use, location and conditions imposed by the City; time limits, review dates and such other information as may be appropriate. A record of applications which were not approved shall also be maintained for record keeping purposes.
 - (b) All CUPs shall be issued pursuant to M.S. § 462.3595 as may be amended from time to time and a certified copy of any conditional use permit shall be recorded with the county recorder along with a legal description of the property subject to the CUP.
 - (2) Effect of Approval
 - (a) If a conditional use permit is approved or approved with additional conditions, all future use of the land and structures erected on the land pursuant to the permit shall comply with its terms and conditions.
 - (b) Revocation
 - (i) The City may call for the revocation a conditional use permit when it finds that at least one of the following circumstances exists:
 - a. Where a conditional use permit has been issued and no work thereon has commenced, or the use has not yet commenced, within 12 months of the date of granting the conditional use permit.
 - b. In the event that the applicant violates any of the conditions set forth in the conditional use permit.
 - (ii) Should revocation of a conditional use permit be called for, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with § 154.02.21(J).
 - (iii) The public hearing shall be held by the Planning and Zoning Commission. If the Planning and Zoning Commission finds that the continuation of the conditional use is in violation of this Chapter, the Planning and Zoning Commission shall recommend the City Council revoke the conditional use permit.

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154.02.24 Variances

- (iv) The City Council shall act upon the recommendation of the Planning and Zoning Commission within 30 days of receiving the recommendation. The Zoning Administrator shall, in writing, inform the individual or party in question of the action of the Council and shall enforce the action taken.

154.02.24 Variances

(A) Applicability

The City Council, in its capacity as the Board of Adjustments and Appeals and consistent with the authority granted by law, may grant a property owner a Variance from compliance with the literal provisions of the zoning code in an instance where strict enforcement would cause practical difficulties to the individual property owner, and when it can be demonstrated that such action will be in keeping with the spirit and intent of the code.

(B) Practical Difficulty

- (1) "Practical Difficulty" as used in connection with the granting of a Variance shall include all the following:
 - (a) The property owner proposes to use the property in a reasonable manner that is not otherwise not permitted by an official control;
 - (b) The plight of the property owner is due to circumstances unique to the property, not created by the property owner;
 - (c) The Variance, if granted, will not alter the essential character of the locality;
 - (d) The need for the Variance involves more than economic considerations.
- (2) "Practical Difficulties" also means and includes, but is not limited to, inadequate access to direct sunlight for solar energy systems

(C) Pre-Application Meeting

A pre-application meeting pursuant to § 154.02.21(D) is required prior to submitting a Variance application.

(D) Submittal

- (1) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee, as established by the Council, for processing the variance application.
- (2) The Zoning Administrator shall review the application and within 15 business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.
- (3) Criteria for Complete Submittal

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154.02.24 Variances

No submittal to the City shall be considered complete without receipt of the following:

- (a) A completed application form;
- (b) An accurate boundary description;
- (c) Evidence of ownership or enforceable option on the property; and
- (d) An accurate drawing, at scale, showing property lines, location of existing buildings and proposed project.
- (e) A narrative by the applicant explaining why the situation of the subject property creates a practical difficulty, as identified in § 154.02.24(B), and requires a variance from the provisions of this Chapter.
- (f) Any submittal materials pertaining to a Site Plan Review, as listed in § 154.02.24, as may be required at the discretion of the Zoning Administrator.

(E) Review Process

(1) Application Distributed

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

(2) Hearing on Application

- (a) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with § 154.02.21(J).
- (b) The Planning and Zoning Commission shall hold the public hearing, and may table the application for further investigation if necessary.

(3) Review and Decision

- (a) Upon the conclusion of the public hearing, the Planning and Zoning Commission shall recommend to the City Council, in its role as the Board of Adjustments and Appeals, either approval of the Variance, approval of the Variance subject to conditions, or denial of the Variance.
- (b) The City Council, in its role as the Board of Adjustment and Appeals, shall act upon the application within 30 days after receiving the recommendation of the Planning and Zoning Commission.
- (c) In granting the Variance, the City Council, in its role as the Board of Adjustment and Appeals, may impose additional conditions to ensure compliance with its decision and to protect adjacent properties. Such

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conditions must be directly related to and bear a rough proportionality to the impact created by the Variance.

(4) Criteria for Review

- (a) In its consideration of a Variance request, the Planning and Zoning Commission shall consider the following questions when making their recommendation to the City Council:
 - (i) Whether or not exceptional, unique or extraordinary circumstances apply to the physical surrounding, shape or topographic conditions of the parcel of land that result in practical difficulties for the owner?
 - (ii) Whether or not the Variance requested will alter the essential character of the locality?
 - (iii) Whether or not granting the Variance requested will:
 - a. Impair an adequate supply of light and air to adjacent property?
 - b. Substantially increase congestion in adjacent public streets?
 - c. Endanger the public safety?
 - d. Substantially diminish or impair property values within the vicinity?
 - (iv) Whether the Variance requested is the minimum variance that would alleviate the practical difficulties?
 - (v) Whether or not the Variance requested is consistent with the intent of this Chapter and the City's Comprehensive Plan?
 - (vi) Whether or not the Variance requested provides for a reasonable and practical solution that eliminates the practical difficulties?
- (b) In its consideration of a Variance request, the City Council shall make the following findings:
 - (i) The proposed use is not prohibited in the zoning district in which the subject property is located.
 - (ii) The Variance must be in harmony with the general purposes and intent of this ordinance.
 - (iii) The terms of the Variance must be consistent with the Comprehensive Plan.
 - (iv) The landowner must show that the Variance is necessary to alleviate the practical difficulties in complying with the official control.

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(F) Issuance of Decision

(1) Recording

The City shall maintain a record of all Variances issued including information on the use, location and conditions imposed by the City; time limits, review dates and such other information as may be appropriate. A record of applications which were not approved shall also be maintained for record keeping purposes.

(2) Effect of Approval

- (a) Approval of the Variance shall expire if no work thereon has commenced within 12 months of the date of approving the Variance.
- (b) Should the property violate any conditions of approval for the Variance, the Zoning Administrator shall proceed through enforcement actions as described in § 154.03.31 through § 154.03.35.

154.02.25 Zoning Amendments

(A) Applicability

- (1) The Council may adopt amendments to this Chapter and the zoning map in relation both to land uses within a particular district or to the location of a district line. The amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the City as reflected in the Comprehensive Plan or changes in conditions in the City.

(2) Types of amendments.

- (a) A change in a district's boundary (rezoning);
- (b) A change in a district's regulations; and
- (c) A change in any other provision of this Chapter.

(3) Initiation of proceedings.

Proceedings for amending this Chapter shall be initiated by at least one of the following three methods:

- (a) By petition of an owner or owners of property which is proposed to be rezoned, or for which district regulation changes are proposed;
- (b) By recommendation of the Planning and Zoning Commission; and/or
- (c) By action of the Council.

(B) Pre-Application Meeting

A pre-application meeting pursuant to § 154.02.21(D) is required for property owners initiating proceedings prior to submitting a Zoning Amendment application.

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(C) Submittal

- (1) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee as established by the Council.
- (2) The Zoning Administrator shall review the application and, within 15 business days after receiving the application, shall notify the applicant in writing if the application is not complete and what additional information is required.

(3) Criteria for Complete Submittal

No submittal for rezoning or an amendment to district regulations initiated by property owners shall be considered complete without receipt of the following:

- (a) A completed application form;
- (b) Evidence of ownership or enforceable option on the property;
- (c) A description of the proposed future use of the site or amendment to this Chapter;
- (d) A narrative by the applicant describing how the requested rezoning/amendment complies with the guidance of the Comprehensive Plan;
- (e) If the amendment is related to a development, a preliminary building and site plan is required; and
- (f) Any additional information deemed necessary by the Zoning Administrator to determine the suitability of the particular site for the proposed use.

(D) Review Process

(1) Application Distributed

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

(2) Hearing on Application

- (a) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with § 154.02.21(J).
- (b) The Planning and Zoning Commission shall hold the public hearing and may table the application if necessary to study the application to determine possible adverse effects of the proposed zoning amendment and determine what additional requirements may be necessary to reduce any adverse effects.

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- (3) Review and Decision
 - (a) Upon the conclusion of the public hearing, the Planning and Zoning Commission shall recommend to the City Council either approval of the Rezoning/Zoning Amendment, or denial of the Zoning Amendment.
 - (b) The Council shall act upon the application within 30 days after receiving the recommendation of the Planning and Zoning Commission.
 - (i) A copy of the proposed ordinance shall be available for public view at the City Hall and posted online for public view at least ten days prior to the City Council meeting.
 - (ii) Amendments to this Chapter shall be by passage upon a simple majority vote of the City Council.
 - (c) The City shall take action to approve or deny the application within 60 days of receiving a completed application, as detailed within § 154.02.21(I).
 - (d) No resubmittal of an application for a zoning amendment shall be considered by the City within a one-year period following a denial of the request, except as provided within § 154.02.21(L).
- (4) Criteria for Review
 - (a) In making the determination, whether or not the zoning ordinance is to be amended, the City Council shall consider:
 - (i) The compliance of the zoning amendment with the overall guidance of the Comprehensive Plan.
 - (ii) The effect the zoning district as a whole would have on the site and adjacent sites.
 - (b) In making its determination, the City Council shall not utilize the preliminary building and site plan as reasoning to approve or deny the zoning amendment; furthermore, the approval or denial of a zoning amendment shall not be considered action taken nor approval given of a preliminary building and site plan.
- (E) Issuance of Decision
 - (1) Publishing and Recording
 - (a) A copy of the amended ordinance, or a summary publication as may be approved, shall be published in the local newspaper.
 - (b) The City Clerk shall maintain a record of all ordinances and amended ordinances related to this Title.

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154.02.26 Establishment of a Planned Unit Development (PUD)

- (i) The ordinances shall be reflected in online codification, which may be updated periodically.
 - (ii) Copies of ordinances which have been adopted but not yet reflected in online codification shall be listed on the City's website and available at City Hall for public viewing.
- (c) The Zoning Administrator shall record any changes to the Official Zoning Map, which may be updated online periodically.
 - (i) A list of properties approved for rezoning but not yet reflected in the online copy of the Official Zoning Map shall be maintained by the Zoning Administrator and available at City Hall for public viewing.
 - (ii) The City shall maintain a record of all amendments to the zoning map for specific properties within a file for that specific property. A record of applications which were not approved shall also be maintained for record keeping purposes.
- (2) Effect of Approval

The approved zoning amendment shall be in effect on the publication date of the ordinance in the local newspaper, unless otherwise noted within the ordinance language.

154.02.26 Establishment of a Planned Unit Development (PUD)

(A) Applicability

The establishment of a Planned Unit Development (PUD) provides design flexibility to promote creative and efficient use of land. Planned Unit Development provisions are also intended to create public and private benefit by allowing improved site design; allowing developments on multiple lots to function as one coordinated site; facilitating protection of natural features; allowing flexibility from this Chapter for unique developments; and ensuring coordination of phased development.

(B) Pre-Application Meeting

- (1) A pre-application meeting pursuant to § 154.02.21(D) is required prior to submitting a Preliminary PUD Plan application.
- (2) During the pre-application meeting, the Zoning Administrator will determine if the proposed project is eligible for concurrent review of the Preliminary and Final PUD Plans.
- (3) Applicants may choose to use the Concept Plan process identified in § 153.02.21 through § 153.02.23 to solicit input from the Planning and Zoning Commission and City Council prior to submitting a Preliminary PUD Plan

(C) Preliminary PUD Plan

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- (1) The Preliminary PUD Plan shall show
- (2) Submittal
 - (a) For applications that involve the subdivision of land, requiring a Preliminary Plat, the two applications of a Preliminary Plat and a Preliminary PUD Plan may be combined; a complete submittal shall consist of all materials listed within § 153.02.33(C) and also shall include the following:
 - (i) Preliminary PUD Plan showing layout of entire proposed PUD, including any proposed phasing.
 - (ii) Building Plan showing proposed building locations, lot area, building setbacks, building height.
 - (iii) Description of any additional flexibility, including but not limited to: private streets and other common areas, uses, and development standards.
 - (b) For applications that do not require a concurrent Preliminary Plat, the Preliminary PUD Plan submittal shall include the following:
 - (i) Preliminary PUD Plan showing layout of entire proposed PUD, including any proposed phasing.
 - (ii) Building Plan showing proposed building locations, lot area, building setbacks, building height.
 - (iii) Description of any additional flexibility, including but not limited to: private streets and other common areas, uses, and development standards.
 - (iv) Preliminary Civil Plans
 - a. Grading Plan and Details, Erosion Control Plan, and Seeding Plan
 - b. Sanitary and Watermain Plan
 - c. Storm Sewer Schedule and Construction Plan
 - d. Drainage Plan (if applicable)
 - e. Street Construction Plan
 - f. Lighting and Signage Plan
 - g. Street and Utility Details
 - h. Landscaping and Open Space Plan
- (3) Review Process

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(a) Application Distributed

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

(b) Hearing on Application

- (i) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall give all required notice in compliance with § 154.02.21(J).
- (ii) The Planning and Zoning Commission shall hold the public hearing and may table the application if necessary to study the application to determine possible adverse effects of the proposed PUD and determine what additional requirements may be necessary to reduce any adverse effects.

(c) Review and Decision of the Preliminary PUD Plan

- (i) Following the public hearing, the Planning Commission shall recommend approval, conditional approval, or denial of the Preliminary PUD Plan and shall transmit the Plan and application along with its recommendations to the City Council.
- (ii) Upon receiving a recommendation from the Planning and Zoning Commission, the City Council shall review and approve, approve conditionally, or deny the Preliminary PUD Plan application.
- (iii) The City Council shall state, in writing, its findings for approval or denial, as well as any conditions of approval.
- (iv) Following the decision by the City Council, the Zoning Administrator shall notify the applicant of the Council's action and reasons thereof.
- (v) Criteria for Review

The City Council shall base its actions regarding a Preliminary PUD Plan upon the following criteria:

- a. Compatibility of the PUD with the standards, purposes and intent of this Chapter;
- b. Consistency of the PUD with the Comprehensive Plan's vision, mission, values, and policies;
- c. The impact of the Plan on the neighborhood in which it is to be located;

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- d. The adequacy of internal site organization, uses, densities, circulation, parking facilities, public facilities, recreational areas, open spaces, sidewalks, trails, buffering and landscaping; and
 - e. Other factors as the City deems relevant.
 - (d) Effect of Preliminary PUD Plan Decision
 - (i) Approval of the Preliminary PUD Plan by the Council shall constitute rezoning of the property to PUD and conceptual approval of the elements of the plan. While approval of the Preliminary PUD Plan shall establish the basic right of use for the area in conformity with the plan as approved, such plan shall be conditioned upon approval of a Final PUD Plan and shall not make permissible any of the uses as proposed until a Final PUD Plan is submitted and approved for all or a portion of the Preliminary PUD Plan.
 - (ii) The applicant shall submit the Final PUD Plan to the City Council within one year after the approval of the Preliminary PUD Plan or approval of the Preliminary PUD Plan shall be considered void unless an extension is requested in writing by the applicant and granted by the City Council.
 - (e) Publishing and Recording of Rezoning and Text Amendment
 - (i) A copy of the amended ordinance, or a summary publication as may be approved, shall be published in the local newspaper.
 - (ii) The City Clerk shall maintain a record of all ordinances and amended ordinances related to this Title.
 - a. The ordinances shall be reflected in online codification, which may be updated periodically.
 - b. Copies of ordinances which have been adopted but not yet reflected in online codification shall be listed on the City's website and available at City Hall for public viewing.
 - (iii) The Zoning Administrator shall record any changes to the Official Zoning Map, which may be updated online periodically.
 - a. A list of properties approved for rezoning but not yet reflected in the online copy of the Official Zoning Map shall be maintained by the Zoning Administrator and available at City Hall for public viewing.
 - b. The City shall maintain a record of all amendments to the zoning map for specific properties within a file for that

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specific property. A record of applications which were not approved shall also be maintained for record keeping purposes.

(f) Effect of Approval

The approved Rezoning and Text Amendment shall be in effect on the publication date of the ordinance in the local newspaper, unless otherwise noted within the ordinance language.

(D) Final PUD Plan

(1) Applicability

(a) An approved Preliminary PUD Plan shall be on file with the City prior to applying for a Final PUD Plan that substantially conforms to the Preliminary PUD Plan. Substantial conformance means:

- (i) The buildings, parking areas and roads are in essentially the same location as previously approved;
- (ii) Open space has not been decreased or altered significantly from its original design or use;
- (iii) The number of dwelling units, if any, has not increased or decreased by more than five percent;
- (iv) The floor area of nonresidential areas has not been increased or decreased by more than five percent;
- (v) No building has been increased in the number of floors; and
- (vi) Lot coverage of any individual building has not been increased or decreased by more than ten percent.

(b) Any Final PUD Plan that does not meet the criteria of substantial conformance with the Preliminary PUD Plan listed in § 154.02.26(D)(1)(a) shall be considered a major amendment and shall require the resubmittal of a Preliminary PUD Plan application, following the procedures of § 154.02.26(C).

(c) The Final PUD Plan may, if permitted by the City Council, constitute only that portion of the approved Preliminary PUD Plan which the applicant proposes to record at the time.

(2) Submittal

A complete Final PUD Plan application shall contain finalized versions of all Preliminary PUD Plan items listed in § 154.02.26(C)(2), meeting all additional

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154.02.26 Establishment of a Planned Unit Development (PUD)

conditions of approval of the City Council, and within substantial compliance of the approved Preliminary PUD Plan listed in § 154.02.26(D)(1)(a).

(3) Review Process and Decision

(a) Application Distributed

When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.

(b) Review and Decision

- (i)** The City Council shall review and approve, approve conditionally, or deny the Final Plan application.
- (ii)** The City Council shall state, in writing, its findings for approval or denial, as well as any conditions of approval.
- (iii)** Following the decision by the City Council, the Zoning Administrator shall notify the applicant of the Council's action and reasons thereof.

(c) Recording of Final PUD Plan

- (i)** No building permit shall be issued or development shall occur on land for which a PUD district has been approved which does not conform to the approved Final PUD Plan.
- (ii)** After the Final PUD Plan has been approved by the City Council, all conditions of approval have been met, and required improvements are either installed or a contract and sureties insuring their installation is filed, the applicant shall file the Final PUD Plan with the County Recorder. Recording of the Final PUD Plan and all associated conditions of approval must be completed within one year of final approval. Failure to do so shall result in the requiring of a new Preliminary PUD Plan which must be reviewed in accordance with the procedure set out in this Part to ensure compliance with any new requirements.
- (iii)** If, within one year following City Council approval of the Final PUD Plan, no building permits have been obtained or, if within one year after the issuance of building permits, no construction has commenced on the subject property approved for the PUD District, the zoning for the parcel(s) shall revert back to the original zoning and the PUD designation shall be declared null and void.
- (iv)** Prior to the expiration of the initial one year period, the City Council may upon request of the property owner and by resolution and

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154.02.31 Authority and Action

findings of fact, extend the above noted time frame for a period not to exceed an additional one year.

(E) Amendment

Proposed development of land for which a PUD has been approved or modifications to existing project which do not conform to the approved Final PUD Plan shall be processed as an amendment.

- (1) Any major amendment, as described in § 154.02.26(D)(1)(b), shall require the resubmittal of a Preliminary PUD Plan and require the same notice and hearing procedures specified in § 154.02.26(C).
- (2) Minor amendments meeting the substantial conformance of § 154.02.26(D)(1)(a) may be reviewed and approved by the City Council.

PART 3 ENFORCEMENT

154.02.31 Authority and Action

- (A)** This Chapter shall be administered and enforced by the Zoning Administrator or other authorized representative. The Zoning Administrator may institute in the name of the City of Kasson any appropriate actions or proceedings against a violator.
- (B)** Whenever a violation of this Chapter occurs, or is alleged to have occurred, any person may file a written complaint with the City.
- (1) Such complaint shall state fully the causes and basis thereof and shall be filed with the Zoning Administrator.
 - (2) The Zoning Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided by this Chapter.

154.02.32 Enforcement Procedures

- (A)** For the enforcement of the provisions of this Chapter, zoning violation notices shall be sent by either first class or certified mail to the owner of the property on which the violation is taking place.
- (1) A copy of the zoning violation notice shall be sent to the City Administrator, City Clerk, Police Chief, and City Attorney.
- (B)** The zoning violation notice shall contain the following information:
- (1) A description of the violation which is taking place.
 - (2) A picture (if possible) of the violation which is taking place.
 - (3) Location and/or address of the property at which the violation is taking place.
 - (4) Identification of the section of this Chapter which is being violated.
 - (5) Date the violation was discovered.

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154.02.33 Correction of the Zoning Violation

- (6) Steps necessary to correct the violation.
- (7) Deadline by which the violation must be corrected, which is at the discretion of the Zoning Administrator.

154.02.33 Correction of the Zoning Violation

Correction of the violation in the manner stipulated by the zoning notice violation, at any point during this enforcement process, shall deem the zoning violation notice null and void, and enforcement activity shall cease.

154.02.34 Failure to Correct the Zoning Violation – Enforcement Remedies

Failure to correct the zoning violation shall result in the City pursuing enforcement action following notification to the property owner, with the City having the authority to carry out the following enforcement remedies or combination of remedies:

(A) Withhold Permits

The City shall have the authority to withhold any permits or City approvals which are necessary until the violation is corrected to the City's satisfaction.

(B) Stop Work Order

The City shall have the authority to issue a stop work order on the subject violation.

(C) Abatement

The City shall have the authority to require that the violation be abated by completely removing or stopping the item or use which has been identified in the zoning violation notice.

(D) Injunctive Relief

The City shall have the authority to seek an injunction in court to stop any violation of this Ordinance.

(E) Civil Remedies

The City shall have the authority to institute appropriate civil action to enforce the provisions of this Ordinance, and shall recover reasonable court costs and attorney's fees which are incurred due to the enforcement of the subject violation, at the discretion of the court.

(F) Assessment

The City shall have the authority to use the provisions of M.S. Ch. 429, as may be amended from time to time, assess any charge against the property benefited, and any such assessment shall, at the time at which taxes are certified to the Dodge County Auditor, be certified for collection in the manner that other special assessments are so certified.

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154.02.35 Revocation

(G) Criminal Remedies

The City shall have the authority to institute appropriate misdemeanor criminal action for a violation of this Ordinance.

(H) Cumulative Remedies

The powers and remedies of this section shall not be individually limited and are not exclusive. The powers and remedies of this section are cumulative and all power and remedies may apply, as well as any other remedies allowed under State law.

(I) Administrative Penalties

The City shall have the authority to utilize § 10.99 of the City Code for enforcement of the Zoning Ordinance.

154.02.35 Revocation

Instead of, or in addition to any of the remedies in § 154.02.34, failure to comply with the conditions of a conditional use permit or the ordinances of the City shall result in the conditional use permit being revoked by the City Council. Revocation proceedings shall require a public hearing with notice and due process according to § 154.02.21(J), except that the City Council may waive Planning and Zoning Commission review and comment.

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CHAPTER 154 ZONING

154.03.11 Base Districts Established

ARTICLE 03 ZONING DISTRICTS

PART 1 ESTABLISHMENT OF ZONING DISTRICTS

154.03.11 Base Districts Established

The following zoning districts are provided in order to promote and encourage the orderly and efficient development and use of land, buildings, and structures. The incorporated area of the City is hereby divided into the following districts which shall be known by the following respective symbols and names:

- (A) D-H Development Holding District
- (B) R-1 Single-Family Residential District
- (C) R-1A Single-Family Older-Core Residential District
- (D) R-2 Mixed Residential District
- (E) R-3 Multi-Family Residential District
- (F) R-C Residential-Commercial Mixed Use District
- (G) C-1 Central Business District
- (H) C-2 General Commercial District
- (I) C-3 Highway Commercial District
- (J) I-1 Business Park / Light Industrial District
- (K) I-2 Manufacturing / Heavy Industrial District

154.03.12 Special Districts Established

In addition to the base zoning districts above, the following special districts have been established:

- (A) Floodplain Management Districts
 - (1) FW Floodway District
 - (2) FF Flood Fringe District
- (B) Planned Unit Developments
 - (1) PUDF Planned Unit Development Fixed District
 - (2) [Reserved]

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CHAPTER 154 ZONING

154.04.11 Purpose Statements

ARTICLE 04 BASE DISTRICTS

PART 1 GENERAL PROVISIONS

154.04.11 Purpose Statements

(A) D-H Development Holding District

The purpose of the D-H Development Holding District is to identify land in the outlying parts of the city that have not yet been developed with City services or not yet subdivided in compliance with the Future Land Use Map of the Comprehensive Plan. This district is intended to allow for existing uses, including uses brought in through annexation, to continue, but new uses will require a rezoning to another district in compliance with the Comprehensive Plan.

(B) R-1 Single-Family Residential District

The purpose of the R-1 single-family residential district is to provide for low to moderate density dwellings and directly related, complementary uses.

(C) R-1A Single-Family Older-Core Residential District

The purpose of the R-1A single-family older core residential district is to provide for low to moderate density dwellings and directly related, complementary uses. This district is characterized by more variation in lot sizes than found in other residential districts in the city.

(D) R-2 Mixed Residential District

The purpose of the R-2 mixed residential district is to provide for low to medium density dwellings and directly related, complementary uses.

(E) R-3 Multi-Family Residential District

The purpose of the R-3 multi-family residential district is to provide for medium to high density residential uses and directly related, complementary uses.

(F) R-C Residential-Commercial Mixed Use District

The purpose of the R-C residential-commercial mixed use district is to provide for a district which allows both residential and commercial uses and acts as a transition district between more intense commercial zoning districts and residential zoning districts. Commercial uses are intended to be a lower intensity than nearby commercial zoning districts.

(G) C-1 Central Business District

The purpose of the C-1 central business district is to provide for high density development for commercial and service activities, with activity focused on Main Street, gaining economic advantage from a concentration of complementary uses and drawing from and serving customers from the community and surrounding area.

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CHAPTER 154 ZONING

154.04.21 General Provisions

(H) C-2 General Commercial District

The purpose of the C-2 general commercial district is to provide for commercial and service activities oriented towards and concentrated along Highway 57, drawing from and serving customers from the community and surrounding area.

(I) C-3 Highway Commercial District

The purpose of the C-3 highway commercial district is to provide for medium to high intensity retail or service activities which provide goods and services to the community as well as regional motor vehicle traffic. The districts should be located in areas well served by arterial roadways.

(J) I-1 Business Park / Light Industrial District

The purpose of the I-1 district is provide locations for small and large scale business park uses as well as light industrial and light manufacturing uses which are compatible, and may benefit from co-location with other similar uses.

(K) I-2 Manufacturing / Heavy Industrial District

The purpose of the I-2 manufacturing/heavy industrial district is to provide for the development of manufacturing and industrial uses which may not be appropriate in other locations due to noise, dust, vibration, traffic, outdoor storage or other impacts which may not be compatible with other uses.

PART 2 USES

154.04.21 General Provisions

(A) Permitted uses (P).

Uses listed in §154.04.22 and §154.04.23 with a “P” symbol are permitted by-right in the district in which they are listed.

(B) Uses permitted with standards (PS).

Uses listed in § 154.04.22 and §154.04.23 with a “PS” symbol are permitted provided compliance with the use-specific standards and requirements in Article 06 of this ordinance.

(C) Uses permitted by conditional use permit (CUP).

Uses listed in § 154.04.22 and § 154.04.23 with a “CUP” symbol require a Conditional Use Permit; refer to § 154.02.23 for CUP requirements and Article 06 of this Chapter for use-specific standards.

(D) Uses Not Provided for Within Zoning Districts.

For those uses not specifically noted, the Zoning Administrator shall make a determination as to whether the proposed use is included in the definition of a listed use or is so

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154.04.22 Principal Uses Table

consistent with the size, scale, operating characteristics, and external impacts of a listed use that it should be treated as the same use.

- (1) Where a question arises in the interpretation of the Zoning Administrator, the Planning and Zoning Commission shall make a recommendation to the City Council, which shall make the final determination.
- (2) The City shall maintain a record of all uses the City Council determines as allowed as being substantially similar to named uses and will work to incorporate those uses into either the list or definition of uses.
- (3) If it is determined that a proposed use is not substantially similar to an allowed use, the applicant may seek an amendment to the text of the zoning code to name the use as an allowed use within the zoning district.

154.04.22 Principal Uses Table

P = Permitted PS = Permitted with Standards CUP = Conditional Use Permit Blank = Prohibited

	R-1	R-1A	R-2	R-3	R-C	C-1	C-2	C-3	I-1	I-2
Residential										
Household Living										
Dwelling, Single Family Detached	P	P			P					
Manufactured Home	PS	PS			PS					
Dwelling, Single Family Detached Conversion to Two, Three, or Four Unit	CUP	PS	PS	PS	PS					
Dwelling, Two Unit (Duplex)	PS	PS	P	P	P					
Dwelling, Three to Four Unit (Triplex, Quadraplex)	CUP	CUP	P	P	P					
Dwelling, Single Family Attached (2-4 units)	CUP	CUP	P	P	P					
Dwelling, Single Family Attached (5+ units)	CUP	CUP	PS	P	P					
Dwelling, Multi-Family 5-24 Units			CUP	P	CUP					
Dwelling, Multi-Family 25+ Units				PS	CUP					
Dwelling, 2 nd Floor+ Apartments (Above non-residential ground floor)					PS	PS	PS			
Manufactured Home Park	CUP	CUP	CUP	CUP	CUP					
Live/Work Unit					PS	PS	PS			
Group Living										
Intermediate, Extended, and Long-Term Care Facility [Nursing Home]	PS	PS	PS	PS	PS					
Residential care facility, licensed in-home (6 or fewer persons)	PS	PS	PS	PS	PS					
Residential care facility, licensed in-home (7 to 16 persons)			CUP	CUP	CUP					
Lodging										
Bed and Breakfast Facilities	PS	PS	PS	PS	PS					
Lodging services such as hotel and motel						P	P	P		

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154.04.22 Principal Uses Table

P = Permitted PS = Permitted with Standards CUP = Conditional Use Permit Blank = Prohibited

	R-1	R-1A	R-2	R-3	R-C	C-1	C-2	C-3	I-1	I-2
Short Term Vacation Rental		CUP	CUP		CUP					
Public, Social, or Healthcare										
Healthcare and Interment Services										
Cemeteries, Mausoleums, columbarium, including animal cemeteries	CUP	CUP	CUP	CUP	CUP					
Clinic, including medical, dental or therapeutic [See Professional Services]					P	P	P	P		
Funeral home or mortuary	PS	PS	PS		P	P	P	P		
Hospital	CUP	CUP	CUP	CUP	CUP		PS	PS	PS	
Institutions										
Club, lodge or meeting place of a non-commercial nature						P	P	P		
Place of worship	PS	PS	PS	PS	PS					
Social assistance, welfare, or charitable services					P	P	P	P	P	
Education										
Child care facilities serving up to 12 persons	P	P	P	P	P	PS	PS	PS		
Child care facilities serving 13+ persons	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP		
School, college/university/trade/business	PS	PS	PS	PS	PS	PS	PS	PS	PS	
School, elementary or secondary	PS	PS	PS	PS	PS	PS	PS			
School, nursery or preschool	PS	PS	PS	PS	PS	PS	PS			
Recreation and Open Space										
Golf Courses / Country Club	CUP	CUP	CUP	CUP						
Historic Sites	P	P	P	P	P	P	P	P	P	P
Public recreational facilities including parks and playgrounds, hiking and/or biking trails	P	P	P	P	P	P	P	P	P	P
Temporary Outdoor Entertainment								CUP	CUP	
Wildlife, forest, and wetland preserves or management areas	P	P	P	P	P	P	P	P	P	P
Government Services										
Essential Services	P	P	P	P	P	P	P	P	P	P
Municipal, county, state or federal administrative or services building	CUP	CUP	CUP	CUP	PS	P	P	P	P	P
Commercial										
Food or Beverage Services										
Bar / Tavern						P	P	P		
Brewpub						P	P	P		
Café, Coffee Shop						P	P	P		
Off Sale Liquor						PS	PS	PS		
Restaurant						P	P	P		
Restaurant with drive-through or drive-in							PS	PS		

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154.04.22 Principal Uses Table

P = Permitted PS = Permitted with Standards CUP = Conditional Use Permit Blank = Prohibited

	R-1	R-1A	R-2	R-3	R-C	C-1	C-2	C-3	I-1	I-2
Other Services										
Animal/Pet Services						PS	PS	PS	PS	
Banks, Finance, Insurance, and Real Estate Services					P	P	P	P		
Building Services						P	P	P	P	
Business Services					P	P	P	P	P	
Equipment Services						P	P	P	P	
Personal Services						P	P	P		
Professional Services					P	P	P	P	P	
Services otherwise allowed with drive-through or drive-in							PS	PS		
Retail										
Convenience Store						P	P	P		
Food Retail [Grocery Store]						P	P	P		
General Retail						P	P	P		
Shopping Center							CUP	P		
Wholesale Retail								P	P	P
Arts and Entertainment										
Art Gallery / Museum					P	P	P	P		
Commercial recreational facility, Indoor						P	P	P	P	
Commercial recreational facility, Outdoor								CUP	CUP	CUP
Automobile Related										
Automobile Fuel Station / Service Station							PS	PS	PS	PS
Automobile Sales							P	P		
Industry and Manufacturing										
Small Production / Commercial Production										
Buildings used for Research and Testing Laboratories (interior only)								P	P	P
Brewery, winery or distillery						PS	PS	PS	PS	PS
Makerspace (studio)					PS	P	P		PS	
Printing							P	P	P	P
Rental Equipment (stored indoors)								P	P	
Rental Storage Units [self-storage facility]								CUP	P	
Indoor Industrial Activity										
Grain Elevators; Fertilizer manufacturing, storage, and sales										CUP
Manufacturing, light									P	P
Manufacturing, heavy										P
Warehouse/distribution facility									P	P
Outdoor Industrial Activity										

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154.04.23 Accessory Uses Table

P = Permitted PS = Permitted with Standards CUP = Conditional Use Permit Blank = Prohibited

	R-1	R-1A	R-2	R-3	R-C	C-1	C-2	C-3	I-1	I-2
Automobile Wrecking Yard/Scrap or salvage storage yard										CUP
Contractor Yard (landscaping, construction, etc.)									PS	PS
Outside storage, manufacturing, and sales area									PS	PS
Agriculture and Natural Resources										
Community Solar Farm										CUP
Nursery/Greenhouse (with retail sales)							P	P	P	
Short wave towers, radio and TV towers, and commercial radio and television towers and transmitters								CUP	CUP	CUP
Wind Energy Conversion Systems										CUP
Wireless Communications Facilities	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP

154.04.23 Accessory Uses Table

P = Permitted PS = Permitted with Standards CUP = Conditional Use Permit Blank = Prohibited

	R-1	R-1A	R-2	R-3	R-C	C-1	C-2	C-3	I-1	I-2
General Accessory Uses										
Accessory structure	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS
Small-scale wind energy generation system	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS
Satellite dish	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS
Solar Energy System, Accessory	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS
Swimming pools, tennis courts and other individual recreational facilities	PS	PS	PS	PS	PS	PS	PS	PS	PS	
Accessory to Residential Uses										
Accessory dwelling unit	PS	PS	PS		PS					
Child care facility, licensed (12 or fewer persons)	P	P	P	P	P					
Child care facility, licensed (13 to 16 persons)	CUP	CUP	CUP	CUP	CUP					
Home Business	CUP	CUP	CUP	CUP	CUP	CUP				
Home Occupation	PS	PS	PS	PS	PS	PS				
Outside parking or seasonal storage of recreational travel vehicles	PS	PS	PS	PS						
Short term vacation rental	PS	PS	PS		PS	PS				
Accessory to Non-Residential Uses										
Community garden	P	P	P	P	P					
Gift shop accessory to an otherwise allowed use	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS
Open air display areas						PS	PS	PS		

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P = Permitted PS = Permitted with Standards CUP = Conditional Use Permit Blank = Prohibited

	R-1	R-1A	R-2	R-3	R-C	C-1	C-2	C-3	I-1	I-2
Temporary Stand for sale of agricultural products (tree lot, farm stand, seasonal sales, etc)							PS	PS	PS	PS

154.04.24 Special Provisions for Development Holding (DH) District

(A) Permitted Uses

- (1) Essential Services.
- (2) Continuance of existing uses, including expansion of structures within setbacks. Substantial changes in existing uses or the intensification of existing uses, such as a switch from horticulture to livestock keeping, shall be prohibited.
- (3) Accessory structures and uses appropriate to the existing use, meeting the criteria of § 154.06.71 through § 154.06.73.

(B) Conditional Uses

- (1) Public, Social, and Healthcare facilities, subject to Planning and Zoning Commission review and a City Council finding that the use(s) will not impede or otherwise conflict with the planned use of adjoining property.

(C) Prohibited Uses

- (1) New uses or change from existing uses shall be prohibited without a rezoning to a district in conformance with the Future Land Use Map of the Comprehensive Plan.

PART 3 LOT AND SITE DIMENSION STANDARDS

154.04.31 General Provisions

- (A) The purpose of this Part is to outline minimum yard, area and building size requirements to be provided for each zoning district.
- (B) Buildings; Distance Between

In residential districts, each principal building shall be at least 12 feet from any other principal building except as provided for in this Chapter.
- (C) Frost Depth Footings

In all zoning districts and in planned unit developments, all structures to be used for human occupation shall be built with continuous frost depth footings in compliance with the standards set forth in the State Building Code, except as permitted in an approved manufactured home park.

154.04.32 Lot Dimensional Standards

- (A) Nonconforming Lots of Record

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154.04.32 Lot Dimensional Standards

A lot of record existing upon the effective date of this Chapter in a residential district, which does not meet the requirements of this Chapter as to area or width may be utilized for single-family detached dwelling purposes or two-family, duplex dwelling purposes; provided, the measurements of the area or width are within 75 percent of the requirements of this Chapter.

(B) Lot Area; Reducing

No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed herein, nor shall the number of dwelling units be increased in any manner except in conformity with the area regulations herein prescribed, nor shall the area of any lot be reduced below the minimum requirements herein established.

(C) Lot Dimensional Standards Tables

(1) Residential Districts Lot Dimensional Standards Table

Uses	District	Min Lot Area	Min Lot Width	
			Building Line	Street Line
Single Family Detached	R-1, R-1A, R-C	8,000 sf	66'	45'
Single Family Attached	R-1*, R-1A*, R-2, R-3, R-C	4,000 sf per unit	40' per unit	30' per unit
Two-Four Unit Dwelling	R-1*, R-1A*, R-2, R-3, R-C	8,000 sf plus 1,750 sf per unit over two	40' per unit	30' per unit
Multi-Family (5-24 units)	R-2*, R-3, R-C*	12,000 sf plus 1,250 sf per unit over five	100'	70'
Multi-Family (25+ units)	R-3, R-C*	1,500 sf per unit	100'	70'
Nonresidential Uses	R-1, R-1A, R-2, R-3	21,000 sf	100'	100'
Nonresidential Uses	RC	10,000 sf	80'	80'

(2) Non-Residential Districts Lot Dimensional Standards Table

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Uses	District	Min Lot Area	Min Lot Width	
			Building Line	Street Line
All Uses	C-1	5,000 sf	N/A	50'
All Uses	C-2	7,500 sf	N/A	50'
All Uses	C-3	10,000 sf	N/A	50'
All Uses	I-1	20,000 sf	N/A	75'
All Uses	I-2	25,000 sf	N/A	100'

154.04.33 Site Dimensional Standards

(A) Lots Fronting More Than One Street

Lots fronting more than one street shall maintain a yard on each street conforming to the requirements for front yard setbacks; side yard setbacks shall be maintained from the remaining lot lines, except when a lot line is adjacent to an alley from which rear yard setbacks shall be maintained.

(B) Yards

(1) No lot, yard or other open space shall be reduced in area or dimension so as to make the lot, yard or open space less than the minimum required by this Chapter. If the existing yard or other open space is less than the minimum required it shall not be further reduced.

(2) The minimum yard setback distances in feet as indicated in § 154.04.33(D) shall be measured from the appropriate lot line.

(3) Yard Encroachments

The following shall not be considered as encroachments into required yard setback areas:

(a) Chimneys, flues, belt courses, headers, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, steps, stoops, bay windows and the like, provided they do not project from the structure more than four feet;

(b) Any of the following built on grade: terraces, decks, patios and similar appurtenances;

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- (c) Front yard exception: where a structure will be developed adjacent to properties with existing structures, the front yard setback shall be the average setback of existing structures on that block; and
- (d) Fences, as specified in § 154.07.33.

(C) Building Height

(1) Measuring Building Height

For the purpose of this Chapter, building height shall be determined by the vertical distance from finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof and the average distance between the eaves and the ridge level for gable, hip and gambrel roofs.

(2) Height Limitation Exemptions

The following structures are exempted from the height regulations of this Chapter when they are associated with a permitted use or a conditional use granted by permit.

- (a) Chimneys and flues;
- (b) Cooling towers;
- (c) Elevator bulk head;
- (d) Fire towers;
- (e) Grain elevators and silos;
- (f) Stacks;
- (g) Water towers;
- (h) Pumping towers;
- (i) Church spires;
- (j) Clock or bell towers;
- (k) Monuments;
- (l) Cupolas and domes which do not contain useable space;
- (m) Steeples;
- (n) Flagpoles;
- (o) Elevator penthouses;
- (p) Sports press boxes of more than one story, and
- (q) Mechanical and electrical appurtenances.

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- (3) Additional building height requirements for allowed non-residential uses in R1, R1-A, R-2, R-3, and R-C districts:

- (a) Public, Social, and Healthcare buildings, may be erected to a height of 55 feet when set back from all lot lines not less the required yard dimension plus one foot for each foot the building exceeds 35 feet in height.

(D) Site Dimensional Standards Tables

(1) D-H District Site Dimensional Standards Table

District	Uses	Min Setbacks			Max Building Height	Max Impervious Surface
		Front Yard	Rear Yard	Side Yard		
D-H	Existing Uses	25'	50'	25'	35' / 2.5 stories	35%

(2) Residential Districts Site Dimensional Standards Table

District	Uses	Min Setbacks			Max Building Height	Max Impervious Surface
		Front Yard	Rear Yard	Side Yard		
R-1	Dwellings, one to four units	20'	25'	6.5' (0' for shared wall)	35' / 2.5 stories	40%
	Non Residential	20'	45'	12'	35' / 2.5 stories [see § 154.04.33(C)(2) for exceptions]	
R-1A	Dwellings, one to four units	20'	15'	6.5' (0' for shared wall)	35' / 2.5 stories	45%
	Non Residential	15'	35'	12'	35' / 2.5 stories [see § 154.04.33(C)(2) for exceptions]	
R-2	Dwellings, two to four units	20'	15'	6.5' (0' for shared wall)	35' / 2.5 stories	50%
	Dwellings, five plus units	25'	25'	8'		
	Non Residential	25'	45'	12'	35' / 2.5 stories [see § 154.04.33(C)(2) for exceptions]	

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District	Uses	Min Setbacks			Max Building Height	Max Impervious Surface
		Front Yard	Rear Yard	Side Yard		
					exceptions]	
R-3	Dwellings, two to four units	20'	15'	6.5' (0' for shared wall)	45' / 3.5 stories	55%
	Dwellings, five plus units	25'	25'	8'		
	Non Residential	25'	45'	12'	35' / 2.5 stories [see § 154.04.33(C)(2) for exceptions]	
R-C	Dwellings, one to four units	20'	15'	6.5' (0' for shared wall)	35' / 2.5 stories	50%
	Dwellings, five plus units	25'	25'	8'		
	Non Residential	20'	35'	12'	35' / 2.5 stories [see § 154.04.33(C)(2) for exceptions]	

(3) Non-Residential Districts Site Dimensional Standards Table

District	Min Setbacks			Max Building Height	Max Impervious Surface
	Street Yard	Rear Yard	Side Yard		
C-1	0'	0' (30' when adjacent to residential district)	0' (30' when adjacent to residential district)	35' / 2.5 stories	N/A
C-2	10'	10' (30' when adjacent to residential district)	6.5' (30' when adjacent to residential district)	35' / 2.5 stories	N/A
C-3	25'	25' (30' when adjacent to residential district)	10' (30' when adjacent to residential district)	35' / 2.5 stories	N/A
I-1	30'	35' (40' when adjacent to residential district)	20' (40' when adjacent to residential district)	45'	N/A

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District	Min Setbacks			Max Building Height	Max Impervious Surface
	Street Yard	Rear Yard	Side Yard		
I-2	75'	50'	20' (40' when adjacent to residential district)	60'	N/A

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CHAPTER 154 ZONING

154.05.11 General Provisions

ARTICLE 05 SPECIAL DISTRICTS

PART 1 FLOODPLAIN MANAGEMENT DISTRICTS

154.05.11 General Provisions

(A) Statutory Authorization

The legislature of the state has, in M.S. Ch. 462, as may be amended from time to time, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council does ordain as follows in this Part.

(B) Findings of Fact

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.

(C) Methods Used To Analyze Flood Hazards

This Part is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the State Department of Natural Resources.

(D) Statement Of Purpose

It is the purpose of this Part to promote the public health, safety and general welfare and to minimize those losses described in § 154.05.11 by provisions contained herein.

(E) Lands To Which Chapter Applies

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

(F) Establishment of Official Zoning Map

The official zoning map together with all materials attached thereto is adopted by reference and declared to be a part of this Part. The attached material shall include the current Flood Insurance Study for the City prepared by the Federal Insurance Administration, and the current Flood Boundary and Floodway Map and current Flood Insurance Rate Map therein. The official zoning map shall be on file in the office of the Zoning Administrator.

(G) Regulatory Flood Protection Elevation

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

(H) Interpretation.

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154.05.12 Establishment of Zoning Districts

In their interpretation and application, the provisions of this Part 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.

- (1) The boundaries of the zoning districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustments and Appeals shall make the necessary interpretation.
- (2) All decisions will be based on elevations on the regional 100-year flood profile 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 Adjustments and Appeals and to submit technical evidence.

(I) Abrogation and Greater Restrictions

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

(J) Warning and Disclaimer of Liability

This Part does not imply that areas outside the floodplain districts or land uses permitted within the districts will be free from flooding or flood damages. This Part 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 Part or any administrative decision lawfully made thereunder.

154.05.12 Establishment of Zoning Districts

(A) Districts Established

(1) FW - Floodway District

The floodway district shall include those areas designated as floodway on the Flood Boundary and Floodway Map adopted in § 153.05.11(F).

(2) FF - Flood Fringe District

The flood fringe district shall include those areas designated as floodway fringe on the Flood Boundary and Floodway Map adopted in § 153.05.11(F).

(B) Compliance

No new structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Part and other applicable regulations which apply to uses within the jurisdiction of this Part. Within the floodway and flood fringe districts, all uses not listed as permitted uses or

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CHAPTER 154 ZONING

154.05.13 Floodway District (FW)

conditional uses in § 154.05.13(A) through § 154.05.13(D) and § 154.05.14(A) through § 154.05.14(D) shall be prohibited. In addition, a caution is provided here that:

- (1) Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Part and specifically § 154.05.17; and
- (2) 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 Part and specifically as stated in § 154.05.18.

154.05.13 Floodway District (FW)

(A) Permitted Uses

- (1) Existing agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting;
- (2) Industrial-commercial loading areas, parking areas and airport landing strips;
- (3) Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, and single or multiple purpose recreational trails; and
- (4) Residential lawns, gardens, parking areas and play areas.

(B) Standards for Floodway Permitted Uses

- (1) The use shall have a low flood damage potential.
- (2) The use shall be permissible in the underlying zoning district if one exists.
- (3) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.
- (4) No farm cultivation is allowed within 100 feet of the normal bank of a river or stream.

(C) Conditional Uses

- (1) Structures accessory to the uses listed in § 154.05.14(A) and the uses listed in this section;
- (2) Extraction and storage of sand, gravel and other materials;
- (3) Marinas, boat rentals, docks, piers, wharves and water control structures;
- (4) Railroads, streets, bridges, utility transmission lines and pipelines;
- (5) Storage yards for equipment, machinery or materials;

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- (6) Placement of fill;
 - (7) Structural works for flood control such as levees, dikes and floodwalls conducted to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event.
- (D) Standards for Floodway Conditional Uses
- (1) No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
 - (2) All floodway conditional uses shall be subject to the procedures and standards contained in § 154.05.18(C).
 - (3) The conditional use shall be permissible in the underlying zoning district if one exists.
 - (4) Fill, dredge spoil and all other similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
 - (5) 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.
 - (6) As an alternative, and consistent with § 154.05.13(D)(5), dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the governing body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the office of the County Recorder.
 - (7) Accessory structures shall not be designed for human habitation.
 - (8) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
 - (9) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow.
 - (10) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

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154.05.14 Flood Fringe District (FF)

- (11) 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 flood-proofed 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 500 square feet in size, 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, as appropriate.
- (12) 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.
- (13) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed.
- (14) 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.
- (15) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.
- (16) Structure works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of M.S. Ch. 105, as may be amended from time to time. Community-wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.
- (17) A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

154.05.14 Flood Fringe District (FF)

(A) Permitted Uses

- (1) Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or nonresidential structure or use of a structure or land shall be a permitted use in the flood fringe, provided the use does not constitute a public nuisance.
- (2) All permitted uses shall comply with the standards for flood fringe permitted uses listed in § 154.05.14(B) and the standards for all flood fringe permitted and conditional uses listed in § 154.05.14(E).

(B) Standards for Flood Fringe Permitted Uses

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154.05.14 Flood Fringe District (FF)

- (1) All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot below the regulatory flood protection elevation and the fill shall extend at an elevation at least 15 feet beyond the outside limits of the structure erected thereon.
- (2) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally floodproofed in accordance with § 154.05.13(D).
- (3) The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless the fill is specifically intended to elevate a structure in accordance with § 154.05.14(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 § 154.05.14(E) shall apply.

(C) Conditional Uses

Any structure that is not elevated on fill or floodproofed in accordance with § 154.05.14(B)(1) or (2) or any use of land that does not comply with the standards in § 154.05.14(B)(3) or (4) shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in § 154.05.14(C), § 154.05.14(D), and § 154.05.18(C).

(D) Standards for Flood Fringe Conditional Uses

(1) Generally

Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls and the like or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:

- (a) The enclosed area is above-grade on at least one side of the structure;
- (b) Is designed to internally flood and is constructed with flood resistant materials; and
- (c) Is used solely for parking of vehicles, building access or storage.
- (d) The above-noted alternative elevation methods are subject to the following additional standards.

(2) Design and certification

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154.05.14 Flood Fringe District (FF)

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

(3) 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:

- (a) The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of flood waters; and
- (b) 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.

(4) Basements

Basements, as defined by § 150.01.22, shall be subject to the following:

- (a) Residential basement construction shall not be allowed below the regulatory flood protection elevation.
- (b) Nonresidential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with § 154.05.14(D)(3),.
- (c) All areas of nonresidential structures including basements to be placed below the regulatory flood protection elevation shall be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water 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.

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154.05.14 Flood Fringe District (FF)

- (d) When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for the activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the governing body. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- (5) Storage of materials and equipment
 - (a) The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited.
 - (b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.
- (6) Other

The provisions of § 154.05.14(E) shall also apply.
- (E) Standards for All Flood Fringe Uses
 - (1) Generally

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

Accessory land uses, such as yards, railroad tracks and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for the facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be

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subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

(3) Manufacturing and industrial uses

Measures shall be taken to minimize interference with normal plant operations, especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in § 154.05.14(E)(2),. 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

(a) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method.

(b) 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.

(c) 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) 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 for resisting wind forces.

154.05.15 Subdivisions

(A) Review Criteria

(1) No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities.

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- (2) All lots within the floodplain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Part and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation.
 - (3) 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) Removal Of Special Flood Hazard Area Designation

The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested. The cost of obtaining a Letter of Map Amendment shall be the responsibility of the developer.

154.05.16 Public Utilities, Railroads, Roads and Bridges

- (A) Public Utilities

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

Railroad tracks, roads and bridges to be located within the floodplain shall comply with § 154.05.13 and § 154.05.14. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where the facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
- (C) On-Site Sewage Treatment and Water Supply Systems

Where public utilities are not provided:

 - (1) On-site water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the systems; and
 - (2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges

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154.05.17 Nonconforming Uses

from the systems into floodwaters and they shall not be subject to impairment or contamination during times of flooding.

- (3) 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.

154.05.17 Nonconforming Uses

Conditions of Nonconforming Uses

A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance codified in this Part, but which is not in conformity with the provisions of this Part, may be conditioned subject to the following conditions.

- (A) No use shall be expanded, changed, enlarged or altered in a way which increases its nonconformity.
- (B) Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 through FP-4 floodproofing classifications) allowed in the State Building Code, except as further restricted in § 154.05.17(E),.
- (C) The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent 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 exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of § 154.05.13 and § 154.05.14 for new structure depending upon whether the structure is in the floodway or flood fringe, respectively.
- (D) If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Part. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.
- (E) If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Part. The applicable provisions for establishing new uses or new structures in § 154.05.13 and § 154.05.14 will apply depending upon whether the use is in the floodway or flood fringe districts respectively.

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(A) Permit Requirements

(1) Permit required

A permit issued by the Zoning Administrator in conformity with the provisions of this Part shall be secured prior to the erection, addition 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 change or extension of a nonconforming use; 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 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 Part.

(5) Construction and use to be as provided on applications, plans, permits, variances and certificates of zoning compliance

Permits, conditional use permits or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement and construction set forth in the approved plans and applications, and no other use, arrangement or construction. Any use, arrangement or construction at variance with that authorized shall be deemed a violation of this Part, and punishable as provided by § 154.05.18(E).

(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

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building elevations were accomplished in compliance with the provisions of this Part. 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 and alterations or additions to structures are floodproofed.

(8) Penalty, see § 154.05.18(E).

(B) Board Of Adjustments and Appeals

(1) Rules

The Board of Adjustments and Appeals shall adopt rules for the conduct of business and may exercise all of the powers conferred on the boards by state law.

(2) Administrative review

The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Part.

(3) Variances

The Board of Adjustment and Appeals may authorize, upon appeal in specific cases, the relief or variances from the terms of this Part 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 the Variance, the Board of Adjustments and Appeals shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which 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.

(4) Hearings

Upon filing with the Board of Adjustments and Appeals decision of the Zoning Administrator, or an application for a variance, the Board shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the

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application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days' notice of the hearing.

(5) Decisions

The Board of Adjustment and Appeals shall arrive at a decision on the appeal or variance within 45 days. In passing upon an appeal, the Board may, so long as the action is in conformity with the provisions of this Part, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance, the Board may prescribe appropriate conditions and safeguards such as those specified in § 154.05.18(C)(7), which are in conformity with the purposes of this Part. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Part punishable under § 154.05.18(E). A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten days of the action.

(6) Appeals

Appeals from any decision of the Board of Adjustment and Appeals may be made and as specified in this community's official controls and also State Statutes.

(a) Flood insurance notice and record keeping.

(b) The Zoning Administrator shall notify the applicant for a variance that:

- (i) The issuance of a variance to construct a structure below the base flood level will result in increased premium for flood insurance; and
- (ii) The construction below the 100-year or regional flood level increases risks to life and property.
- (iii) The notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report the variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

(C) Conditional Uses

(1) The City Planning and Zoning Commission shall hear and the City Council shall decide applications for conditional uses permissible under this Part. Applications shall be submitted to the Zoning Administrator who shall forward the application to the Planning and Zoning Commission for consideration.

(2) Hearings

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Upon filing with the Planning and Zoning Commission an application for a conditional use permit, the Planning and Zoning Commission shall submit by mail to the Commissioner of natural resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten days' notice of the hearing.

(3) Decisions

The City Council shall arrive at a decision on a conditional use within 30 days. In granting a conditional use permit, the City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in § 154.05.18(C)(7), which are in conformity with the purposes of this Chapter. Violations of the conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Chapter punishable under § 154.05.18(E). A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten days of the action.

(4) Procedures to be followed by the City Council in passing on conditional use permit applications within all floodplain districts:

- (a)** Require the applicant to furnish such of the following information and additional information as deemed necessary by the City Council for determining the suitability of the particular site for the proposed use:
 - (i)** Plans in triplicate drawn to scale showing the nature, location, dimensions and elevation of lot, existing or proposed structures, fill, storage of materials, floodproofing measures and the relationship of the above to the location of the stream channel; and
 - (ii)** Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
- (b)** Transmit one copy of the information described in § 154.05.18(C)(4)(a) a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection and other technical matters.
- (c)** Based upon the technical evaluation of the designated engineer or expert, the City Council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

(5) Factors upon which the decision of the City Council shall be based

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In passing upon conditional use applications, the City Council shall consider all relevant factors specified in other sections of this Part, and:

- (a) The danger to life and property due to increased flood velocities caused by encroachments;
- (b) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures;
- (c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions;
- (d) The susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the individual owner;
- (e) The importance of the services provided by the proposed facility to the community;
- (f) The requirements of the facility for a waterfront location;
- (g) The availability of alternative locations not subject to flooding for the proposed use;
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- (i) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area;
- (j) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (k) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site; and
- (l) Other factors which are relevant to the purposes of this Chapter.

(6) Time for acting on application

The City Council shall act on an application in the manner described above within 60 days from receiving the application, except that where additional information is required pursuant to § 154.05.18(C)(5). The City Council shall render a written decision within 60 days from the receipt of the additional information.

(7) Conditions attached to conditional use permits

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

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- (a) Modification of waste treatment and water supply facilities;
 - (b) Limitations on period of use, occupancy and operation;
 - (c) Imposition of operational controls, sureties and deed restrictions;
 - (d) Requirements for construction of channel modifications, compensatory storage, dikes, levees and other protective measures; and
 - (e) Floodproofing measures, in accordance with the State Building Code and this Part. 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.
- (D) Amendments To Zoning Map or Ordinance
 - (1) 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 regional flood lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he or she determines that, through other measures, lands are adequately protected for the intended use.
 - (2) All amendments to this Part, including amendments to the official zoning map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the official zoning map must meet the Federal Emergency Management Agency's (FEMA) technical conditions and criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten days' written notice of all hearings to consider an amendment to the ordinance codified in this Part and the notice shall include a draft of the ordinance amendment or technical study under consideration.
- (E) Penalty
 - (1) Violation of the provisions of this Part or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.
 - (2) 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:
 - (a) In responding to a suspected ordinance violation, the Zoning Administrator and local government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the

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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.

- (b) When a violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the community of action to correct the violation to the degree possible.
- (3) The Zoning Administrator shall notify the suspected party of the requirements of this Part and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the development immediately halted until a proper permit or approval is granted by the community. If the construction or development is already completed, then the Zoning Administrator may either:
 - (a) Issue an order identifying the corrective actions that must be made within a specific time period to bring the use or structure into compliance with the official controls; or
 - (b) Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 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 Part 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 Part.

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154.05.21 Planned Unit Development Fixed District

PART 2 PLANNED UNIT DEVELOPMENTS

154.05.21 Planned Unit Development Fixed District

(A) Purpose

The purposes of the Planned Unit Development Fixed District is to allow for the continuance of planned unit developments approved through conditional use permits prior to **DATE**.

(B) District Expansion

There shall be no new parcels zoned to the Planned Unit Development Fixed District after **DATE**.

(C) Approved Plans Continue

All preliminary and final development plans approved as part of a planned unit development prior to **DATE** shall remain in full force and effect as part of this overlay district. Provided new development in the Planned Unit Development Fixed District is in compliance with the approved plans, the development shall be considered in conformance.

(D) Amendments

Amendments to development plans for property in the Planned Unit Development Fixed District shall be processed according to the provisions in § 154.02.26(E). Minor amendments will be considered while major amendments shall require the establishment of a new Planned Unit Development District.

154.05.22 Planned Unit Development

(A) Intent and Purpose

The planned unit development (PUD) provisions are intended to encourage more efficient use of land, public services and greater amenity by allowing, under certain circumstances, a more flexible means of land development or redevelopment than is otherwise afforded through the strict enforcement of the zoning requirements of certain districts through lot-by-lot development. Although planned unit developments may appear to deviate in certain aspects from a literal interpretation of the zoning and subdivision ordinances, the PUD and its accompanying guidelines are intended to allow flexibility in design in order to promote developments which will be an asset to the City by equaling or surpassing the quality of developments resulting from the application of more conventional zoning regulations. A PUD may be used as an overlay district over any based zoning district or combination of zoning districts.

(B) Establishment

A Planned Unit Development shall be established by rezoning to a newly created, numbered Planned Unit Development District that outlines the uses, dimensions, and

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154.05.22 Planned Unit Development

design standards of the new PUD zoning district following the procedures set forth in § 154.02.26.

(C) Minimum Size

Planned Unit Developments shall be on a tract of land not less than one acre.

(D) Uses

Permitted uses shall generally be consistent with the permitted or conditional uses of the underlying base district. However, a PUD district can request alternative uses to the permitted uses of the underlying base district, subject to the approval by the City Council as part of the establishment of the PUD.

(E) Density

Density of development will be reviewed based on the following criteria:

- (1) Effect on adjacent properties;
- (2) Adequacy of public and private services and infrastructure;
- (3) Overall design;
- (4) Scale and massing of structures;
- (5) Building elevations and setbacks;
- (6) Landscaping, screening and buffering;
- (7) Open space provision and design; and
- (8) Retention of natural, cultural and historic resources.

(F) Dimensional and Design Standards

The following provisions shall be addressed as part of the PUD. When it is intended that regulations vary from the underlying district, the applicant shall propose them as part of the PUD application process:

(1) PUD Perimeter

A PUD shall be designed to complement existing adjacent uses and infrastructure.

(2) Lot Area

Lot area may vary from the underlying base district standard in a PUD provided the developer has demonstrated that the proposed design and layout meets the provisions of this Chapter.

(3) Yard Setbacks

Setbacks may vary from underlying base district standards in a PUD provided the developer has demonstrated that the proposed design and layout meets the

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provisions of this Chapter. Perimeter setbacks shall be consistent with the setbacks of adjacent zoning districts.

(4) Building Height

Building height may vary from the underlying base district standard. The City may request cross sections, elevations and other information from the developer in order to determine if the structure height meets the provisions of this Chapter.

(5) Environmental Design

A PUD shall be designed to preserve existing vegetation and topography where practical and shall be consistent with the goals and objectives of the Comprehensive Plan.

(6) Common Open Space

A PUD shall include common open space that is functional, improves appearance and aesthetics, is accessible and where possible adds to existing common or public open space systems.

(a) Common open space shall not include:

- (i) Setback areas**
- (ii) Street right-of-way**
- (iii) Parking areas and driveways**
- (iv) Building sites**
- (v) Private/Internal walkways and trails**
- (vi) Inaccessible stormwater ponds**

(b) Common open space may include land dedicated for public parks, trails or pathways.

(c) All structures or facilities proposed as part of common open space systems shall be completed as part of the required improvements or infrastructure of the proposed PUD.

(d) A PUD shall provide the following minimum amount of common open space based on the land use type that comprises more than 50 percent of the land use for the development:

- (i) Residential shall provide at least 30 percent of common open space**
- (ii) Commercial shall provide at least 15 percent of common open space**
- (iii) Industrial shall provide at least ten percent of common open space**

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(7) Architecture

A PUD shall include and incorporate architectural planning by the developer and implementation provisions for controlling the architecture by protective covenants, design overlay districts enforced by the City or other legal methods. Overall architectural design shall be generally compatible with the characteristics of the surrounding developments.

(8) Parking

Parking ratios may deviate from the off-street parking space standards. Where alternative parking ratios are not stated in the PUD application, they shall conform to the § 154.07.21 parking standards.

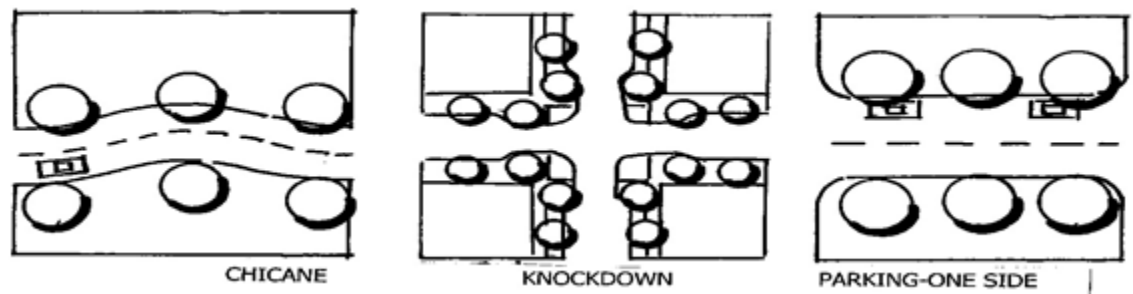
(9) Streets, Utilities and Drainage

All publicly dedicated streets, utilities and storm-water facilities shall be designed in accordance with City Ordinances and Policies. The City may consider flexible standards for streets if the developer has demonstrated that the proposed design and layout warrants varying standards and the design meets the provisions of this Title.

(10) Traffic Calming-Design

Traffic calming measures and good street design shall be considered in all PUDs.

Figure 154.05.22-1 Traffic Calming Examples



(11) Circulation/Access

- (a) Vehicular access to lots adjoining an arterial as defined by the functional classification system shall be designed by way of a frontage road, service road or local street.
- (b) Streets in a PUD shall be designed to promote a grid network of streets, minimizing dead ends and cul-de-sacs and connecting to adjoining developments where streets have been 'stubbed in' for the purpose of continuation.

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154.05.23 [Reserved]

(c) A PUD shall include provisions for pedestrians, bicycles and transit.

(G) Landscaping

A landscape and screening plan shall be included in the PUD submittal to the City including street tree provisions, screening, parking lot landscaping where applicable and the preservation of mature, healthy hardwood trees where applicable.

(H) Signs

A sign plan shall be included in the PUD submittal to the City. Signage shall generally conform to Article 08 of this Chapter, Sign Regulations. Freestanding pylon type signs shall consolidate tenants or uses in predetermined locations, minimizing the number of freestanding signs where possible.

154.05.23 [Reserved]

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CHAPTER 154 ZONING

154.06.11 Purpose

ARTICLE 06 USE SPECIFIC STANDARDS

PART 1 GENERALLY

154.06.11 Purpose

- (A) This Article establishes the additional standards and considerations required to be met to allow for uses permitted with standards and conditional uses, as established within the Tables of § 154.04.22 and § 154.04.23.
- (B) These standards are in addition to Development Standards established in Article 07 of this Chapter, and Lot and Dimension standards in § 154.04.31 through § 154.04.33. Where standards differ, the more restrictive shall apply.

PART 2 SPECIFIC RESIDENTIAL PRINCIPAL USES

154.06.21 Household Living

- (A) Manufactured Home
 - (1) Manufactured homes shall meet the permitting and installation standards established within Chapter 152 of the City Code and State Statutes and Rules as may be amended from time to time.
- (B) Dwelling, Single Family Detached Conversion to Two, Three, or Four Unit
 - (1) Conversion of a dwelling into a two, three or four-family dwelling shall conform with the lot area frontage and yard requirements prescribed for such two, three and four-family dwellings within the same district and with all other applicable requirements of this Chapter.
 - (2) Units shall share a common driveway; only one curbcut/street access is permitted for driveway/parking uses.
- (C) Dwelling, Two to Four Unit (Duplex, Triplex, Quadraplex)
 - (1) Units shall share a common driveway; only one curbcut/street access is permitted for driveway/parking uses.
- (D) Dwelling, Single Family Attached (Twinhome, Townhouse, Rowhouse)
 - (1) The applicant shall record all covenant and deed restrictions on all property which will abut the common line. The covenants and deed restrictions shall:
 - (a) Provide access for repair and maintenance of common walls, service lines and overhangs;
 - (b) Provide for easements for service lines, common walls, footings and overhangs; and
 - (c) Provide for restrictions to limit changes in color, material and design of the dwelling.

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154.06.21 Household Living

- (2) Minimum width of individual unit – 18 feet.
- (E) Dwelling, Multi-Family
 - (1) Requirements for exterior wall surfacing and covering shall be as follows:
 - (a) All multiple-family dwelling buildings shall be designed and constructed to have the equivalence of a front appearance on each exterior surface.
 - (b) All accessory or ancillary structures, including garages, shall be designed and constructed with the same facing materials as the principal structure. The materials shall be used in the same or better proportions as used on the principal structure.
 - (2) Any exterior trash or garbage disposal or storage shall be fully enclosed by screening walls with access gate, made of the similar materials as the principal structure.
 - (3) Sidewalks shall be provided from parking areas, loading zones and recreation areas to the entrance(s) of the building.
 - (4) Outdoor swimming pools or other intensive recreation shall observe setbacks required for the principal structure.
- (F) Dwelling, 2nd Floor + Apartments (Above non-residential ground floor)
 - (1) Shall be located in the upper stories of a structure; the basement; or in the ground story, a minimum of 30 feet behind any primary street façade and behind a permitted use, or on a secondary, rear, or side facade.
 - (2) Dwelling unit entrances are not required to be internal to the building; separate entrances for dwellings require walkways from parking areas, common recreational space, and the public right-of-way.
 - (3) Balconies, if included, shall individually serve a single dwelling unit.
 - (4) Parking shall be provided for both ground floor uses and dwelling units, both meeting the standards set in § 154.07.21.
 - (a) A shared parking plan may be considered by the Zoning Administrator if the applicant shows adequate on-site parking for peak hours of both uses.
 - (b) Any approved shared parking plan will be kept on file with the City.
- (G) Manufactured Home Park
 - (1) Generally

All regulations prescribed by the State Board of Health or other authority having jurisdiction and the regulations of the Building Code of the city shall be complied with in addition to the regulations set forth in this subsection.

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154.06.21 Household Living

(2) Size

Any manufactured home park established after the effective date of this Chapter shall contain not less than 20 manufactured home lots and shall be at least three acres in area.

(3) Access

- (a) Each manufactured home park shall abut upon a public street and shall have no less than two ingress and egress locations abutting the public street.
- (b) No vehicular entrance to, or exit from, any manufactured home park shall be located within 200 feet of any school, public playground, place of worship, hospital, library or institution for children, except where the property is in another block or another street which the premises in question do not abut.

(4) Setback Requirements

Structures in manufactured home parks shall be set back 20 feet from front and rear property lines and 12 feet from side property lines.

(5) Building Height

No building or structure hereafter erected or altered in a manufactured home park shall exceed 25 feet or one and one-half stories in height.

(6) Interior Requirements

The following requirements shall apply to the interior of the manufactured home park:

(a) Interior streets

The minimum roadway width of interior one-way streets with parking permitted on one side shall be 21 feet. The minimum roadway width of two-way streets with parking permitted on one side shall be 30 feet. The minimum width of two-way streets without parking shall be 20 feet. The streets shall be paved according to City specifications for residential streets, maintained in good condition and lighted at night.

(b) Lot area

The minimum lot area per manufactured home site shall be 5,000 square feet.

(c) Utilities

Each manufactured home shall be equipped with one electric outlet and hookups for municipal water and sewer. Fire hydrants shall be located in

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accordance with generally accepted practices as determined by the City Fire Marshal and City Engineer.

(d) Distance between manufactured homes

The minimum distance between neighboring manufactured homes shall be 12 feet.

(e) Setback from interior streets

No manufactured home shall be located closer than ten feet to the traveled portion of an interior street.

(f) Off-street parking

Off-street parking shall be provided at the ratio of two spaces for each manufactured home lot.

(7) Required Improvements

In order that a manufactured home park may be harmonious within itself and with the surrounding area, the following improvements shall be required:

(a) Adequate provisions for the control of surface drainage, approved by the City Engineer must be incorporated on the site.

(b) All areas not used for access, parking, circulation, buildings and service shall be completely and permanently landscaped and the entire area maintained in good condition.

(c) A 12-foot bufferyard shall be located and maintained along all exterior boundary lot lines not bordering a street according to the bufferyard requirements in § 154.07.32.

(d) Skirting for manufactured homes is required.

(i) Skirting shall be a permanent exterior material color coordinated to match the decor of the manufactured home.

(ii) All skirting shall be firmly attached and in good repair.

(e) No other buildings or structures shall be attached to a manufactured home, as specified by the Building Code.

(f) Accessory structures allowed shall be one utility building per lot no larger than 120 square feet and one automobile storage garage no larger than 8 percent of the lot or 300 square feet, whichever is greater.

(i) No accessory structure shall be placed less than two feet from any lot line; less than six feet from the main structure and/or closer to the street than the front of the main structure.

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- (ii) Automobile storage garages shall be constructed in strict compliance with the State Building Code and must be approved by the City Building Official and the park owner(s) or their authorized representative.
 - (iii) This shall not prevent the use of an awning of aluminum, canvas or fiberglass which may be enclosed by mesh screen and which shall not be larger than 120 square feet in floor area.
 - (g) There shall be provided within each manufactured home park, a recreation site or sites, for the exclusive use of the park occupants. The recreation site shall have a minimum area of 10,000 square feet for each 50 units or fraction thereof. Where possible, the area shall be configured so it is no longer than two times its width. The recreational sites shall be provided with appropriate equipment.
- (8) **Commercial Operations Restricted**
 - (a) No commercial operation shall be conducted within the park other than those necessary for the operation thereof. A common laundering facility is an allowed use. Commercial sales lots for manufactured homes are prohibited.
 - (b) A conditional use permit shall be required for any home business, according to § 154.06.72(C).
- (9) **Parking Restrictions**

Except as may be authorized by general traffic and parking regulations or ordinances, no person shall park or occupy any recreational vehicle in a manufactured home park.
- (10) **New Application Required for Enlargement, Extension or Transfer of Permit.**

Any enlargement or extension to any existing manufactured home park or transfer of an existing permit shall require a new application for a conditional use permit as if it were a new establishment.
- (11) **Storm Shelter Facilities**

There shall be provided within each manufactured home park that has ten units or more, except a park for travel trailers, suitable storm shelter facilities constructed to withstand a free field of wind of 200 mph, a 1.2.PSI drop in four seconds, of any type of missile projections. Storm shelter facilities shall comply with the most recent State Building Code requirements and State Health Department standards. The area of the shelter facilities shall be equal to seven and one-half square feet per manufactured home lot.
- (12) **Promulgation of Additional Regulations**

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154.06.22 Group Living

In addition to the foregoing, the City may impose other conditions, requirements or limitations concerning the design, development and operation of the manufactured home park it may deem necessary for the protection of adjacent properties and the public interest.

(H) Live/Work Unit

- (1) Any commercial use permitted in the zoning district applicable to the property is permitted in the live/work unit.
- (2) Live/work units located at street level are subject to the development standards for ground-floor retail or commercial establishments as follows:
 - (a) A minimum of 80 percent of a structure's street front façade at street level shall be occupied by nonresidential uses.
 - (b) The ground floor shall have a minimum floor-to-floor height of 13 feet.
- (3) Parking for customers, if required, shall be separate from resident parking.
- (4) Live/work units that exceed 2,000 square feet must have at least two exits.
- (5) Within each live/work unit, the living area shall not exceed one third of the total floor area of the unit.

154.06.22 Group Living

(A) Intermediate, Extended, or Long-Term Care Facility (Nursing Home)

- (1) A minimum of 600 square feet of lot area shall be provided for each person to be housed on the site.
- (2) All structures shall meet the setback standards established for multi-unit dwellings in the same zoning district.
- (3) At least 12 percent of the lot area shall be developed as designed outdoor recreation area.
- (4) The structure housing the use shall comply with the requirements of the state law and the building code regulating the construction of licensed care facilities.
- (5) Approval must be obtained from the proper agencies concerning health and safety conditions and the home must be licensed by the agencies.

(B) Residential Care Facility (licensed in-home)

- (1) At least 800 square feet of lot area shall be provided for the maximum capacity of people housed on the site.
- (2) At least 12 percent of the lot area shall be developed as designed outdoor recreation area.

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154.06.23 Lodging

- (3) The residence structure shall provide one bedroom for each two persons accommodated in group living quarters.
- (4) The residence structure shall provide one bathroom for each four persons accommodated in group living quarters.

154.06.23 Lodging

(A) Bed and Breakfast Facility

- (1) The owner or operator shall reside on the property.
- (2) The establishment shall conform with State Health and Building Code requirements.
- (3) The only meal served to guests shall be breakfast and only guests shall be served.
- (4) Guests shall not stay for more than 14 days within any 90-day period.
- (5) A minimum of one off-street parking space for each guest room and two additional off-street parking spaces for the residents shall be provided.
- (6) On-premises advertising for any bed and breakfast facility located in any residential zone shall be limited to either one wall sign or one freestanding sign not more than two square feet in area per sign face. The content of any such sign shall be limited to identifying not more than the name and address of the facility. No sign shall be internally illuminated.
- (7) No cooking or cooking facilities shall be allowed or provided in the guest rooms.
- (8) The facility shall have historical or architectural significance.

(B) Short Term Vacation Rental (Principal Use)

(1) Number of guests

The maximum number of overnight guests will be limited to two times the number of bedrooms rented plus one.

(2) Events

Events are not allowed to be hosted by transient guests on the premises. An event means a gathering on the premises of more than three un-registered transient guests. Events hosted by the property owner are allowed, but must abide by all applicable City ordinances and policies, including the prohibition on renting private residential property out for events.

(3) Dwelling requirements

- (a) The dwelling must be connected to City sewer and water.
- (b) Rooms used for sleeping shall have an egress windows and smoke detectors.

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- (c) The guest(s) must have access during their entire stay to a full bathroom, including sink, toilet, and tub or shower.
 - (d) Accommodation of guests is not allowed in recreational vehicles, tents, accessory structures, fish houses, or similar structures.
- (4) **Parking**
 - (a) All guest parking must be accommodated on improved surfaces on the premises. No on-street parking is allowed for guests.
 - (b) At a minimum, parking shall be provided at the following rate:
 - (i) 1 space for each 1-2 bedroom rental
 - (ii) 2 spaces for each 3 bedroom rental
 - (iii) Spaces equal to the number of bedrooms minus one for each 4 and 4+ bedroom rental
- (5) **Proximity of assistance**

The property owner or a manager/representative must be located within 30 miles of the property. The property owner shall maintain with the City the name, address, phone number, and email for the local contact or managing agent for the property.
- (6) **Guest records**

A guest record must be maintained, including the name, address, phone number, and vehicle license plate information for all guests. This record must be provided to the City within 48 hours of a request for the guest record.
- (7) **Guest disclosures**

The property owner must disclose in writing to their transient guests the following rules and regulations. This disclosure shall be conspicuously displayed in the home:

 - (a) The name, phone number and address of the owner, operating lessee or managing agent/representative.
 - (b) The maximum number of guests allowed at the property.
 - (c) The maximum number of vehicles allowed at the property and where they are to be parked.
 - (d) City nuisance ordinances requirement that noise levels be reduced between 10 p.m. and 8 a.m. and that this will be enforced by the Kasson Police.
 - (e) Property rules related to use of outdoor features, such as decks, patios, grills, recreational fires, saunas and other recreational facilities.

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154.06.31 Healthcare and Internment Services

- (f) No events are allowed to be hosted on the premises.
- (8) Garbage
All garbage must be kept in rubbish containers that are stored out of view of a public street.
- (9) Signage
No signage pertaining to the short term vacation rental is allowed on the property.

PART 3 SPECIFIC PUBLIC, SOCIAL, OR HEALTHCARE USES

154.06.31 Healthcare and Internment Services

- (A) Cemetery, Mausoleum, Columbarium
 - (1) No burial sites or structures shall be located closer than 50 feet from any property line.
- (B) Funeral Home or Mortuary
 - (1) All principal and accessory structures and uses shall be a minimum of 25 feet from any lot line.
- (C) Hospital
 - (1) These buildings shall be located on a major street and access shall be located so that access can be provided without generating significant traffic on local residential streets.
 - (2) Internal traffic circulation shall be designed to minimize traffic within 100 feet of any abutting residential property.

154.06.32 Institutions

- (A) Place of Worship
 - (1) These buildings shall be located on a major street and access shall be located so that access can be provided without generating significant traffic on local residential streets.
 - (2) An off-street passenger loading area shall be provided in order to maintain vehicular and pedestrian safety.
 - (3) Outdoor recreational and play areas shall be located at least 25 feet from any lot in a residential district.

154.06.33 Education

- (A) Child Care Facility
 - (1) Access shall be located so that access can be provided without generating significant traffic on local residential streets.

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154.06.34 Recreation and Open Space

- (2) Student drop-off and loading areas shall not interfere with traffic and pedestrian movements.
 - (3) An outdoor play area shall be provided that contains at least 40 square feet per student enrolled at the facility.
 - (4) Outdoor recreational and play areas shall be located at least 25 feet from any lot in a residential district.
- (B) School, College/University/Trade/Business
 - (1) The lot area shall be a minimum of two acres and all principal structures and uses shall be a minimum of 40 feet from any lot line.
 - (2) Access shall be located so that access can be provided without generating significant traffic on local residential streets.
 - (3) An off-street passenger loading area shall be provided in order to maintain vehicular and pedestrian safety.
 - (4) Outdoor recreational and play areas shall be located at least 25 feet from any lot in a residential district.
- (C) School, Elementary or Secondary
 - (1) The lot area shall be a minimum of two acres and all principal structures and uses shall be a minimum of 40 feet from any lot line.
 - (2) Access shall be located so that access can be provided without generating significant traffic on local residential streets.
 - (3) An off-street passenger loading area shall be provided in order to maintain vehicular and pedestrian safety.
 - (4) Outdoor recreational and play areas shall be located at least 25 feet from any lot in a residential district.
- (D) School, Nursery or Preschool
 - (1) Access shall be located so that access can be provided without generating significant traffic on local residential streets.
 - (2) Student drop-off and loading areas shall not interfere with traffic and pedestrian movements.
 - (3) An outdoor play area shall be provided that contains at least 40 square feet per student enrolled at the school.
 - (4) Outdoor recreational and play areas shall be located at least 25 feet from any lot in a residential district.

154.06.34 Recreation and Open Space

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154.06.35 Government Services

(A) Golf Course/Country Club

- (1) No building shall be located within 100 feet of any property line.
- (2) Facilities such as restaurants and bars may be permitted when conducted and entered from within the building.
- (3) Swimming pools, tennis courts and the like shall be located not less than 25 feet from any property line and adjoining property in any residential or commercial district shall be effectively protected by a wall, hedge and/or screen planting.
- (4) Golf driving platforms shall be not less than 200 feet from any adjacent residential district or existing dwelling.

154.06.35 Government Services

(A) Municipal, County, State or Federal Administrative or Service Building

- (1) All service drives shall be paved.

PART 4 SPECIFIC COMMERCIAL USES

154.06.41 Food and Beverage Services

(A) Off Sale Liquor

- (1) The business shall have a current license in compliance with state standards for off-sale liquor.

(B) Restaurant with Drive-Through or Drive-In

- (1) Drive-through facilities and stacking areas shall not be within 100 feet of any parcel that is zoned residential, or has an occupied institutional building, including but not limited to schools, religious institutions, and community centers unless the entire facility and stacking areas are separated from said parcel by a building wall.
- (2) Stacking shall be provided for six cars per customer service point and shall comply with all yard requirements.
- (3) This use shall only be permitted when it can be demonstrated that the operation will not have a significant adverse effect on the existing level of service of adjacent streets and intersections.
- (4) The drive-through facility shall be designed so it does not impede traffic or impair vehicular and pedestrian traffic movement, or exacerbate the potential for pedestrian or vehicular conflicts.
- (5) Access shall be located so that access can be provided without generating significant traffic on local residential streets.
- (6) Any canopy as part of this use shall be compatible with the architectural design and materials of the principal structure.

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CHAPTER 154 ZONING

154.06.42 Other Services

154.06.42 Other Services

(A) Animal/Pet Services

- (1) Animal hospitals shall be located no closer than 100 feet to any residential district, restaurant, hotel or motel in any district, and shall show that adequate measures and controls will be taken to prevent offensive noise and odor. No incineration of refuse shall be permitted on the premises.
- (2) Animal daycare center:
 - (a) An odor mitigation plan shall be provided to demonstrate how impacts from odors will be minimized.
 - (b) All outdoor areas for animals shall be enclosed with a fence.
 - (c) A facility sharing a common building wall, ceiling, or floor plate with another use or structure must provide engineering detail demonstrating sound attenuation to STC rating of 55 or higher for such common walls and ceilings. Noise testing by a qualified noise professional may be required as a condition of approval prior to issuance of a building certificate of occupancy.
 - (d) All outdoor designated areas for animals shall be located a minimum of 125 feet from a residential property line.
 - (e) An indoor facility must be located at a minimum of 50 feet from a residential property line.
 - (f) Overnight boarding of animals shall not be permitted.

(B) Services Otherwise Allowed with Drive-Through or Drive-In

- (1) Drive-through facilities and stacking areas shall not be within 100 feet of any parcel that is zoned residential, or has an occupied institutional building, including but not limited to schools, religious institutions, and community centers unless the entire facility and stacking areas are separated from said parcel by a building wall.
- (2) Stacking shall be provided for six cars per customer service point and shall comply with all yard requirements.
- (3) This use shall only be permitted when it can be demonstrated that the operation will not have a significant adverse effect on the existing level of service of adjacent streets and intersections.
- (4) The drive-through facility shall be designed so it does not impede traffic or impair vehicular and pedestrian traffic movement, or exacerbate the potential for pedestrian or vehicular conflicts.

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154.06.43 Retail

- (5) Access shall be located so that access can be provided without generating significant traffic on local residential streets.
- (6) Any canopy as part of this use shall be compatible with the architectural design and materials of the principal structure.

154.06.43 Retail

(A) Shopping Center

- (1) Access shall be to a roadway identified in the Comprehensive Plan as a collector or arterial or shall be otherwise located so that access can be provided without generating significant traffic on local residential streets.

154.06.44 Arts and Entertainment

(A) Commercial Recreation Facility, Outdoor

- (1) These uses and structures shall be located on minor arterial roadways or collector roadways or nonresidential streets.
- (2) All structures shall be a minimum of 50 feet from any residential district boundary.
- (3) Lights used to illuminate the premises shall be so directed and shielded as not to be an annoyance to traffic or developed residential property.

154.06.45 Automobile Related

(A) Automobile Fuel Station/Service Station

- (1) Setbacks
When adjacent to residential districts, the service station, outdoor displays, tanks, pumps and other structures shall be a minimum of 25 feet from adjoining property.
- (2) Curb and gutter
Concrete curb and gutter shall be installed on all streets giving access to the station.
- (3) Fencing and screening
When adjacent to residential property, there shall be a screening fence on the property line abutting residential property. When adjacent to commercial or industrial property, there shall be a bumper-type fence approximately 18 inches high between the station and the adjacent commercial or industrial property.
- (4) Vehicles
No vehicles shall be parked on the premises other than those utilized by employees or those awaiting service. No vehicle shall be parked or be waiting for service longer than 15 days.
- (5) Exterior storage and outdoor display

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154.06.51 Small Production / Commercial Production

Exterior storage besides vehicles shall be limited to service equipment and items offered for sale. Exterior storage of items offered for sale shall be within yard setback requirements and shall be located in containers such as racks, metal trays and similar structures designed to display merchandise.

(6) Screening

All areas utilized for the storage or disposal of trash, debris, discarded parts and similar items shall be fully screened. All structures and grounds shall be maintained in an orderly, clean and safe manner.

(7) Lighting

Lights shall be designed and placed in a manner as to direct the light away from residential areas.

PART 5 SPECIFIC INDUSTRIAL AND MANUFACTURING USES

154.06.51 Small Production / Commercial Production

(A) Brewery, Winery or Distillery

- (1)** Compliance with all applicable provisions of state and local law and all required licenses shall be obtained.
- (2)** Owner/operator shall install all standard or necessary equipment to ensure that detectable odors coming from brewing/distilling operation are eliminated to prevent odors from presenting a public nuisance.
- (3)** No exterior storage allowed including but not limited to: brewing/distilling equipment, product, raw materials or waste materials.
- (4)** A loading and unloading area for all trucks greater than 22 feet in length must be provided off-street.
- (5)** Facilities within the C-1, C-2, or C-3 Districts shall also meet the following:
 - (a)** The facility shall not produce more than 20,000 barrels of malt liquor, wine, or spirits per year.
 - (b)** A taproom and/or retail outlet is required and shall be located along the primary storefront of the building.
 - (c)** The taproom and/or retail outlet shall occupy a minimum of 20 percent of the gross floor area with no maximum limit.
 - (d)** Alcohol produced off-site shall not be sold on-site, this includes both on-sale and off-sale transactions.

(B) Makerspace (studio)

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154.06.52 Indoor Industrial Activity

- (1) This use may also include associated facilities such as offices and small scale warehousing, but distribution is limited to vans and small trucks. Distribution access shall be from the rear.
 - (2) A showroom or retail outlet is permitted.
 - (3) Distribution shall be from a designated loading area only.
- (C) Rental Storage Units (self-storage facility)
 - (1) Facility shall consist of a permanent structure(s) only; temporary/mobile storage units, such as storage pods and shipping containers, are prohibited.
 - (2) Individual storage units shall be used for dead storage only. Storage units shall not be used for retail, commercial, human habitation, office, workshop, studio, hobby or rehearsal area, manufacturing or processing of goods, or repair/service of autos or equipment. Auctions, garage or estate sales are prohibited.
 - (3) Storage of flammable, hazardous or perishable materials and keeping of animals is prohibited.
 - (4) Outdoor storage is prohibited, including vehicles and boats.
 - (5) All doors to the storage units shall be internally accessed; doors shall be internally facing and shall not face any street or property line.
 - (6) The entire facility shall be secured by either the walls of the structure(s) and/or fencing.
 - (7) All areas intended for driving, parking and loading shall be paved with asphalt or concrete.
 - (8) Mini-storage facilities adjacent to residential properties shall not operate or allow tenant access between the hours of 10:00 pm and 7:00am.
 - (9) The overall height of light fixtures installed to illuminate parking lots and exterior grounds shall not exceed the height of any principal structure.

154.06.52 Indoor Industrial Activity

- (A) Grain Elevators and Fertilizer Manufacturing, Storage
 - (1) The uses shall be located no closer than 200 feet to any residential districts.
 - (2) Adequate parking and loading areas shall be provided.
 - (3) Adequate ingress and egress shall be provided and shall be designed to minimize traffic hazard and congestion.
 - (4) Applicants shall show that odor, dust, noise and drainage shall not constitute a nuisance to surrounding areas.

154.06.53 Outdoor Industrial Activity

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154.06.53 Outdoor Industrial Activity

- (A) Automobile Wrecking Yard/Scrap or Salvage Storage Yard
- (1) Compliance with all necessary state and local licensing as well as with all state and federal environmental regulations.
 - (2) Travelways through the storage yard shall be maintained to allow for fire and emergency access.
 - (3) A landscape buffer area of at least 15 feet shall be provided along the frontage of the property with a minimum of 150 plant units per every 100 lineal feet.
 - (4) All buildings shall include an automatic fire sprinkler system.
 - (5) All vehicle fluid draining shall be conducted within a building.
 - (6) Vertical stacking of vehicles shall not be permitted on the property where they are visible from public right-of-way or adjacent properties.
 - (7) Hours of operation, including deliveries and hauling to and from the property, shall be between 7:00 a.m. and 7:00 p.m.
 - (8) All petroleum products, anti-freeze and hazardous materials shall be disposed of in accordance with local and state regulations.
 - (9) Any buildings, salvage yard, salvage parking areas, vehicle crusher, loading areas and dumpsters as well as any outdoor storage areas or equipment shall be enclosed within an opaque perimeter fence eight feet in height. The fence shall be faced with aluminum or galvanized steel panels and coated with a non-reflective neutral earth tone color.
 - (10) Storage kept outside of a building shall not be located in the required front yard.
- (B) Contractor Yard (Landscaping, Construction, etc.)
- (1) Outside storage of materials and equipment shall be fully screened with a fence or wall at 100 percent opacity to the height of six feet, from public roads and adjacent residential properties, and shall otherwise meet the provisions outlined in § 154.07.33.
 - (2) Buildings, parking areas, loading areas, and outside storage shall meet the setback requirements of the applicable zoning district.
 - (3) All motorized vehicles, including trucks and trailers, and machinery stored in the outside storage area shall be licensed and in operable condition.
 - (4) No operation or activity shall emit any hazardous substances in such quantity, concentration, or duration as to be injurious to human health or property. If hazardous materials are stored and used on the property, a materials management plan shall be submitted to address storage, handling, use, disposal, and potential hazards.

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154.06.53 Outdoor Industrial Activity

(C) Outdoor Storage, Manufacturing, and Sales Area

- (1) Use shall be surrounded by a solid fence or evergreen planting screen completely preventing a view from any other property or public right of way and shall be at least 600 feet from Residential Districts.
- (2) Inflammable Liquid Storage in Industrial/Manufacturing Districts
 - (a) Aboveground storage of quantities over 1,000 gallons of materials or products rated as fast-burning, or which produce flammable or explosive vapors or gasses, will be permitted only in the industrial/manufacturing district; provided that, the storage area is not less than 600 feet distant from any other zoning district.
 - (b) The storage area must be provided with adequate safety devices against the hazard of fire and explosion and adequate fire suppression and firefighting equipment and devices standard to the industry.
- (3) Bulk Storage (Liquid, Gas, Grain and the Like)
 - (a) Above and below ground storage tanks, bins, elevators and the like shall be regulated in accordance with applicable City, state and federal regulations, including the applicable building codes, State Fire Code and regulations of the Pollution Control Agency.
 - (b) All necessary federal, state and local permits and approvals shall be obtained.
 - (c) The Council may require that all existing aboveground liquid in free state storage tanks having a capacity of 300 gallons or more be diked, and suitably sealed, to hold a leakage capacity equal to 115 percent of tank capacity, and also have State Fire Marshal approval.
 - (d) No storage tanks containing flammable or combustible materials shall be located less than 200 feet from a residential district, except those used on individual properties for heating individual homes.

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CHAPTER 154 ZONING

154.06.61 Natural Resources

PART 6 SPECIFIC AGRICULTURAL AND NATURAL RESOURCES USES

154.06.61 Natural Resources

(A) Community Solar Farm

Community Solar Farms shall be subject to the requirements set for conditional use permits as established in § 154.02.23 and the following additional performance standards:

(1) Foundations.

A professional licensed engineer in the state of Minnesota shall certify that the foundation and design of the solar panels is within accepted professional standards, given local soil and climate conditions.

(2) Vegetation requirements and management.

The following provisions shall be met related to the clearing of existing vegetation and establishment of vegetated ground cover. Additional requirements may apply as required by the City Council.

(a) Large-scale removal of mature trees on the site is discouraged. Restrictions on tree clearing, or mitigation for cleared trees may be required by the City Council.

(b) The project site design shall include the installation and establishment of vegetative ground cover.

(i) The ground cover should provide pollinator habitat or meet the beneficial habitat standards consistent with M.S. § 216B.1642, as may be amended from time to time, as set by the Minnesota Board of Water and Soil Resources.

(ii) Accessory uses of ground cover, such as beneficial crop growth, or feeding fields for sheep and goats, may be considered at the time of application and permitted with conditions by the City Council.

(iii) The applicant shall submit a financial guarantee in the form of a letter of credit, cash deposit or bond in favor of the City equal to 125 percent of the costs to meet the beneficial habitat standard. The financial guarantee shall remain in effect until vegetation is sufficiently established.

(3) Other standards and codes

All community solar farms shall comply with any applicable local, state and federal regulatory standards, including the State of Minnesota Uniform Building Code, as amended; the National Electric Code, as amended; the National Pollutant Discharge Elimination System (NPDES), as amended; and shall be in compliance

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with all applicable federal, state and local wetland laws, rules and regulations, as amended.

(4) Power and communication lines

Power and communication lines running between banks of solar panels, to electric substations, among other project elements and providing interconnections with buildings shall be buried underground. Exemptions may be granted by the City Council in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.

(5) Setbacks

Community solar farms must meet the minimum principal building setback for the zoning district and be located a minimum of 300 feet from a residential dwelling unit not located on the property. Setbacks shall be measured to the nearest solar array or other structure within the community solar farm, excluding security fencing, screening or berm.

(6) Maximum Height

Ground mounted systems shall not exceed 25 feet in height at maximum ground tilt.

(7) Screening

Community solar farms shall be screened from residential dwelling units as follows when there is less than 1,000 feet of separation between the solar array and residential dwelling:

- (a) Screening shall consist of earth mounds or berms; neutral colored fences; or landscaping used in combination or singularly so as to block direct visual access and to mitigate potential glare concerns.
- (b) The use of berming and landscaping shall be 80 percent opaque at the time of maturity. Planting screens shall consist of healthy plant materials at least six feet in height at the time of planting.
- (c) Screening fences that are in disrepair shall be repaired. Planting screens shall be maintained in a neat and healthy condition with plantings that have died being replaced within the current or next growing season.
- (d) Applicant shall provide mitigation of glare issues, failure to mitigate will be a violation of the CUP.

(8) Solar panels must be removed and properly disposed of if they are out of production for more than one year unless the City Council grants an extension of time for their removal.

(9) Application Requirements

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The following information shall be provided to the City as part of the CUP permit:

- (a) A site plan of existing conditions showing the following:
 - (i) Existing property lines and property lines extending 300 feet from the exterior boundaries, including the names of the adjacent property owners and current use of those properties.
 - (ii) Existing public and private roads, showing widths of the roads and any associated easements.
 - (iii) Location and size of any existing or abandoned wells, and sewage treatment systems.
 - (iv) Existing buildings and any impervious surface.
 - (v) Topography at two foot intervals and source of contour interval, a contour map of surrounding properties may also be required.
 - (vi) Existing vegetation (list type and percent of coverage; i.e. grassland, pasture, plowed field, wooded areas, etc.).
 - (vii) Waterways, watercourses, lakes and public water wetlands.
 - (viii) Level 2 wetland delineation required. Other levels may be appropriate if approved by the Zoning Administrator or City Engineer.
 - (ix) The 100-year flood elevation and Regulatory Flood Protection Elevation, if applicable.
 - (x) Floodway, flood fringe and/or general flood plain district boundary, if applicable.
 - (xi) Surface water drainage patterns.
 - (xii) Mapped soils according to the Dodge County Soil Survey.
- (b) Site Plan of Proposed Conditions:
 - (i) Location and spacing of solar panels.
 - (ii) Location of access roads.
 - (iii) Planned location of underground or overhead electric lines connecting the solar farm to the building, substation or other electric load.
 - (iv) New electrical equipment other than at the existing building or substation that is the connection point for the solar farm.

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- (v) Sketch elevation of the premises accurately depicting the proposed solar energy conversion system and its relationship to structures on adjacent lots (if any).
- (c) Manufacturer's specifications and recommended installation methods for all major equipment, including solar panels, mounting systems and foundations for poles or racks.
- (d) The number of panels to be installed.
- (e) A description of the method of connecting the array to a building or substation.
- (f) Visual Impact Analysis

An analysis of the potential visual impacts from the project including solar panels, roads and fencing along with measures to avoid, minimize or mitigate the visual effects shall be required. A plan may be required showing vegetative screening or buffering of the system from those items to mitigate for visual impacts.
- (g) A copy of the interconnection agreement with the local electric utility or a written explanation outlining why an interconnection agreement is not necessary.
- (h) A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life.
 - (i) Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. Disposal of structures and/or foundations shall meet all applicable rules and regulations to proper disposal.
 - (ii) To ensure proper decommissioning, the applicant shall provide a financial surety by posting a bond, letter of credit or the establishment of an escrow account at a rate of \$25,000 per MW or fraction thereof for Community Solar Farms and at a rate of \$500 per acre for Private Solar Gardens.
- (i) Any financial surety arrangement shall be approved by the City Attorney's Office as to form and issuing bank.
 - (i) The issuing bank must be an FDIC insured bank.
 - (ii) The issuing bank must be available in its entirety to fulfill the obligations of Developer under the Agreement.

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- (iii) Any letter of credit to the City shall contain language requiring its automatic renewal prior to December 31 of each calendar year, unless cancellation of the letter of credit is specifically approved in writing by the City.
- (B) Short Wave Towers, radio and TV towers, and commercial radio and television towers and transmitters
 - (1) Permit required

No short wave tower shall be placed or erected on any property in any district within the city for the purpose of which a conditional use permit has not been issued.
 - (2) Required exhibits

In addition to exhibits required for all conditional use permit applications, the following shall be submitted with a completed application and a fee for processing the application: scaled drawing showing all property lines, existing buildings, above and below ground utilities on the property, and the proposed location of the tower.
- (C) Wind Energy Conversion Systems (WECS)
 - (1) Plans

Each application for a conditional use permit shall be accompanied by a dimensional representation of the tower including the conversion system, base and footings and an accurate plan containing the following information:

 - (a) Property lines;
 - (b) Proposed location of tower on site;
 - (c) Location of all existing structures on site;
 - (d) All aboveground utility lines;
 - (e) All underground utility lines within a radius equal to the proposed WECS height; and
 - (f) Boundaries of all adjacent utility easements or reversed areas.
 - (2) WECS height

The total height of the tower (including any portion of the rotor or axis extending above the tower) shall not exceed the horizontal distance between the base of the tower and the nearest lot line or building line; except that, the horizontal distance may extend beyond the nearest lot line or building line provided there are not overhead utility lines or easements therefor or if the abutting area is a public alleyway. Furthermore, the City Council may allow the height requirement to be exceeded; provided, it is satisfied that the proposed structure will withstand the

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wind loads in the area. As evidence of this, the City Council shall require the following information:

- (a) Dimensional representation of the various structural components of the tower construction including the base and footings;
- (b) Design data which shall indicate basis of design, including manufacturer's dimensional drawings, installation and operation instructions; and
- (c) Certification by an independent registered professional engineer that the proposed structure will withstand wind loads in the area.

(3) Tower access

Climbing access to the WECS tower shall be limited either by means of a fence six feet high around the tower base with a locking portal, or by limiting tower climbing apparatus to no lower than 12 feet from the ground.

(4) Wind access

Contiguous property owners and planned developments may construct a WECS for their use in common. If property held by more than one single owner is used to meet the setback requirements, a site plan establishing easements or reserved areas must be submitted for approval.

(5) Noise

A WECS operation shall not produce noise in excess of the limits established by state standards.

(6) Limited use

WECS installed in accordance with the requirements of this Chapter shall not generate power as a commercial enterprise as defined by the Public Utilities Commission.

(7) Electromagnetic interference

A WECS shall not be installed in any location along the major axis of an existing microwave communications link where the level of electromagnetic interference may have possible effect on the microwave communications link.

(8) Airspace

A WECS shall be located or installed in compliance with the regulations of the airport approach zones and federal aviation regulations for clearance around VOR and DVOR stations.

(9) Interconnect

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A WECS, if interconnected to an electric utility distribution system, shall meet the interconnect requirements of the electric utility company. In any case, the interconnect shall include a manual disconnect which complies with the National Electric Code.

(10) Codes

Construction and installation of a WECS shall comply with all City code provisions, state and National Electrical Codes in effect at the time of installation.

(11) Liability

No building permit shall be issued for the construction of a WECS until and unless the applicant for the building permit deposits with the City Administrator a policy of liability insurance indemnifying applicant from liability for personal injury or property damage in the sum of at least \$500,000. The policy of insurance so deposited shall contain a clause obligating the company issuing the same to give at least 30-days' written notice to the City before cancellation thereof, the building permit to be automatically revoked upon the lapse or termination of the policy.

(D) Wireless Communications Facilities

(1) Purpose

(a) The purpose of this subsection is to establish regulations that protect the public health, safety and general welfare of the community, for the siting, construction and maintenance of wireless communication towers (WCT) and similar facilities within the City. This does not pertain to amateur radio or receive only antennas or structures.

(b) The regulations of this subsection are intended to:

- (i) Maximize the use of existing approved structures for siting new antennas in order to reduce the number of new towers needed to serve the community;
- (ii) Provide for the appropriate location and development of antennas and towers within the City;
- (iii) Minimize adverse visual effects of wireless communication towers through siting standards; and
- (iv) Utilize standard structural and setback requirements to avoid potential damage to adjacent properties from antenna and tower failure.

(2) Conditional Use.

Wireless communication towers and similar facilities are a conditional use within all zoning districts subject to the following performance standards.

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(a) Permit required

It shall be unlawful for any person, firm or corporation to erect, construct, place, replace or structurally repair any wireless communication tower or adjoining/accessory structures without first making application to the Zoning Administrator and securing appropriate permit approval. Building permits are not required for adjustment or replacement of the elements of an antenna array affixed to a tower or antenna. All applications shall be accompanied by a coverage/interference and capacity analysis, including a technical evaluation of existing and proposed transmissions indicating all potential interference problems including, but not limited to, residential broadcast reception and public safety communications. All applications must demonstrate compliance with all existing FCC, FAA, Uniform Building Code and other pertinent regulations. As regulations change, wireless communication operators must demonstrate continued compliance at their expense. All subsequent co-locators must apply for individual building and conditional use permits in conformance to this subchapter.

(3) Permitted locations

(a) No wireless communication tower shall be erected in the City unless the applicant demonstrates that the equipment planned for the purpose of the proposed wireless communication cannot be accommodated on an existing or approved tower, building or structure within a one-mile search radius of the proposed tower due to one or more of the following reasons:

- (i) The planned equipment would exceed the structural capacity of the existing or approved structure, as documented by a qualified and licensed professional engineer; and the existing or approved structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost;
- (ii) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer, and the interference cannot be prevented at a reasonable cost;
- (iii) Existing or approved wireless communication towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer; and/or

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- (iv) Other unforeseen reasons that make it infeasible to locate the planned equipment upon an existing or approved structure.
 - (b) Wireless communication towers are permitted with a conditional use in areas with the following uses:
 - (i) Industrial, manufacturing, commercial and agricultural;
 - (ii) Parks and public open space when sited and designed to be compatible with the nature of the site;
 - (iii) Government, school and public utility structures; and
 - (iv) Places of worship.
- (4) Design Standards

All applications must meet the following minimum requirements:

 - (a) All towers and antennas shall comply with all FCC and FAA rules and regulations. Wireless communication towers attached to a building or existing structure shall comply with the setbacks of the zoning district and shall not exceed 20 feet in height beyond the top of the primary structure. Freestanding towers shall be set back one foot from any property line or building for each one foot of structural height. Freestanding towers shall not be located in a front yard, nor shall any part of the antenna or tower extend across or over any part of the public right-of-way, street, highway or sidewalk.
 - (b) Towers should be located in areas that provide the maximum possible amount of natural or existing structural screening for off-site view.
 - (c) Towers shall be self-supporting without the use of wires, cables, beams or other means, the design should utilize an open framework or monopole configuration that is designed to collapse in on itself in the event of structural damage. Design and installation of towers and antennas shall comply with all applicable federal and state standards, including FCC and FAA standards and the current Uniform Building Code, and shall be approved and stamped by a licensed professional structural engineer.
 - (d) Towers shall be designed to allow the future co-location of equipment at varying heights. Tower operators are required to accept co-location of communication equipment if reasonable and necessary to conform to § 154.06.61(D)(2) and shall not make such co-location economically unfeasible. Towers over 150 feet in height shall be designed for co-location of at least three additional antennas. Towers of 125 feet to less than 150 feet shall be designed for co-location of at least two additional antennas. Towers of 100 feet to less than 125 feet shall be designed for co-location of

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at least one additional antenna. Subsequent co-locators are subject to the same provisions and procedures as the primary conditional use applicant.

- (e) Towers shall not be illuminated by artificial means unless the light is required by federal (FAA) or state regulations; or used to illuminate ball fields, parking lots or similar areas; or for crime preventative measures.
 - (f) The use of any portion of a tower for signs other than required warning or equipment information is prohibited. All mechanical and utility equipment shall be enclosed in an approved structure or cabinet; all buildings and structures shall meet the minimum performance standards in that zoning district.
 - (g) The ground level perimeter may be required to be screened with pre-approved landscaping and/or fencing at the operator's expense. The tower shall be reasonably protected against unauthorized access and vandalism.
 - (h) All construction, installation, wiring and maintenance of towers shall not create a safety hazard or damage to the property of others, nor interfere with public safety communications.
 - (i) Operators shall remove abandoned, unused towers and similar facilities within 12 months of the cessation of operations and restore the area to its original condition. Failure to abide by this condition will result in the City removing the structure and assessing costs to the property or operator.
 - (j) All wireless communication facilities that are in existence as of the date of the ordinance codified in this subsection may continue to operate, but may not be replaced or structurally altered without complying in all respects to this code. This does not include routine adjustment or replacement of the primary or co-location antennae.
 - (k) When the property's use no longer conforms to this subsection, any existing tower shall be removed prior to Preliminary Plat approval or building permit issuance, whichever occurs first.
- (5) Penalty.
- (a) Any building or structure being erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or sign hereafter erected or maintained, or land use made or permitted in violation of this Chapter, is declared unlawful. In the event of a violation, or threatened violation of this Chapter, the City Council or the Zoning Administrator may institute appropriate actions or proceedings to prevent, restrain, correct or abate the violation or threatened violation.

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- (b) Any person, firm, corporation or entity who violates any of the provisions of this Chapter shall be guilty of a misdemeanor and be punishable as defined by law.
 - (i) Each day that a violation is committed, or permitted to exist, shall constitute a separate offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this Chapter, and the City may pursue, by appropriate actions or proceedings, any or all additional remedies.
 - (ii) The City Council may, at its discretion, impose a civil penalty of \$500 upon any person or business entity which violates any provision of this Chapter in lieu of criminally prosecuting the violation.

PART 7 SPECIFIC ACCESSORY USES

154.06.71 Accessory to All Uses

(A) Accessory Structure

(1) Permit and certificate requirements

No accessory structure larger than 200 square feet shall be placed, erected or constructed prior to the issuance of a building permit for the purpose of the activity. No accessory structure shall be placed, constructed or erected on a lot where a permitted principal structure has not been constructed. No accessory structure shall be constructed or erected which does not comply with the State Building Code.

(2) Size and flooring

Accessory structures 200 square feet or more shall require placement on a nonporous flooring such as concrete or bituminous. Accessory structures not requiring nonporous flooring shall be secured by being tied or anchored to the ground.

(3) Attached

An accessory structure, including car ports and breezeways, attached to the principal structure on a lot, shall be made structurally a part thereof, and shall be considered a part thereof and shall comply in all respects with the requirements of this Chapter applicable to the principal structure.

(4) Detached

- (a) All detached accessory structures shall be located in the side or rear yards.
- (b) Accessory structures shall meet the side yard setback of the principal structure, as required by the district regulations.

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- (c) Accessory structures for residential uses of one or two units, shall have a rear yard setback of six and one-half feet
- (d) Accessory structures for residential uses of 3 units or more, or any non-residential uses, shall meet the rear yard setback of the principal structure, as required by district regulations.
- (e) Accessory structures in residential districts shall not exceed one story or 16 feet in height and shall not occupy more than 10 percent of the lot area. Buildings in excess of 250 square feet shall not be of pole/post type construction.

(B) Satellite Dish

(1) Permit required

No satellite dish 36 inches in diameter or more shall be placed on any property in any district within the city without the issuance of a conditional use permit.

(2) Required exhibits

In addition to exhibits required for all conditional use permit applications, the following shall be submitted with a completed application and a fee for processing the application: scaled drawing showing all property lines, existing buildings, above and below ground utilities on the property, and the proposed location of the satellite dish.

(C) Solar Energy Systems, Accessory

(1) Type

- (a) In residential districts only building or roof-mounted systems shall be permitted
- (b) In non-residential districts ground mounted, building, and roof-mounted systems shall be permitted

(2) Accessory Structure Limit

Ground mounted systems shall count as an accessory structure for the purpose of meeting limits on the number of accessory structures allowed per lot and the coverage limits. Ground mounted systems less than 120 square feet shall not be required to apply for a Site Plan Review, but shall meet the setback requirements of an accessory structure.

(3) Height

Active solar energy systems are subject to the following height requirements:

- (i) Building or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. For the purposes of height

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measurement, solar energy systems other than building-integrated systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices for the zoning district.

- (ii) Ground or pole-mounted solar energy systems shall not exceed 25 feet in height when oriented at maximum tilt.

(b) Location within Lot

Solar energy systems must meet the accessory structure setback for the zoning district.

(i) Roof-mounted Solar energy systems

- a. In addition to the building setback, the collector surface and mounting devices for the roof-mounted solar systems that are parallel to the roof surface shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. The collector and racking for roof-mounted systems that have a greater pitch than the roof surface shall be set back from all roof edges by at least two feet.
- b. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.

(ii) Ground-mounted Solar Systems

Ground-mounted solar energy systems may not extend into the side-yard or rear yard setback when oriented at minimum design tilt.

(c) Compliance with State Electric Code

All photovoltaic systems shall comply with the Minnesota State Electrical Code.

(d) Compliance with all applicable federal, state and local wetland laws, rules and regulations.

(e) Application Requirements

The following information shall be provided to the Zoning Administrator as part of the site review process:

(i) A site plan of existing conditions showing the following:

- a. Existing property lines and property lines extending 100 feet from the exterior boundaries, including the names of the adjacent property owners and current use of those properties.
- b. Existing public and private roads, showing widths of the roads and any associated easements.

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- c. Location and size of any existing or abandoned wells, and sewage treatment systems.
 - d. Existing buildings and any impervious surface.
 - e. Topography at two foot intervals and source of contour interval, a contour map of surrounding properties may also be required.
 - f. Existing vegetation (list type and percent of coverage; i.e. grassland, pasture, plowed field, wooded areas, etc.).
 - g. Waterways, watercourses, lakes and public water wetlands.
 - h. –100-year flood elevation and Regulatory Flood Protection Elevation, if applicable.
 - i. Floodway, flood fringe and/or general flood plain district boundary, if applicable.
 - j. Surface water drainage patterns.
 - (ii) Site Plan of Proposed Conditions, showing the following:
 - a. Location and spacing of solar panels.
 - b. Planned location of underground or overhead electric lines connecting the solar energy system to the building, substation or other electric load.
 - c. New electrical equipment other than at the existing building or substation that is the connection point for the solar energy system.
 - (iii) Manufacturer's specifications and recommended installation methods for all major equipment, including solar panels, mounting systems and foundations for poles or racks.
 - (iv) The number of panels to be installed.
- (D) Small-Scale Wind Energy Generation System
 - (1) See standards established in § 154.06.61(C).
- (E) Swimming Pools, tennis courts and other individual recreational facilities
 - (1) Location

All pools, tennis courts and other individual recreational facilities shall meet the setback requirements for accessory structures and recreational appurtenances in the district in which they are located.

 - (a) Furthermore, pool locations must conform with requirements of National Electric Code and may not be within any private or public utility, walkway, drainage or other easements.

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(2) Additional Standards for Pools

(a) Application

This section shall apply to all privately owned swimming pools constructed in the city and to all private swimming pools constructed in the future as specified herein.

(b) Lot coverage

Pools shall not occupy more than five percent of the lot area.

(c) Design

The pool shall be designed and constructed in a manner so as not to endanger the health and safety of its users and to not unduly interfere with the use and enjoyment of adjacent property.

(d) Drainage

To the extent feasible, back-flush water or water from pool drainage shall be directed onto the owner's property or onto approved public drainage ways, and shall not drain onto adjacent private land. Pools may not be drained into the City sanitary sewer system.

(e) Other codes

The construction, plumbing and electrical work connected with any pool shall conform to all other applicable codes of the City.

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(A) Accessory Dwelling Unit (ADU)

(1) ADUs shall be attached to the principal structure; ADUs shall be prohibited in detached accessory structures.

(2) Only one ADU may be created per single-family dwelling.

(3) ADUs must meet principal structure setbacks.

(4) ADUs must meet zoning district height restrictions.

(5) An ADU shall meet minimum building code standards for an efficiency unit.

(6) There shall be no more than two occupants per bedroom.

(7) The owner(s) of the property must continue to occupy at least one of the dwelling units on the property as their primary residence, except for a bona fide temporary absence.

(8) All vehicles owned by owners or tenants must be kept on improved surfaces.

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- (9) A deed restriction shall be created restricting the independent sale of an ADU and requiring adherence to size limitations and other requirements found in this Chapter.
- (10) Short-term vacation rental of ADUs shall not be permitted.
- (11) Home occupations or home businesses shall not be permitted within the ADU.
- (12) ADUs shall not have sewer and water connections independent from the primary residence.

(B) Child Care Facility

Child care facilities are permitted as an accessory use in any residential district as long as the following standards are met:

- (1) Must comply with all state and local standards.
- (2) The use of any accessory structure for child care is not allowed.
- (3) Off-street parking shall be provided as follows:
 - (a) Meet the requirements of parking for the dwelling.
 - (b) One space per non-resident employee.
 - (c) One space for pick-up/drop-off.
- (4) Signage shall be limited to a two by two, non-illuminated sign.

(C) Home Occupations and Home Businesses

(1) Purpose

- (a) A home occupation is any occupation for gain or support and can be beneficial to the community in that they provide services to its residents, as well as supplemental income and personal satisfaction to the residents.
- (b) A home business is any occupation for gain or support and can be beneficial to the community in that they provide services to its residents, as well as supplemental income and personal satisfaction to the residents. However, a home business may result in activities that may have a negative impact upon the residential character of the community and surrounding neighborhood. It is for this reason that a conditional use permit shall be required for all home businesses, to ensure their compatibility with the neighborhood in which they are located.

(2) Permit required

A conditional use permit shall be required for all home businesses. Criteria in this section shall be in addition to criteria identified in § 154.02.23.

(3) Standards

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(a) Home Occupation.

No home occupation shall be allowed which does not meet the following standards:

- (i) The home occupation shall be conducted entirely within the home by owner resident occupants only.
- (ii) The home occupation shall not require more than 25 percent of the area of any floor of the dwelling for such purpose, excluding child care facilities.
- (iii) The home occupation shall not require any structural alterations or constructions involving features not customarily found in dwellings.
- (iv) The home occupation shall be consistent with and shall not detract from the residential character of the district in which the home is located.
- (v) There shall be no outside storage of material or equipment or display of merchandise.

(b) Home Business.

No home business shall be allowed which does not meet the following standards:

- (i) The home business shall be conducted entirely on the same parcel as the home by the owner/resident/occupants only.
- (ii) The home business shall not require more than 25 percent of the area of any floor of the dwelling for such purpose, excluding child care facilities, and shall not occupy more than 50 percent of the floor area of any existing accessory structure.
- (iii) The home business shall not require any structural alterations or construction involving features not customarily found in dwellings or accessory structures.
- (iv) The home business shall be consistent with and shall not detract from the residential character of the district in which the home is located.
- (v) There shall be no outside storage of material or equipment or display of merchandise.
- (vi) There shall be no more than one unilluminated name plate, advertising the business, measuring not more than one and one-half square feet in area attached on the principal structure near the structure entrance.

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- (4) Additional conditions for Home Businesses.

In determining whether a particular home business is consistent with the residential character of a district, the City shall consider the following:

 - (a) Noise, odors, water and air pollution;
 - (b) Vehicular and pedestrian traffic;
 - (c) The use of flammable, explosive or highly volatile materials;
 - (d) Excessive lights or noise at night; and
 - (e) Litter.
- (D) Outside Parking or Seasonal Storage of Recreational Travel Vehicles
 - (1) Such vehicles shall be stored on an improved surface, such as a driveway.
 - (2) Vehicles stored in a street yard shall be operable and currently licensed.
 - (3) Vehicles shall not be stored in a side yard.
 - (4) Vehicles stored in the rear yard shall be screened at 100 percent opacity to a height of six feet.
- (E) Short Term Vacation Rental
 - (1) The maximum number of overnight guests will be limited to two times the number of bedrooms rented plus one.
 - (2) Events are not allowed to be hosted by transient guests on the premises. An event means a gathering on the premises of more than three un-registered transient guests. Events hosted by the property owner are allowed, but must abide by all applicable City ordinances and policies, including the prohibition on renting private residential property out for events.
 - (3) Dwelling requirements
 - (a) The dwelling must be connected to City sewer and water.
 - (b) Rooms used for sleeping shall have an egress windows and smoke detectors.
 - (c) The guest(s) must have access during their entire stay to a full bathroom, including sink, toilet, and tub or shower.
 - (d) Accommodation of guests is not allowed in recreational vehicles, tents, accessory structures, fish houses, or similar structures.
 - (4) Parking
 - (a) All guest parking must be accommodated on improved surfaces on the premises. No on-street parking is allowed for guests.

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- (b) At a minimum, parking shall be provided at the following rate:
 - (i) One space for each 1-2 bedroom rental.
 - (ii) Two spaces for each 3 bedroom rental.
 - (iii) Spaces equal to the number of bedrooms minus one for each 4 and 4+ bedroom rental.
 - (c) In accessory short term vacation rentals, additional off-street parking for personal use must be provided at a rate of one parking space per two bedrooms not dedicated to the guest use.
- (5) Proximity of assistance

If not staying on the property at the time of guest stay, the property owner or a manager/representative must be located within 30 miles of the property. The property owner shall maintain with the City the name, address, phone number, and email for the local contact or managing agent for the property.
- (6) Guest records

A guest record must be maintained, including the name, address, phone number, and vehicle license plate information for all guests. This record must be provided to the City within 48 hours of a request for the guest record.
- (7) Guest disclosures

The property owner must disclose in writing to their transient guests the following rules and regulations. This disclosure shall be conspicuously displayed in the home:

 - (a) The name, phone number and address of the owner, operating lessee or managing agent/representative.
 - (b) The maximum number of guests allowed at the property.
 - (c) The maximum number of vehicles allowed at the property and where they are to be parked.
 - (d) City nuisance ordinances requirement that noise levels be reduced between 10 p.m. and 8 a.m. and that this will be enforced by the Onalaska Police.
 - (e) Property rules related to use of outdoor features, such as decks, patios, grills, recreational fires, saunas and other recreational facilities.
 - (f) No events are allowed to be hosted on the premises.
- (8) Garbage

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All garbage must be kept in rubbish containers that are stored out of view of a public street.

(9) Signage

No signage pertaining to the short term vacation rental is allowed on the property.

154.06.73 Accessory to Non-Residential Uses

(A) Gift shop accessory to an Otherwise Allowed Use

- (1) Maximum of 10 percent gross floor area of principal use.
- (2) Internal entrance (common entrance).
- (3) Same hours of operation, or more limited hours of operation than principal use.

(B) Open air display area

- (1) Open air display areas may not be located within required setback areas and are limited to the lesser of 150 square feet or a maximum of 25 percent of the width of a building frontage that contains a customer entrance or exit. There shall be no more than one building frontage with an outdoor display area.
- (2) Open air display areas are to be located immediately adjacent to and within the dimensions of the building frontage and shall not extend beyond the building edge.
- (3) Open air display shall not be located so as to block pedestrian walkways, doorways, parking stalls, drive aisles (including access for emergency services). Four feet is the minimum width required to maintain pedestrian access.
- (4) Open air display areas shall not exceed a height of five feet, except that vending machines or cabinets for items such as beverages, ice, movies, and propane may exceed the height as long as there are no more than three machines per frontage.
- (5) Open air display areas shall be maintained in an orderly and attractive manner.
- (6) Open air display areas shall be limited to products sold within the principal structure and shall not serve as a storage area for inventory.

(C) Temporary Stand for Sale of Agricultural Products (Tree Lot, Farm Stand, Seasonal Sales, etc.)

- (1) Location of temporary outdoor sales shall be included on the Site Plan.
- (2) Individual displays shall be limited to 30 consecutive days; temporary stand for sales may not occur more than 120 cumulative days within the year.
- (3) Hours of operation shall be limited to those of the primary use.
- (4) Portable toilet facilities shall not be permitted.

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CHAPTER 154 ZONING

154.07.11 Applicability

ARTICLE 07 DEVELOPMENT STANDARDS

PART 1 PERFORMANCE STANDARDS

154.07.11 Applicability

- (A) No land or building in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable fire, explosive or other hazard, noise or vibration, smoke, dust, odor or other form of air pollution, heat, cold, dampness, electrical or other substance, condition or element in such a manner or in such amount as to adversely affect the surrounding area or adjoining premises (referred to herein as "dangerous or objectionable elements").
- (B) For proposed new uses where there is a question about whether there will be compliance with the performance standards, the applicant shall submit a plan of the proposed construction or development, including a description of the proposed machinery, processes, products and specifications for the mechanisms and techniques to be used in restricting the emission of dangerous and objectionable elements.

154.07.12 Visual Obstructions to Vehicular Traffic

- (A) Intersections with traffic controls

On any corner lot at a street intersection which has some form of traffic control (stop or yield signs), there shall be no obstruction to traffic visibility within the clear sight triangle which is formed by the intersection of the centerline of two intersecting streets and a straight line joining the two centerlines at points 80 feet distant from their point of intersection.

- (B) Intersections without traffic controls

On any corner lot, in all districts, at a street intersection which does not have any form of traffic control, there shall be no obstruction to the traffic visibility within the clear sight triangle which is formed by the intersection of the centerline of two intersecting streets and a straight line joining the two centerlines at points 88 feet distant from their point of intersection. All objects within this area not exceeding 30 inches in height as measured from the centerline elevation of the street shall not be considered as an obstruction to vision.

154.07.13 Noise

All operations and activities within the City must conform to the City's noise ordinance as set forth in Chapter 95 of the City Code.

154.07.14 Vibration

- (A) No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground or structure borne vibrational motion

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CHAPTER 154 ZONING

154.07.15 Glare

necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

- (B) Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.

154.07.15 Glare

- (A) In all districts, any lighting used to illuminate an off-street parking area, sign or other structure shall be arranged so as to deflect light away from any adjoining residential use and/or from the public streets.
- (B) Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall be hooded or controlled in some manner so as not to light adjacent property.
- (C) Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public street shall not exceed one foot candle (meter reading) as measured from the centerline of the street.
- (D) Any light or combination of lights which cast light on an adjacent residential property shall not exceed 0.4 foot candles (meter reading) as measured from the adjacent property.
- (E) Where not specifically otherwise regulated, the light pole shall not exceed 30 feet in height.

154.07.16 Odor

No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined by State Statute.

154.07.17 Emissions and Pollutants

- (A) Particulate Emissions and Visible Emissions

No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established by State Statute.

- (B) Hazardous Pollutants

No operation or activity shall emit any hazardous substances in such a quantity, concentration or duration as to be injurious to human health or property, and all emissions of hazardous substances shall not exceed the limitations established by State Statute.

154.07.18 Fire and Explosion Hazard

- (A) All activities involving and all storage of flammable and explosive materials shall be provided at any point with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standards in the industry.
- (B) Burning of waste materials in open fire shall be prohibited.
- (C) The relevant provisions of state and local laws and regulations shall also apply.

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154.07.19 Bulk Storage (Liquid, Gas, Grain, and the Like)

154.07.19 Bulk Storage (Liquid, Gas, Grain, and the Like)

- (A) Above and below ground storage tanks, bins, elevators and the like shall be regulated in accordance with applicable City, state and federal regulations, including the applicable building codes, State Fire Code and regulations of the Pollution Control Agency.
- (B) All necessary federal, state and local permits and approvals shall be obtained.
- (C) The Council may require that all existing aboveground liquid in free state storage tanks having a capacity of 300 gallons or more be diked, and suitably sealed, to hold a leakage capacity equal to 115 percent of tank capacity, and also have State Fire Marshal approval.
- (D) No storage tanks containing flammable or combustible materials shall be located less than 200 feet from a residential district, except those used on individual properties for heating individual homes.

154.07.110 Outside Storage

In all residential districts, all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties and public streets, except the following shall be permissible if maintained in good order:

- (A) Laundry drying and clothes lines.
- (B) Recreational equipment.
- (C) Construction and landscaping materials and equipment currently being used on the premises.
- (D) Off-street parking of licensed operating passenger vehicles.
- (E) Fire wood kept neat and orderly for use in the principal residence for heating.

154.07.111 Refuse

- (A) In all districts, all waste material, debris, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes, with the exception of crop residue.
- (B) The owner of vacant land shall be responsible for keeping the land free of refuse.
- (C) Passenger vehicles and trucks in an inoperative state shall not be parked in outdoor parking areas in residential districts for a period exceeding 14 days.

154.07.112 Liquid or Solid Wastes

No discharge at any point into any public sewer, private sewage disposal system or stream or into the ground, except in accord with standards approved by the Department of Health of the state or standards equivalent to those approved by such Department for similar uses of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements.

154.07.113 Sewage Disposal

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154.07.21 Off-Street Parking

- (A) It shall be unlawful for any owner of any premises which has access to the sanitary sewer system to permit the existence of outdoor toilets, or to construct, improve or repair any individual on-site sewer treatment facility.
- (B) All developed properties having access to the sanitary sewer system shall be connected to the sanitary sewer system.
- (C) This provision shall not apply to temporary construction sites or portable units used in farming operations.

PART 2 PARKING, LOADING, ACCESS AND CIRCULATION

154.07.21 Off-Street Parking

- (A) Generally

In all zoning districts, off-street parking facilities for the temporary storage of motor vehicles for the use by occupants, employees and patrons of the buildings or structures hereafter erected, altered or extended after the effective date of this Chapter, shall be provided and maintained as herein prescribed.
- (B) Area Exempted

The following portion of the central business district is exempt from parking requirements: the area bounded on the south by the railroad right-of-way, on the east by the center of First Avenue East, on the west by the center of Fifth Avenue West and on the north by the center of the alley between Main Street and First Street North.
- (C) All districts
 - (1) Loading space shall not be construed as supplying off-street parking space.
 - (2) When units or measurements used in determining the number of required parking spaces result in requirement of a fractional space any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.
 - (3) Whenever a use requiring off-street parking is increased in floor area, and the use is located in a building existing on or before the effective date of this Chapter, additional parking space for the additional floor area shall be provided and maintained in amounts hereafter specified for that use.
 - (4) Where a use is not specifically mentioned, off-street parking requirements shall be the same as for a similar use.
 - (5) Nothing in this section shall prevent the extension of, or an addition to, a building or structure into an existing parking area which is required for the original building or structure when the same amount of space taken by the extension or addition is provided by an enlargement of the existing parking area.

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(D) R-1 and R-1A, residential districts

Off-street parking facilities for residential uses shall be provided and located on the same parcel of land as the building they are intended to serve.

(E) R-2, R-3, R-C residential districts and all nonresidential districts

- (1)** Off-street parking facilities for residential uses shall be provided and located on the same parcel of land as the building they are intended to serve.
- (2)** The location of required off-street parking facilities for non-residential uses shall be on the same lot or contiguous to the lot on which the principle use is located.
 - (a)** All off-site parking shall be within 300 feet of the lot where the principle use is located, measured from the nearest part of the off-site parking facility to the nearest point of the principle lot. All off-site parking will require a conditional use permit.
- (3)** Parking of automobiles and other motor vehicles is permitted in the front and side yards in the I-1 and I-2 manufacturing districts if separated by a planting bufferyard not less than ten feet in width.

(F) Design standards

The following standards are for required parking areas for 5+ unit residential uses and all non-residential uses:

- (1) Minimum Standards**
 - (a)** The size of each parking space shall be not less than 180 square feet exclusive of the space required for ingress and egress, each stall being a minimum of nine feet wide and 18 feet in depth; however, handicap parking stalls shall meet ADA requirements.
 - (b)** Minimum width of aisles providing access to stalls for one way traffic shall be as follows:
 - (i)** 11 feet for 30 degree parking; and
 - (ii)** 20 feet for 90 degree parking.
 - (c)** Minimum width of aisles providing access to stalls for two-way traffic shall be 24 feet.
 - (d)** No parking area of more than two spaces shall be designed as to require any vehicle to back into a public street.
 - (e)** Tandem parking (one vehicle behind another) layouts are not permitted.
- (2) Standards for all districts**
 - (a)** Adequate ingress and egress shall be provided.

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- (b) Whenever the parking lot boundary adjoins property zoned for residential use, a setback of eight feet from the lot line shall be required.
 - (c) A parking plan shall be submitted to the City.
 - (i) Plans for the construction of any parking lot must be approved by the City before construction is started.
 - (ii) No land shall be used for parking until final approval by the City.
- (3) Standards for all Residential Districts, Commercial Districts, and I-1 District
 - (a) All driveways and all areas intended to be utilized for parking spaces shall be constructed of bituminous asphalt, concrete, or pavers. Such surfacing shall be approved by the City Engineer and maintained in good repair.
 - (b) All parking or paved areas shall be adequately served by storm sewer or other approved stormwater facilities. Such facilities shall be approved by the City Engineer.
 - (c) A six-inch-high, poured-in-place concrete curb shall be provided around the periphery of all parking lots and internal access roads, except where the City Engineer determines that a curb would impede the drainage plan.
 - (d) Whenever the parking lot boundary adjoins property zoned for residential use, a setback of eight feet from the lot line shall be required.
- (4) Standards for all uses in I-2 District
 - (a) The parking lots shall be maintained in a useable dust-proof condition and shall be kept graded and drained to dispose of surface water in accordance with existing state, federal and local regulations.
 - (b) Necessary curbs or other projections against damage to adjoining properties, streets and sidewalks shall be provided and maintained.
- (G) Uses and Required Parking Spaces Table

The amount of required off-street parking space for new uses or buildings, additions thereto and additions to existing buildings as specified in this Chapter, shall be determined in accordance with the following table and space so required and shall be irrevocably reserved for the use.

Use	Required Parking
Residential	
Household Living	
Dwelling, Single Family Detached	2 spaces per dwelling unit

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Use	Required Parking
Manufactured Home	
Dwelling, Single Family Detached Conversion to Two, Three, or Four Unit	1.5 spaces per dwelling unit
Dwelling, Two Unit (Duplex)	
Dwelling, Three to Four Unit (Triplex, Quadraplex)	
Dwelling, Single Family Attached (2-4 units)	
Dwelling, Single Family Attached (5+ units)	
Dwelling, Multi-Family 5+ Units	1.25 spaces per dwelling unit
Dwelling, 2 nd Floor+ Apartments (Above non-residential ground floor)	1 space per dwelling unit plus required parking for ground floor use
Manufactured Home Park	2 spaces per dwelling unit
Live/Work Unit	1 space per dwelling unit
Group Living	
Intermediate, Extended, and Long-Term Care Facility [Nursing Home]	1 space per every 5 beds plus 1 space per every 3 employees
Residential care facility, licensed in-home (6 or fewer persons)	
Residential care facility, licensed in-home (7 to 16 persons)	
Lodging	
Bed and Breakfast Facilities	1 space for the dwelling unit, plus 1 space per room offered for occupancy
Lodging services such as hotel and motel	1 space for each guest room, plus 1 space per every 3 employees
Short Term Vacation Rental	Parking requirements as listed in § 154.06.23(B)(4)
Public, Social, or Healthcare	
Healthcare and Interment Services	
Cemeteries, mausoleums, columbarium, including animal cemeteries	None required
Clinic, including medical, dental or therapeutic [See Professional Services]	1 space per 250 square feet of gross floor area
Funeral home or mortuary	1 space per 50 square feet of floor area in parlors or assembly rooms
Hospital	1 space per every 5 beds plus 1 space per every 3 employees
Institutions	

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Use	Required Parking
Club, lodge or meeting place of a non-commercial nature	1 space per every 4 persons of the maximum building occupancy
Place of worship	
Social assistance, welfare, or charitable services	1 space per 250 square feet of gross floor area
Education	
Child care facilities serving up to 12 persons	1 space per employee on the maximum work shift, plus 1 space per every 10 children
Child care facilities serving 13 + persons	
School, college/university/trade/business	1 space per employee, plus 5 spaces per classroom
School, elementary or secondary	Elementary: 1 space per employee Secondary: 1 space per employee, plus 5 spaces per classroom
School, nursery or preschool	1 space per employee
Recreation and Open Space	
Golf Courses / Country Club	2 spaces per golf hole, plus 1 space per every 4 persons of the maximum building occupancy
Historic Sites	None required
Public recreational facilities including parks and playgrounds, hiking and/or biking trails	None required
Temporary Outdoor Entertainment	Temporary parking areas to be approved by Zoning Administrator
Wildlife, forest, and wetland preserves or management areas	None required
Government Services	
Essential Services	None required
Municipal, county, state or federal administrative or services building	1 space per 250 square feet of floor area of "active" spaces (not including utility or storage areas)
Commercial	
Food or Beverage Services	
Bar / Tavern	1 space per 4 seats provided for patron use
Brewpub	
Café, Coffee Shop	
Off Sale Liquor	1 space per 250 square feet of gross floor area
Restaurant	1 space per 4 seats provided for patron use

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Use	Required Parking
Restaurant with drive-through or drive-in	1 space per 4 seats provided for patron use plus 3 stacking spaces per drive-through window
Other Services	
Animal/Pet Services	1 space per each examination and treatment room, plus 1 space per employee on the maximum work shift
Banks, Finance, Insurance, and Real Estate Services	1 space per 250 square feet of gross floor area
Building Services	
Business Services	
Equipment Services	
Personal Services	
Professional Services	
Services otherwise allowed with drive-through or drive-in	1 space per 250 square feet of gross floor area, plus 3 stacking spaces per drive-through window
Retail	
Convenience Store	1 space per 250 square feet of gross floor area
Food Retail [Grocery Store]	
General Retail	
Shopping Center	
Wholesale Retail	
Arts and Entertainment	
Art Gallery / Museum	1 space per 500 square feet of gross floor area
Indoor recreational facility, commercial	1 space per 200 square feet of gross floor area
Outdoor recreational facility, commercial	1 space per 5,000 square feet of outdoor activity area
Automobile Related	
Automobile Fuel Station / Service Station	1 space per 2 gas pumps, plus 1 space per service bay
Automobile Sales	1 space per 1,000 square feet of gross floor area for indoor display area and 1 space per 5,000 square feet for outdoor display area
Industry and Manufacturing	
Small Production / Commercial Production	

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Use	Required Parking
Buildings used for Research and Testing Laboratories (interior only)	1 space per 500 square feet of gross floor area
Brewery, winery or distillery	1.5 spaces per every 2 employees on the maximum work shift and 1 space per 250 square feet of floor area of retail or taproom
Makerspace (studio)	1 space per 1,000 square feet of gross floor area
Printing	
Rental Equipment (stored indoors)	
Rental Storage Units (self-storage facility)	1 space for every 10 storage units
Traditional Industrial, Indoors	
Grain Elevators; Fertilizer manufacturing, storage, and sales	1.5 space per every 2 employees on the maximum work shift
Manufacturing, light	
Manufacturing, heavy	
Warehouse/distribution facility	
Outdoor Industrial Activity	
Automobile Wrecking Yard/Scrap or salvage storage yard	1 space per employee on the maximum work shift, plus 3 visitor spaces
Contractor Yard (landscaping, construction, etc)	1 space per 500 square feet of gross floor area of office, sales, or display area, plus 1 space per 5,000 square feet of storage area
Outside storage, manufacturing, and sales area	1 space per 5,000 square feet of storage area
Agriculture and Natural Resources	
Community Solar Farm	None required
Nursery/Greenhouse (with retail sales)	1 space per 250 square feet of retail gross floor area, plus 1 space per 5,000 square feet of outdoor display area
Short wave towers, radio and TV towers, and commercial radio and television towers and transmitters	None required
Wind Energy Conversion Systems	
Wireless Communications Facilities	
Accessory Uses	
Accessory dwelling unit	1 space for ADU in addition to required spaces for primary residence
Day care facility, licensed (12 or fewer persons)	1 space per every 10 children

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Use	Required Parking
Day care facility, licensed (13 to 16 persons)	
Home Business	Depending on type of Home Business, parking in addition to required spaces for primary residence may be required by the CUP
Home Occupation	None required
Short term vacation rental	Parking requirements as listed in § 154.06.23(B)(4)

(H) Uses Not Listed

In the case of uses not mentioned, the provision for a use which is similar, as determined by City staff, shall apply. Floor space or area shall mean the gross floor area inside the exterior walls, where floor space is indicated above as a basis for determining the amount of off-street parking spaces required.

(I) Required parking spaces and the driveways providing access to them shall not be utilized for the following:

- (1) Storage of unlicensed or inoperable motor vehicles, other goods, or snow.
- (2) Display, sales, rental or repair of motor vehicles or other goods.
- (3) Loading and unloading of vehicles.

(J) Combined Uses

Combinations of any of the above uses shall provide the total of the number of spaces required for each individual use.

(K) Shared Parking

Nothing in this section shall be construed to prevent collective provisions of off-street parking facilities for two or more buildings or uses; provided, collectively, the facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the table, except as provided below:

- (1) Two or more uses may provide required off-street parking spaces in a common parking facility less than the sum of the spaces required for each use individually, provided such uses are not operated during the same hours. The following conditions must be met for any joint use:
 - (a) The proposed joint parking space is within 500 feet of the use it will serve.
 - (b) The applicant shall show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.

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154.07.22 Loading Spaces

- (c) A properly drawn legal instrument approved by the City Council, executed by the parties concerned, for joint use of off-street parking facilities shall be filed with the City Clerk. Said instrument may be a three party agreement, including the City and all private parties involved. Such instrument shall first be approved by the City Attorney.

(L) Handicapped Parking Requirements

In addition to any other requirements relating to parking spaces contained in these Ordinances, handicapped parking must conform to ADA and State Statute and Administrative Rules requirements.

(M) Changes in Buildings or Use

- (1) Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of 25 percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.
- (2) Whenever a building or use is enlarged to the extent of 50 percent or more in the floor area, said building or use shall then comply with the parking requirements set forth in the district in which it is located.

154.07.22 Loading Spaces

- (A) On the premises with every building, structure or part thereof, erected and occupied for manufacturing, storage, commercial, retail and related uses involving receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets or alleys.
- (B) The space, unless otherwise adequately provided for, shall be at minimum one ten-foot by 25-foot loading space, with 14-foot height clearance for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of building floor use or land use for the above mentioned purposes.

154.07.23 Access and Driveways

- (A) The number and types of access drives onto arterial, collector, and parkway roads may be controlled and limited by the City Council in the interests of public safety and efficient traffic flow.
- (B) Access drives onto county roads shall require a review by the County Engineer. The County Engineer shall determine the appropriate location, size and design of the access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.
- (C) Access drives to principal structures which traverse wooded, steep or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles.

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154.07.24 Circulation

- (1) The Zoning Administrator shall review all access drives (driveways) for compliance with accepted community access drive standards.
- (2) All driveways shall have a minimum width of ten feet with a road strength capable of supporting emergency and fire vehicles.
- (D) All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway, or an existing private roadway approved by the City Council.

154.07.24 Circulation

(A) Pedestrian Access and Circulation

(1) Purpose

The purpose of the following pedestrian access and circulation requirements is to ensure effective pedestrian connections and other means of non-motorized transportation through proper site design and land development improvements including walkways, trails and other improvements that link residential and commercial neighborhoods to each other and at the same time link one method of transportation to other methods of transportation throughout the City.

(2) Internal Sidewalks and Pedestrian Access Site Design Requirements

- (a) A pedestrian connection shall be constructed from all principal buildings on a lot to the public right of way. This requirement is not applicable to single family and two family structures.
- (b) The pedestrian connection shall have a minimum width of five feet.
- (c) At each point that an on-site pedestrian walkway system crosses a parking lot or internal street or driveway, the walkway or crosswalk shall be clearly marked through the use of a change in paving materials, distinguished by their color, texture or height.
- (d) Sidewalks shall be provided along any façade featuring a customer entrance, and along any façade abutting public parking areas.
 - (i) At all times, such sidewalks shall maintain a clear pedestrian passage equal to the width of the sidewalk.
 - (ii) Additionally, such sidewalks shall connect all customer entrances to other internal sidewalks.

(B) Vehicle Circulation

- (1) All parking, loading, and drive areas shall be designed to provide adequate space for the circulation of vehicles, including emergency and fire services.

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154.07.31 General Landscaping

- (2) Plans for parking, loading, and access may be sent by the Zoning Administrator to the Fire Marshall and other applicable officials for review of circulation design prior to approval.

PART 3 LANDSCAPING, SCREENING, WALLS, AND FENCES

154.07.31 General Landscaping

- (A) All open areas of a lot not used for buildings, parking, circulations, patios or storage must be landscaped with a combination of canopy trees, ornamental trees, evergreen trees, shrubs, flowers, sod, ground cover, and other site design features to ensure soil stabilization. This requirement shall not apply to undisturbed areas retained in a natural state.
- (B) Fences, hedges, walls and other landscaping shall be located entirely upon the property which they serve. Fences, hedges, walls and other landscaping obstructing a utility or drainage easement or extending beyond the legal property boundary may be removed at the owner's expense.
- (C) Landscape plans shall be submitted for all site and subdivision related applications where exterior construction and development activity will occur, except for the construction of an individual single-family or two-family dwelling.
- (D) Landscape plans shall be prepared by a registered landscape architect for planned unit developments or development where there is greater than one acre of site disturbance.
- (E) The following minimum number of plant materials shall be provided:
 - (1) All residential one- and two- unit developments shall require two canopy trees per dwelling unit installed in the City right-of-way.
 - (2) All residential uses with three or more units and non-residential uses shall provide:
 - (a) One canopy or evergreen tree per 25 lineal feet of street frontage.
 - (b) All structures must have foundation plantings consisting of shrubs, perennials, and native grasses.
 - (c) All additions, expansions, or additional structures shall require an additional two shrubs per 1,000 square feet of new construction.
- (F) Off-Street Parking Area Landscaping
 - (1) All off-street parking areas containing more than 50 stalls or two or more drive aisles must include landscaped, interior parking lot islands as follows:
 - (a) Islands are required at the end of each row of cars, at vehicle circulation aisles or driveways, or every 15 stalls, whichever is less.
 - (b) Islands shall be provided to separate pedestrian and vehicular traffic.
 - (c) Islands shall contain trees, shrubs, perennials, and native grasses.

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154.07.31 General Landscaping

- (d) Islands shall be bounded by a raised concrete curb or approved equivalent and shall contain mulch to retain soil moisture.
 - (e) Turf grass is permitted within landscaped areas located around the periphery of a parking lot.
- (2) All open, off-street parking areas shall have a minimum of one square foot of landscaping per ten square feet of parking using trees, shrubs, or ground cover plants. The preservation of existing trees, shrubs and other natural vegetation in the parking area may be included in the calculation of the required minimum landscape area.
- (G) All plant materials must:
 - (1) Meet the minimum standards set by the American National Standards Institute in ANSI Z60.1 American Standard for Nursery Stock.
 - (2) Landscape species shall be indigenous or proven adaptable to the climate, but shall not be invasive species.
 - (3) Landscape materials shall be tolerant of specific site conditions, including but not limited to heat, drought, and salt.
 - (4) Existing healthy plant material may be utilized to satisfy landscaping requirements, provided it meets the minimum plant size specified in this Division.
- (H) Not more than 30 percent of the required number of trees shall be of the same species.
- (I) Trees and shrubs may be clustered and do not need to be evenly spaced.
 - (1) It is preferable that trees be located between the sidewalk and the curb, within the landscaped area of a boulevard or in tree wells installed in pavement or concrete.
 - (2) If placement of street trees within the right-of-way will interfere with utility lines, trees may be planted within the front yard setback adjacent to the sidewalk.
- (J) The minimum size of plantings shall be as follows:
 - (1) Canopy trees – 2.5-inch caliper.
 - (2) Ornamental trees – 1.5-inch caliper.
 - (3) Evergreen tree – six-foot height.
 - (4) Deciduous or evergreen shrub – five-gallon pot.
- (K) Mulch shall consist of shredded bark, chipped wood, or stone installed at a minimum depth of two inches. If stone is used it shall be spread over a permeable weed barrier fabric.
- (L) All required plant materials shall be planted prior to issuing a Certificate of Occupancy.

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CHAPTER 154 ZONING

154.07.32 Bufferyards and Screening

- (1) In the event that the project is completed during a time of year when planting is impractical, a performance guarantee meeting the requirements of and in the amount of the remaining improvements may be required.
 - (2) In such case that a performance guarantee is required, all landscaping shall be completed within one year after the certificate of occupancy has been issued.
- (M) The continued maintenance of all required landscaping materials in a live and healthy state is a requirement of this Code and is the responsibility of the owner and tenant of the property on which the materials are required.
 - (1) Plantings which have died shall be promptly replaced by the property owner in accordance with the landscape plan approved for the site.
 - (2) This requirement shall run with the land and be binding upon all future property owners.
 - (3) Failure to comply with this maintenance requirement shall be a violation of this Section.
- (N) Prior to the issuance of a building permit for all projects requiring approval of a landscape plan, the developers, contractor, or property owners shall deposit a security with the City to guarantee compliance with and to indemnify the City for any expenses incurred in enforcing the requirements of this Section.
 - (1) Landscape security for all uses except one or two unit dwellings shall be in a form approved by the Departments and shall be equal to 125 percent of the estimated cost necessary to furnish and plant the required landscaping and any ancillary screening improvements such as fencing.
 - (2) The estimated cost shall be subject to approval by the City.

154.07.32 Bufferyards and Screening

- (A) General
 - (1) Screening and buffering shall be used to provide visual and noise separation of more intensive uses from less intensive uses.
 - (2) Fences, hedges, walls and other landscaping shall be located entirely upon the property which they serve. Fences, hedges, walls and other landscaping obstructing a utility or drainage easement or extending beyond the legal property boundary may be removed at the owner's expense.
 - (3) Screening shall be provided alongside side and rear property boundaries between non-residential uses and residential uses. Screening for new construction shall consist of the following:
 - (a) The buffer area abutting the residential use must meet the width shown in the table below:

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CHAPTER 154 ZONING

154.07.32 Bufferyards and Screening

Buffer Requirements Table

Uses	Zoning District of Subject Property	Minimum Buffer Width
5+ unit Residential, Institutional, Business, Mixed-Use	R-1, R-1A, R-2, R-3, R-C	10 feet
Institutional, Business, Mixed-Use	C-1, C-2, C-3	15 feet
Institutional, Business, Industrial	I-1, I-2	20 feet

- (b) The buffer area must contain a solid wall, opaque, commercial-grade fence, or hedge with year-round foliage, between six and eight feet in height. Screening within the front yard or corner side yard is limited to four feet in height. Height of screening shall be measured from the natural or approved grade.
- (c) If the buffer area contains a hedge, the hedge shall be landscaped with at least two staggered rows of evergreen trees with trees in each row spaced at a maximum of 12 feet.
- (d) The buffer area may be interrupted for necessary pedestrian or vehicular access.
- (e) Screen plantings shall be permanently maintained by the owner of the property, and any plant materials which do not live shall be replaced within six months.

(B) Site Elements to be Screened

The following site elements shall be screened in compatibility with the design elements, materials, and colors used elsewhere on the site as follows:

(1) Refuse Disposal Areas

- (a) All refuse and recycling containers in all commercial, industrial, multi-family, or mixed use zoning areas shall be screened on four sides (including a gate for access) by a solid, commercial-grade wood fence, wall, or equivalent material that is architecturally compatible with the principal structure and has a height of between six feet and eight feet.
- (b) Refuse enclosures shall be subject to the following:

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154.07.33 Fences and Walls

- (i) A three foot setback is required to any lot line;
 - (ii) Shall include a durable gate system that remains closed when not in use; and
 - (iii) Shall allow for easy access by refuse and recycling contractors.
- (2) **Loading Areas**

Loading areas shall be screened from abutting residential uses and from street view to the extent feasible. Screening along district boundaries, where present, may provide all or part of the required screening.
- (3) **Mechanical Equipment**

All rooftop and ground level mechanical equipment and utilities shall be fully screened from view from any street or residential district, as viewed from six feet above ground level. Screening may consist of a building wall or fence and/or landscaping as approved by the Zoning Administrator.
- (4) **Off-Street Parking Areas**

Those parking areas for five or more vehicles if adjoining a residential use shall be screened from such use by a solid wall, fence, evergreen planting of equivalent visual density or other effective means, built and maintained at a minimum height of five feet. Where a solidly constructed decorative fence is provided along the interior lot line, the minimum setback for the parking area shall be five feet from said lot line. Said fence shall be located a minimum of one foot from the said lot line.

154.07.33 Fences and Walls

(A) General

- (1) Fences, hedges, walls and other landscaping shall be located entirely upon the property which they serve. Fences, hedges, walls and other landscaping obstructing a utility or drainage easement or extending beyond the legal property boundary may be removed at the owner's expense.
- (2) Barbed wire or above ground electric fences shall not be permitted, used or constructed, except in industrial districts or where livestock are permitted.
- (3) All fences shall be maintained and kept safe and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property and provide a clearance for maintenance without entering upon the neighboring property.
- (4) No fence, wall or hedge shall exceed six feet in height, as measured from the finished grade, unless required by the City for screening, buffering or safety.

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CHAPTER 154 ZONING

154.07.41 Grading, Filling, and Erosion Control

- (5) No portion of a fence, wall or hedge projecting into the front yard of a property shall exceed 30 inches in height unless required by the City for screening, buffering, or safety.
 - (6) The area between a fence and property line shall be maintained in an attractive condition at all times.
- (B) Approval Required
 - (1)
 - (2) Fences on properties with three or more unit residences or non-residential uses shall require a Site Plan Review application and approval with the City, as described in § 154.02.22.
 - (3) Retaining walls measuring four feet in height or more shall require a building permit application and approval.
- (C) Temporary Fences
 - (1) Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four foot intervals.
 - (2) Such fences shall comply with the setback requirements set forth in this Chapter.
 - (3) Temporary fences shall not be erected for more than 45 days.
- (D) Nonconforming Fences

Any fence existing on the effective date of this Code of Ordinances and not in conformance with this Division may be maintained, but no alteration, modification or improvement of said fence shall occur, unless installed in conformance with this Division.

PART 4 NATURAL RESOURCE PROTECTION

154.07.41 Grading, Filling, and Erosion Control

- (A) Purpose

The purpose of this section is to require preparation and implementation of grading and erosion control plans for land-disturbing activity to:

 - (1) prevent sediment deposits on roadways;
 - (2) retain sediment on site;
 - (3) prevent disruption or damage to water resources and public stormwater systems;
 - (4) prevent adverse impacts to neighboring property
 - (5) reduce soil compaction and enhance infiltration and the establishment of vegetation;

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154.07.41 Grading, Filling, and Erosion Control

- (6) prevent damage to natural resources, such as trees, that are intended to be preserved; and
- (7) maintain stable slopes.
- (B) Where the provisions of state law or other City regulation or ordinance set higher standards than those of this Chapter, the provisions of the laws, regulations or ordinances shall apply.
- (C) General standards

The following management practices shall be applied to all development and earth moving activities:

- (1) All development shall conform to the natural limitations presented by the topography and soil in order to create the best potential for preventing soil erosion.
- (2) Best management practices for erosion control and sediment control shall be applied to each development/construction site.
- (3) Slopes over 18 percent in grade shall not be developed.
- (4) Development on slopes with a grade between 12 percent and 18 percent shall be carefully reviewed to ensure that adequate measures have been taken to prevent erosion, sedimentation and structural damage.
- (5) Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.
- (6) 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 lands shall be exposed at any one period of time and no exposure shall exceed 60 days unless extended by the Council.
- (7) Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the developed area. The topsoil shall be restored to a depth of four inches and shall be of a quality at least equal to the soil quality prior to development.
- (8) The natural drainage system shall be used, as far as feasible for storage and flow of runoff except that no storm water drainage shall be discharged to marshlands, swamps or wetlands. Storm water drainage shall be discharged to retention basins or other treatment facilities.
- (9) Public and private properties adjacent to the development site shall be protected from the effects of sedimentation. Any violations of this provision must be corrected by the owner to the satisfaction of the City within five days of receiving notification of such. If the violation is not remedied within the time period specified, the City may correct the problem and assess the costs incurred to the property owner.

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154.07.41 Grading, Filling, and Erosion Control

(D) Exposed slopes:

The following control measures shall be taken to control erosion during construction.

- (1) No exposed slopes should be steeper in grade than four feet horizontal to one foot vertical.
- (2) At the foot of each exposed slope, a channel and berm should be constructed to control runoff. The channelized water should be diverted to a sedimentation basin (debris basin, silt basin or silt trap) before being allowed to enter the natural drainage system.
- (3) Along the top of each exposed slope, a berm should be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind the berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. The measures should consist of either an asphalt paved flow apron and drop chute laid down the slope or a flexible slope drain. At the base of the slope drain or flow apron a gravel energy dissipater should be installed to prevent erosion at the discharge end.
- (4) Exposed slopes shall be protected by means which will effectively prevent erosion considering the degree of the slope, soils material and expected length of exposure.
 - (a) Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seedlings of annual grasses.
 - (b) Mulch consists of hay, straw, wood chips, corn stalks, bark or other protective material.
 - (c) Mulch should be anchored to slopes with liquid asphalt or stakes and netting, or should be worked into soil to achieve additional slope stability.
- (5) Control measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated that they will as effectively protect exposed slopes.

(E) Grading Permit:

- (1) Except as provided below, a grading permit is required for the following activities:
 - (a) excavating, grading, filling or other land-disturbing activity on a per project basis that exposes soil in an area or areas encompassing at least 5,000 square feet or results in the movement of at least 50 cubic yards of material;
 - (b) excavating, grading, filling or any other land-disturbing activity that exposes soil in or on any steep slope, wetland, or floodplain; or

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CHAPTER 154 ZONING

154.07.42 Stormwater Design

- (c) excavating, grading, filling or any other land-disturbing activity that de-stabilizes the soil, involves the movement of contaminated soils, involves work in the right-of-way that is approved by the City Engineer, or creates the potential of erosion onto property not in common ownership with the location of the activity or creates the potential of erosion into a water resource.
 - (2) A separate grading permit is not required for land disturbing activity that is undertaken in compliance with a grading and erosion control plan approved in conjunction with a building permit if in conformance with subdivisions 16 and 17 of this section.
- (F) Grading and Erosion Control Plan

A grading and erosion control plan is required to be submitted for City approval as part of an application for any grading permit, Site Plan Review, and wetland/floodplain alteration permit, and as part of an application for a building permit that involves any amount of land-disturbing activity.

154.07.42 Stormwater Design

- (A) Runoff water from parking lots, roofs and driveways shall not be allowed to cross sidewalks or to directly run onto private property that is not a part of the site unless easements have been obtained.
- (B) Surface runoff waters shall be directed into municipal facilities; where municipal facilities are not available, a drywell or drainage area owned or controlled by the owner or developer shall be provided.

154.07.43 Preservation of Natural Drainageways

- (A) Waterways.
 - (1) Every effort shall be made to retain the natural drainage systems in the City including existing wetlands and ponds. The natural drainage system shall be maintained by the City. Aboveground runoff disposal waterways may be constructed to augment the natural drainage system.
 - (2) The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten-year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.
 - (3) No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.
 - (4) The banks of the waterway shall be protected with permanent vegetation.
 - (5) The banks of the waterway should not exceed four feet horizontal to one foot vertical in gradient.

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CHAPTER 154 ZONING

154.07.43 Preservation of Natural Drainageways

- (6) The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.
 - (7) The bend of the waterway should be protected with turf, sod or concrete.
 - (a) If turf or sod will not function properly, riprap may be used.
 - (i) Riprap shall consist of quarried limestone, fieldstone (if random riprap is used) or construction materials of concrete.
 - (ii) The riprap shall be no smaller than two inches square nor no larger than two feet square.
 - (b) Construction materials shall be used only in those areas where the waterway is not used as part of a recreation trail system.
 - (8) If the flow velocity in the waterway is such that erosion of the turf side wall will occur and the velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls. Either gravel or riprap would be allowed to prevent erosion at these points.
- (B) Sediment control of waterways.
- (1) To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures shall be incorporated throughout the contributing watershed.
 - (2) Temporary pervious sediment traps could consist of a construction of bales of hay with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. The structures would serve as temporary sediment control features during the construction state of development. Development of housing and other structures shall be restricted from the area on either side of the waterway required to channel a 25-year storm.
 - (3) Permanent impervious sediment control structures consist of sediment basins (debris basins, de-silting basins or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.

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CHAPTER 154 ZONING

154.08.11 Purpose

ARTICLE 08 SIGN REGULATIONS

PART 1 GENERAL PROVISIONS

154.08.11 Purpose

The purpose for regulating signs is to minimize aesthetic distractions, avoid placement of signs representing traffic-control signs, ensure maintenance of signs and protect the health, safety and welfare of the people of the city. To balance the need for signage with the impact of the signage by establishing minimum standards related to the use, location and intensity of particular land uses.

154.08.12 Certificate required

No permanent or nontemporary sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a building permit and without being in conformance with the provisions of this Chapter, excepting those official signs such as parking, traffic, street and highway signs, and those identified in § 154.08.15.

154.08.13 Sign appearance

The owner, lessee or manager of the property on which a sign is located is responsible for the appearance of the sign, including the reasonable area around the base of the sign. Upon notification by the City that a sign is rotted, unsafe or unsightly, the owner of the sign or owner of property thereunder shall remove or repair the sign.

154.08.14 Construction

All permanent signs shall be constructed to meet Building Code standards for wind resistance and wind loads. Signs shall be secured so as not to be free swinging. Signs with any electrical devices shall conform to the Electrical Code. In addition, adequate measures shall be taken to ground metallic parts of roof signs which may be exposed to lightning.

154.08.15 Permitted Signs, All Districts

The following shall be allowed without a permit in all zoning districts:

- (A) Political signs, for a period from August 1 until ten days after an election (M.S. § 211B.045, as may be amended from time to time);
- (B) Finder signs and real estate signs, not exceeding eight square feet in area;
- (C) Official signs, such as traffic-control, parking restrictions, information and notices;
- (D) Bulletin boards for public, charitable or places of worship not exceeding eight square feet in area;
- (E) Historic markers, memorial signs, names of buildings and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure; and
- (F) Warning and name signs not exceeding two square feet located on the premises.

154.08.16 Prohibited Signs, All Districts

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154.08.17 Signs in Residential Districts

The following shall be prohibited in all zoning districts:

- (A) Any sign located in the public right-of-way or easements, except those listed in divisions § 154.08.15(B) and § 154.08.18(H);
- (B) Any sign which resembles the size, shape, form and color of official traffic-control signs, emergency vehicle lights or official markers;
- (C) Any sign which obstructs any window, door, fire escape, stairway or opening intended to provide light, air or access to any building or structure;
- (D) Any sign which casts a distracting or confusing ray of light onto a public roadway; and
- (E) Any sign which causes a safety hazard by interfering with sight lines and traffic visibility.

154.08.17 Signs in Residential Districts

- (A) No flashing, moving or intermittently lighted sign shall be permitted in any residential district, except on school district property;
- (B) There shall be no more than one unilluminated name plate measuring not more than one and one-half feet in area attached near the building entrance;
- (C) Construction/project signs are permitted for the duration of the project; and
- (D) Area identification signs shall be allowed with a building permit.

154.08.18 Signs in Nonresidential Districts

Signs shall be permitted in nonresidential districts subject to the following:

- (A) Wall signs placed against the exterior wall of a building shall not extend more than six inches outside of a building's wall surface, shall not exceed 500 square feet in area for any one premises, and shall not exceed 20 feet in height above the mean centerline street grade;
- (B) Projecting signs fastened to, suspended from or supported by structures shall not exceed 100 square feet in area for any one premises, shall not extend more than six feet into any required yard, shall not project into the public right-of-way, shall not exceed a height of 20 feet above the mean centerline street grade, and shall not be less than ten feet above the sidewalk nor 15 feet above a driveway or an alley.
 - (1) Projecting signs in the C-1 central business district may be allowed to extend over the public right-of-way; provided that, no sign shall project into the right-of-way more than five feet as measured from the point of the sign, or its supports, at the distance farthest from the property line.
 - (2) No projecting sign shall be permitted to use the public right-of-way for support apparatuses. Supports shall be located entirely on private property;

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CHAPTER 154 ZONING

154.08.19 Measuring Area

- (C) Freestanding ground type signs shall not exceed 20 feet in height above the mean centerline street grade, shall not encroach on any public right-of-way and shall not exceed 100 square feet on all sides for any one premises;
- (1) Lots within 1,000 feet of the centerline of Highway 14 in C-2, and C-3 Districts may, as a conditional use, be permitted an additional 300 square feet of area and a maximum elevation above sea level of 1,350 feet to increase visibility to highway traffic.
- (D) Roof signs shall not exceed ten feet in height above the roof, shall meet all the setback and height requirements for the district in which they are located, sum of all sides shall not exceed 300 total square feet on any one premises;
- (E) No flashing, moving or intermittently lighted sign shall be permitted on any nonresidential lot abutting directly or across any street to a residential district;
- (F) Freestanding, billboard type of signs shall only be allowed if they meet the following:
- (1) *Spacing.* Billboard type advertising signs on the same side of the street, facing the same traffic flow, shall not be placed closer than 500 feet apart and 250 feet from zoning districts other than C-3 and I-2.
- (2) *Double face sign structures.* Billboard type advertising signs can be double faced (back to back) or V-type. Each side shall be considered as facing traffic flowing in the opposite direction.
- (3) *Size, height and length of billboard type advertising signs.* All billboard type signs shall not exceed 750 square feet per side, and shall not exceed 35 feet in height. No billboard type signs shall exceed 55 feet in length.
- (4) *Zoning districts.* Billboard type advertising sign installation shall be limited to zoning districts C-3 and I-2.
- (G) Portable signs
- Each lot or parcel in commercial/industrial districts (C-1, C-2, C-3, I-1, I-2) shall be permitted one portable sign no larger than 32 square feet, for a cumulative period of 90 days in any one year. No permits are required for portable signs;
- (H) Sandwich board/A-frame signs
- Those businesses located in commercial/industrial districts (C-1, C-2, C-3, I-1, I-2) shall be permitted one sandwich board/A-frame sign, no larger than ten square feet in area. The sign shall only be displayed during business hours, in front of the business, and, if on the sidewalk, shall not interfere with pedestrian traffic. The signs are subject to M.S. § 609.74, as may be amended from time to time, regarding the preservation and maintenance of right-of-way; and

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CHAPTER 154 ZONING

154.08.19 Measuring Area

- (I) Electronic message signs and/or animated/flashing signs shall be allowed as a conditional use in all commercial/industrial districts and on school property.

154.08.19 Measuring Area

The following shall determine the sign area:

- (A) Support structures or bracing shall not be considered part of the sign area unless used as a part of the sign message.
- (B) In the case of two identical message faces back to back, and sandwich board signs, the area of only one face shall be considered the sign area. If a sign has more than one display face, and is not identical and back-to-back, each face shall be considered a separate sign.
- (C) The entire surface area of freestanding, projecting, roof and marquee signs shall be considered the sign area.
- (D) When a message is applied to a background that provides no boarder or frame, the sign area shall be the smallest rectangle which can encompass all words, letters, figures, emblems and other elements of the sign message.

154.08.110 Measuring Height

No sign shall exceed the permitted maximum height allowed in the underlying district. The height of a sign shall be determined as follows:

- (A) A freestanding sign shall be measured from the finished elevation at the base of the sign to the top of the sign face.
- (B) Projecting signs and wall signs shall be measured from the finished elevation below the sign to the top of the sign face.
- (C) Roof signs shall be measured from the top of the outside building wall to the top of the sign area.

154.08.111 Consent

No sign, whether permanent or temporary, shall be placed on private property without the consent of the property owner.

154.08.112 Exemptions

- (A) The City is specifically exempt from the maximum signage area restrictions in parks and other similar public areas. All signs are subject to regulation under M.R. Ch. 8810 and M.S. Ch. 173, as may be amended from time to time, regarding advertising devices on property adjacent to highways; and M.S. § 211B.045, as may be amended from time to time, regarding noncommercial signs exemption.
- (B) M.S. Ch. 21, as may be amended from time to time, states "In any municipality with an ordinance that regulates the size of noncommercial signs, notwithstanding the provisions

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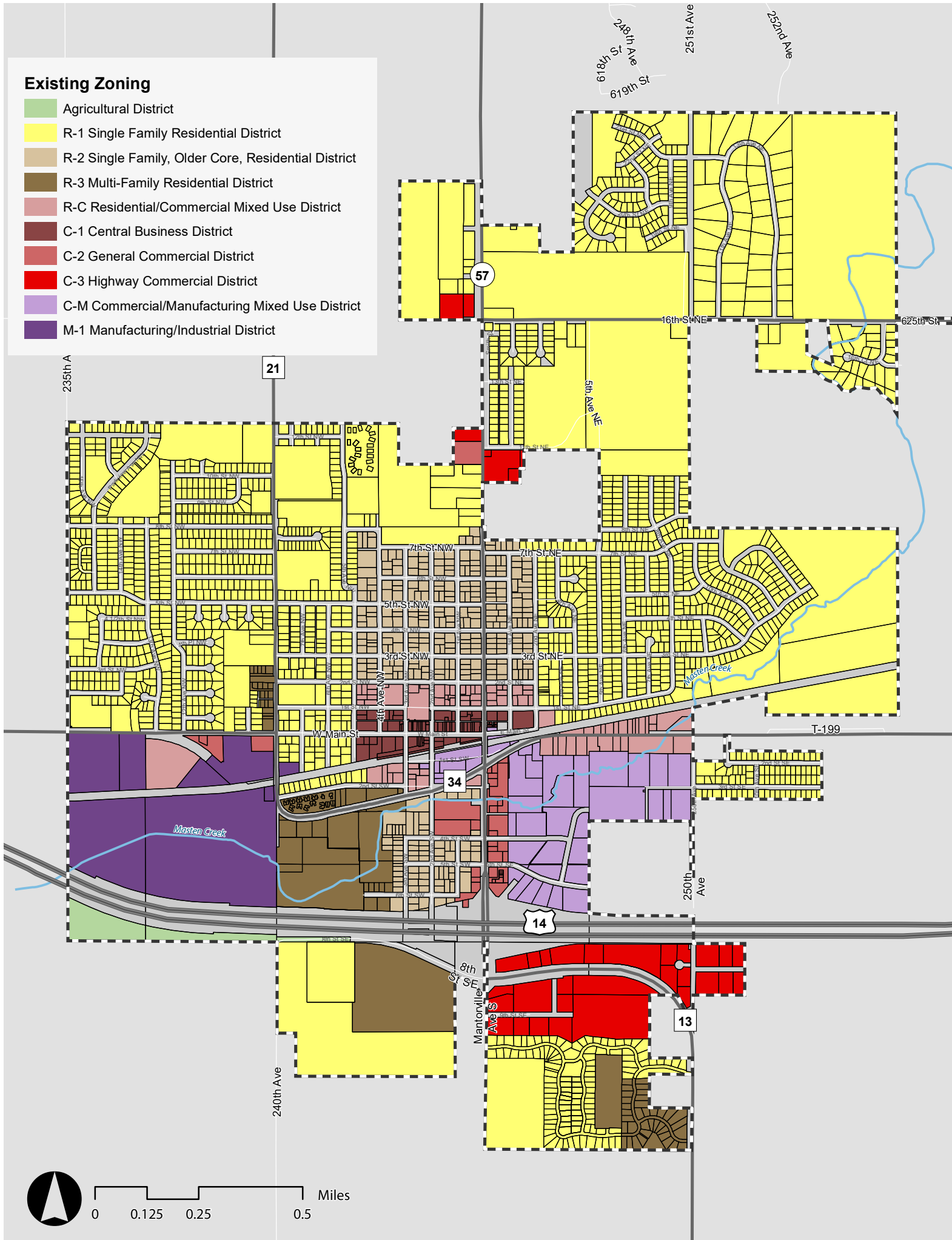
CHAPTER 154 ZONING

154.08.112 Exemptions

of that ordinance, all noncommercial signs of any size may be posted from August 1 in a state general election year until ten days following the state general election."

Existing Zoning

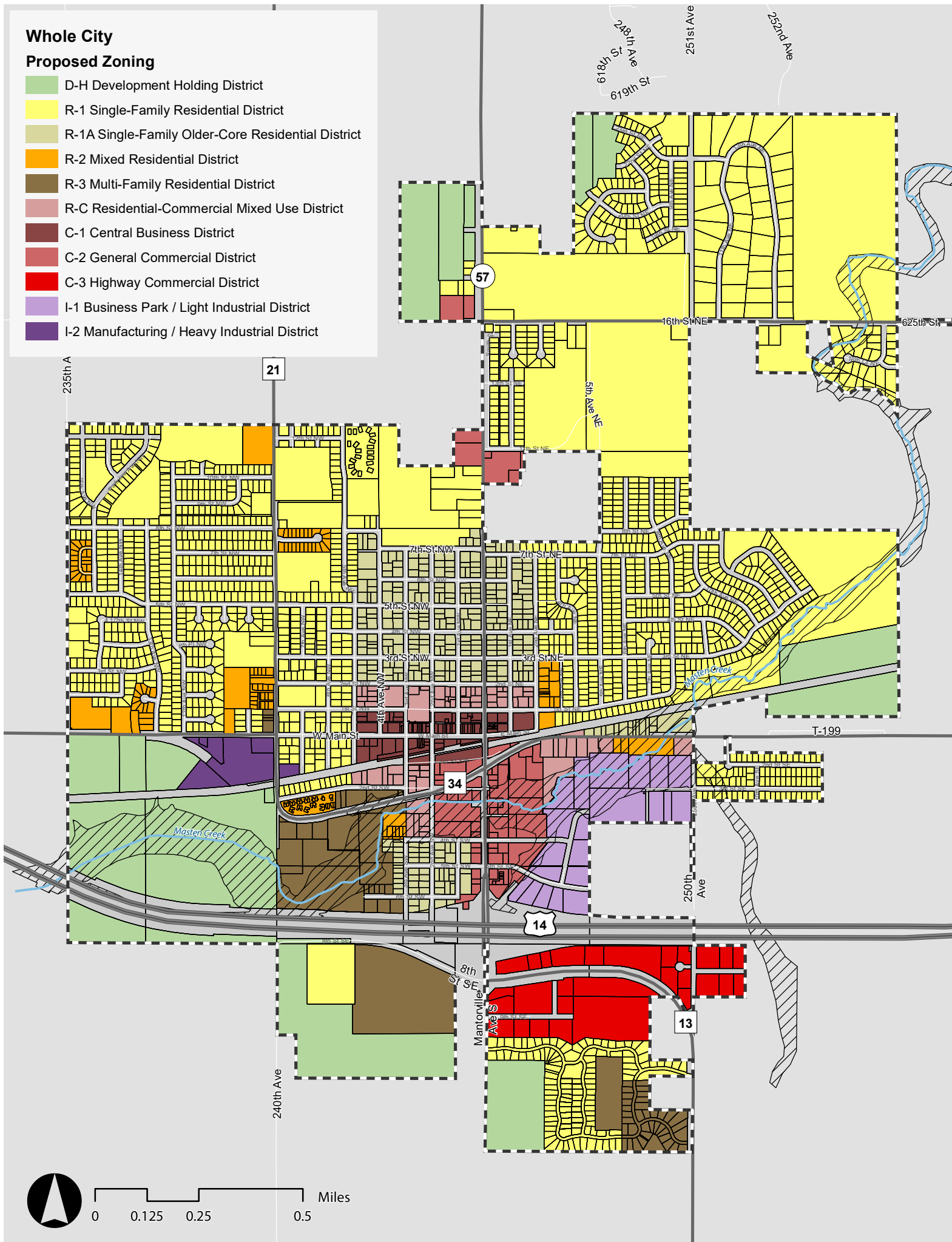
- Agricultural District
- R-1 Single Family Residential District
- R-2 Single Family, Older Core, Residential District
- R-3 Multi-Family Residential District
- R-C Residential/Commercial Mixed Use District
- C-1 Central Business District
- C-2 General Commercial District
- C-3 Highway Commercial District
- C-M Commercial/Manufacturing Mixed Use District
- M-1 Manufacturing/Industrial District



Whole City

Proposed Zoning

- D-H Development Holding District
- R-1 Single-Family Residential District
- R-1A Single-Family Older-Core Residential District
- R-2 Mixed Residential District
- R-3 Multi-Family Residential District
- R-C Residential-Commercial Mixed Use District
- C-1 Central Business District
- C-2 General Commercial District
- C-3 Highway Commercial District
- I-1 Business Park / Light Industrial District
- I-2 Manufacturing / Heavy Industrial District

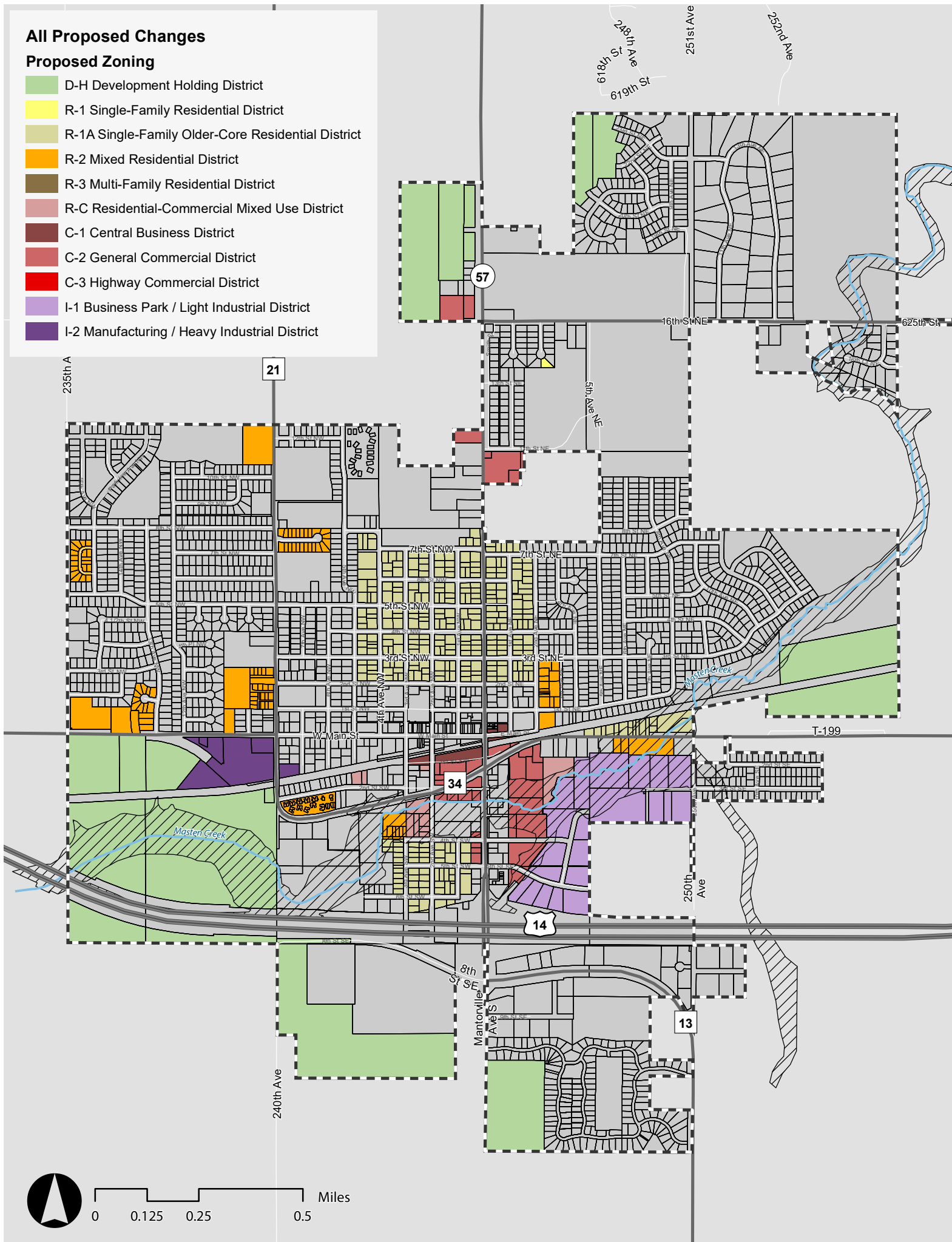


0 0.125 0.25 0.5 Miles

All Proposed Changes

Proposed Zoning

- D-H Development Holding District
- R-1 Single-Family Residential District
- R-1A Single-Family Older-Core Residential District
- R-2 Mixed Residential District
- R-3 Multi-Family Residential District
- R-C Residential-Commercial Mixed Use District
- C-1 Central Business District
- C-2 General Commercial District
- C-3 Highway Commercial District
- I-1 Business Park / Light Industrial District
- I-2 Manufacturing / Heavy Industrial District

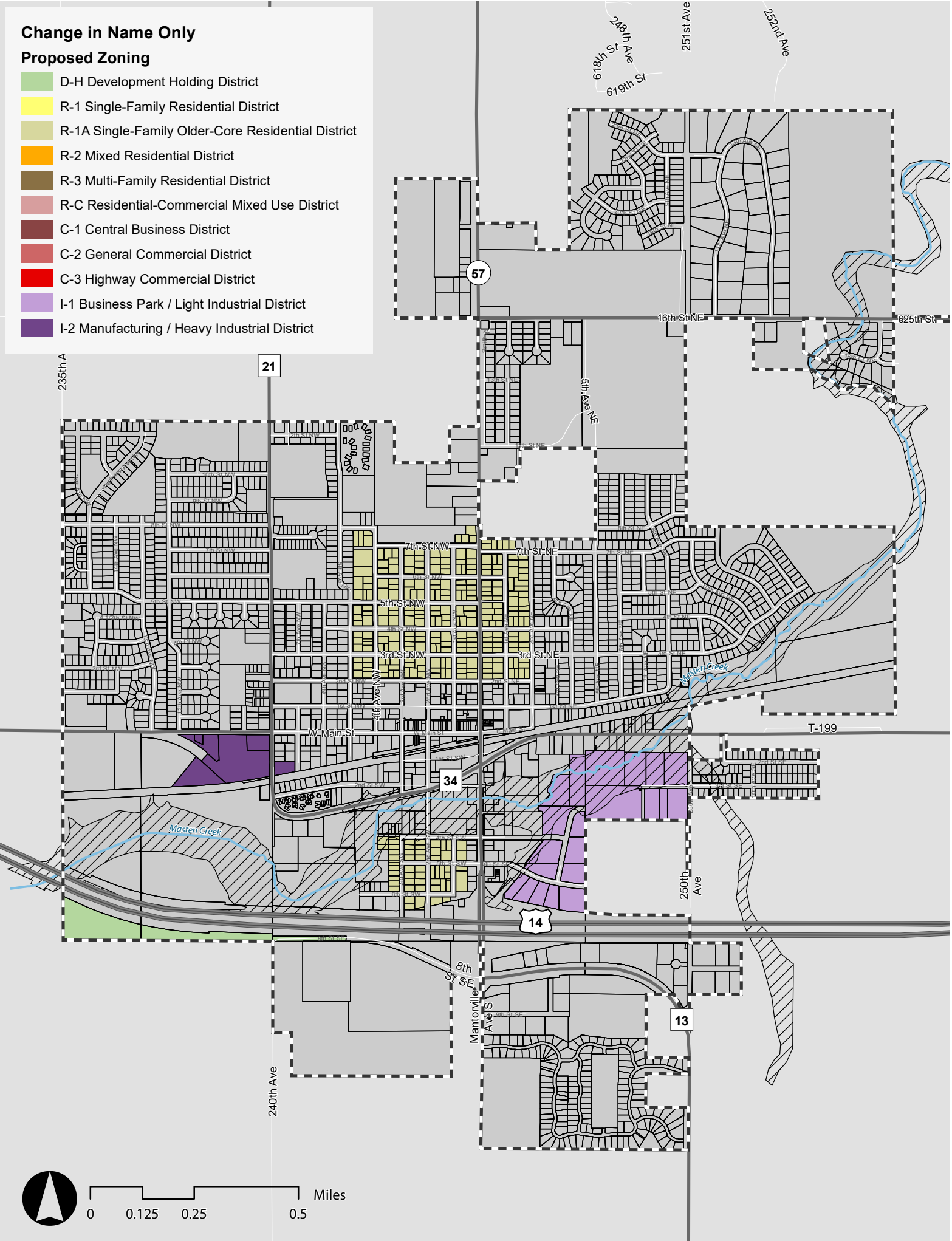


0 0.125 0.25 0.5 Miles

Change in Name Only

Proposed Zoning

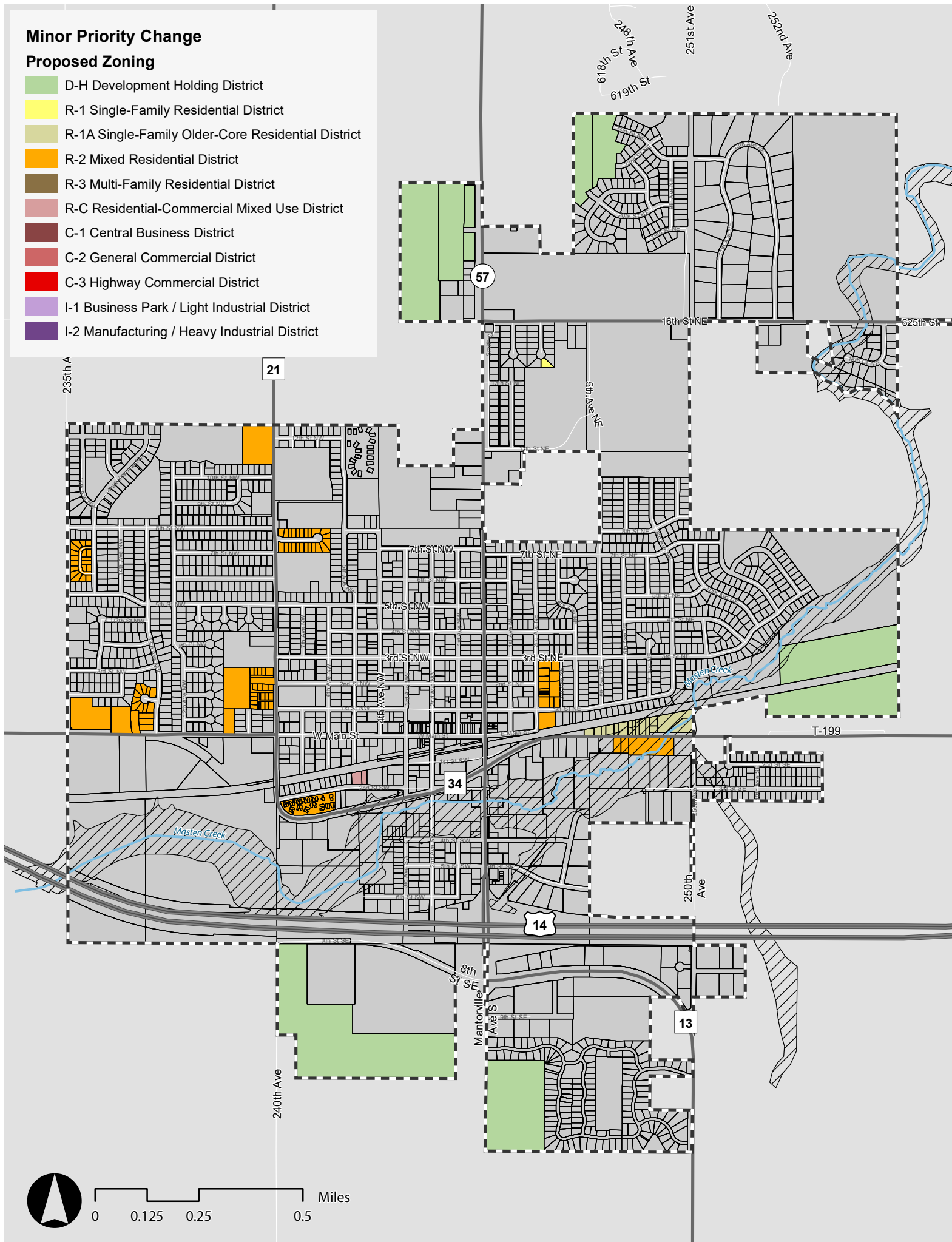
- D-H Development Holding District
- R-1 Single-Family Residential District
- R-1A Single-Family Older-Core Residential District
- R-2 Mixed Residential District
- R-3 Multi-Family Residential District
- R-C Residential-Commercial Mixed Use District
- C-1 Central Business District
- C-2 General Commercial District
- C-3 Highway Commercial District
- I-1 Business Park / Light Industrial District
- I-2 Manufacturing / Heavy Industrial District



Minor Priority Change

Proposed Zoning

- D-H Development Holding District
- R-1 Single-Family Residential District
- R-1A Single-Family Older-Core Residential District
- R-2 Mixed Residential District
- R-3 Multi-Family Residential District
- R-C Residential-Commercial Mixed Use District
- C-1 Central Business District
- C-2 General Commercial District
- C-3 Highway Commercial District
- I-1 Business Park / Light Industrial District
- I-2 Manufacturing / Heavy Industrial District



EXECUTIVE SUMMARY – UPDATES TO KASSON ORDINANCES

Below is a summary of major changes to Chapters 150 – 154 of the Kasson City Code. For details on these changes, please see the redlined draft or clean draft of the ordinances.

CHAPTER 150 DEFINITIONS

This is a new chapter – previous updates to the code had tried to compile all definitions into one section, however, it sat as a section within the Building Regulations; Construction chapter. Now, as its own chapter, these definitions can stand on their own, and apply across the title (chapters 150-154).

- Outdated definitions have been updated with modern language
- Definitions for new uses and other new terms have been added

CHAPTER 151 BUILDING REGULATIONS; CONSTRUCTION

This Chapter's contents have not changed, except for a few minor referenced. The Chapter number has updated to 151, as the new chapter 150, definitions, precedes it.

CHAPTER 152 MANUFACTURED HOMES

This Chapter's contents have not changed, except for the updating of the term "mobile home" to "manufactured home," as is the term used by Minnesota Statute. The Chapter number has updated to 152.

CHAPTER 153 SUBDIVISIONS

The changes to this Chapter were made with the intention of making processes and requirements clearer. Numbering throughout has updated to match the new numbering function, as well to reflect the updated chapter number, 153.

ARTICLE 01 GENERAL PROVISIONS

PART 1 INTRODUCTORY PROVISIONS

There have been no changes to the first three sections of this article: Purpose, Authority, Administration, and Amendments

PART 2 COMMON PROCEDURES AND REQUIREMENTS

The sections within this Part are essentially all new, except for 153.01.23, Fees. These sections are established so that they may be referenced again for specific procedures. For example, the elements of a pre-application meeting are described here, rather than having descriptions for every procedure in the chapter.

PART 3 SUBDIVISION APPROVAL REQUIRED

The sections within this Part are entirely new. They specifically detail what is needed for a Development Agreement, Financial Guarantee, Basic Infrastructure, Warranty/Maintenance Guarantee, and Insurance. This part will need particular review by the City Attorney prior to adoption.

ARTICLE 02 REVIEW PROCESS

The changes within this article have been to make all of the different subdivision procedures formatted in the same way, so they could be easily compared and understood. Existing procedures have not been significantly changed, but the details and descriptions of each procedure have been expanded and standardized. Review Criteria have been added and clarified for each procedure; these criteria should be considered for each application, and used to develop the “findings of fact” for any decision taken by the City Council.

PART 1 MINOR SUBDIVISIONS

No major changes to the intent of Minor Subdivisions; however, wording was majorly updated. In general, minor subdivisions enable areas that have already been platted to be further subdivided, as long as they do not create more than two new lots (three lots in total). This process allows for the applicant to only submit a Certificate of Survey for the new lots, rather than an entire new Plat document. The process does not require a public hearing, but the application still goes before the Planning and Zoning Commission for recommendation, and the City Council for approval.

PART 2 CONCEPT PLAN

The procedure of “Concept Plan” has replaced the “General Development Plan” in the existing ordinance. The term “General Development Plan” was confusing, as it’s commonly used with

Planned Unit Developments, not subdivisions in general. The term “Concept Plan” helps clarify the intention of this procedure: to provide developers a low-cost early opportunity to show City Staff, the Planning and Zoning Commission, and City Council what they are thinking for future development and for those entities to give feedback, including in particular their thoughts as to whether the concept achieves the City’s zoning and subdivision intent. This process does not require a public hearing. There is also no “action” on the part of the Planning and Zoning Commission or City Council; no Concept Plan is “approved,” and does not entitle developers to develop that concept.

PART 3 PRELIMINARY PLAT

Again, this procedure has not had any major changes, but the wording and format of the sections have changed significantly. Preliminary Plats are the most important part of the subdivision process, as its approval entitles developers to develop their property in compliance with the preliminary plat. With that in mind, the specific elements required of submittal have been expanded and clarified, to ensure that the City gets full applications with all required elements to make an informed decision. A Preliminary Plat requires a public hearing with the Planning and Zoning Commission, and approval by the City Council.

PART 4 FINAL PLAT

The Final Plat procedure has not changed significantly. The Final Plat is intended to be a complete, finalized version of the Preliminary Plat that meets the requirements to be recorded. Also important is to note that as long as the Final Plat substantially complies with the Preliminary Plat and meets the Preliminary Plat conditions, the developer is entitled to the Final Plat’s approval. The Final Plat does not have a public hearing, nor does it require Planning and Zoning review; instead, it just goes before City Council for review and approval once City Staff have determined it to be complete. The approval of the Final Plat is also the time that the City Attorney and applicant finalize and record the Development Agreement for the subdivision.

PART 5 VARIANCES

The procedure of subdivision variances has not changed significantly, but the sections have been expanded to fit the format of other procedures.

ARTICLE 03 SUBDIVISION DESIGN STANDARDS

The various design standards within this Article are a combination of existing standards and additional standards that help achieve the City’s goals. For the most part, existing standards have just been reorganized and supplemented with additional standards to help clarify the City’s standards.

PART 1 GENERAL STANDARDS

These sections have generally been added, to provide further information to applicants as a best practice.

PART 2 BLOCKS AND LOTS

Addition addressing Outlots, which are not buildable.

PART 3 EASEMENTS & UTILITIES

Minor changes based off of City Engineer comments.

PART 4 STREET DESIGN

These sections have mostly been reorganized to make the standards easier to understand. Minor updates based off of City Engineer comments

PART 5 STORMWATER, SURFACE WATER, DRAINAGE, WATER QUALITY, AND EROSION CONTROL

The sections within this part are a combination of existing standards and additional standards. Issues of stormwater management, especially during the subdivision process, were highlighted at the beginning of this project as a priority for the City. The City Engineer has substantially revised the language within this section to help the City meet its goals.

ARTICLE 04 LAND DEDICATION

PART 1 GENERAL STANDARDS

The sections regarding Land Dedication have been moved to their own Article, as they do not really fit under any of the other Articles. Few changes were made to this section.

CHAPTER 154 ZONING

The Zoning Chapter of the code saw significant changes throughout. The intention of these changes was to:

1. Establish clear procedures that would be easy for City Staff to administer and for the public to understand
2. Create tables to easily compare uses, lot dimensional standards, and site dimensional standards across districts
3. Provide development and performance standards that apply across uses and districts, as well as use-specific standards that apply across districts

ARTICLE 01 GENERAL PROVISIONS

In general, not many changes were made to this Article. More specific language regarding abrogation and severability were added under Part 1: Title and Authority. The Nonconformities section was also moved to Part 2: Interpretation.

ARTICLE 02 ADMINISTRATION AND ENFORCEMENT

This article has some significant changes that will have an impact on how City Staff and the Planning and Zoning Commission will administer the zoning ordinance.

- In general, each procedure has been updated to include the same structure; this will make it easier to compare procedures and should make it easier for applicants to understand.
- Criteria for a complete application and criteria for review have been separated out for each application type
 - Criteria for a complete application are the application materials needed.
 - Criteria for review include the considerations and the findings of fact that should direct the Planning and Zoning Commission on their recommendation and the City Council on their decision.

PART 1 ADMINISTRATION

No major changes have been made to this Part, the roles and responsibilities of each level of Administration remains relatively the same, but wording has been updated to further clarify roles. Enforcement Sections have been added and expanded in order to protect the City in the administration of the ordinance.

PART 2 PROCEDURES

The sections within this part have been updated significantly.

- General provisions, that can apply to many different procedures, such as a description of a public hearing, have been moved here rather than repeated across procedures
- One new procedure has been added:
 - Site Plan Review – this procedure is for any site alteration, construction, or change in use for properties that have three or more residential units or are non-residential. This is the process that will be used for uses labeled as “permitted with standards.” It is reviewed and approved by the Zoning Administrator. This process may be done concurrently with a building permit, but also has the ability to review zoning items even when a building permit is not needed.
- Procedures for PUD have been added here
 - PUDs are changing from a Conditional Use Permit (quasi-judicial) to a Rezoning (legislative action) – more details on that when we review Special Zoning Districts.

PART 3 ENFORCEMENT

Enforcement Sections have been added and expanded in order to protect the City in the administration of the ordinance.

ARTICLE 03 ZONING DISTRICTS

The sections within this article have moved within the code, but most of the features remain the same. The existing Agriculture district has been changed to “Development Holding District,” with more information in the following article. PUDs have also been moved to Special Districts

ARTICLE 04 BASE DISTRICTS

This Article provides a new approach to how Zoning Districts will be organized within the Code. Rather than have each zoning district list uses and lot standards, these elements have been combined into easy-to-read tables, so that City Staff and applicants can compare across districts easily.

PART 1 GENERAL PROVISIONS

The purpose statements for each base zoning district have been moved here. As mentioned above, the Agriculture District has been replaced with the Development Holding District (DH). The DH District will allow for existing uses that come in under annexation to continue on the property, but new uses are not allowed until the property is rezoned in compliance with the Comprehensive Plan. Other districts that have changed:

- R-2 District has been renamed R-1A
- A new R-2 District has been added to accommodate a wider variety of low- to medium-density housing types (twin homes, townhouses, and small apartments)
- The C-2 District has an updated purposed statement, focusing on commercial uses along Highway 57
- C-M District has been renamed I-1
- M-1 District has been renamed I-2

PART 2 USES

Changes to the organization of the base zoning districts continue, with all uses now put into an easy-to-read table, allowing applicants to compare across zoning districts. A new type of use has been added to the code: “permitted with standards” – these uses are administratively reviewed and approved, but have additional standards beyond just the zoning district standards and the development standards. These are called, “use-specific standards” and are listed in Article 06; conditional use permits also have use-specific standards, but are held to a higher degree of review, as they require a public hearing and approval by the City Council.

Finally, as no uses but existing uses are allowed to continue within the Development Holding District, special provisions specifically for this district are established within this Part.

PART 3 LOT AND SITE DIMENSION STANDARDS

All district-specific lot dimensional standards (lot area, lot width) and site dimensional standards (yard setbacks, impervious surfaces, etc.) have been compiled and moved to these sections. In general, few dimensions have changed from the existing standards, however, some have been modernized or filled in where they were previously missing.

ARTICLE 05 SPECIAL DISTRICTS

This Article contains the zoning districts that may still refer to one of the base zoning districts, but have additional provisions tied to them as well.

PART 1 FLOODPLAIN MANAGEMENT DISTRICTS

This part was moved from the existing Chapter 153 in its entirety. The scope of this project was not to make any changes to these standards, as the County and DNR are working on updating the Floodplain maps and may also identify new standards. In general, the administrative section of this Part should likely be removed or combined with Article 02 Administration and Enforcement, but that can be addressed at the time of the new floodplain maps.

PART 2 PLANNED UNIT DEVELOPMENTS

One of the significant changes of this ordinance update is moving PUDs from processing them as a Conditional Use Permit to processing them as rezonings. Rezonings, which are considered amendments to the zoning ordinance, are a legislative action, while CUPs are a quasi-judicial action. Processing PUDs as a rezoning will allow for the specifics of the PUD (whether it's different setbacks, additional uses, etc.) to be established and then adopted as part of the zoning ordinance.

All existing PUDs will remain as they are, with their conditions of approval still in place – they will, however, be rezoned to the “Planned Unit Development Fixed District,” which allows them to continue as is. All new PUDs will be adopted as their own individual PUD ordinance (PUD-1, PUD-2, etc.) and added as a new section at the end of this Part. The City Attorney still needs to give special attention to the review of this Part, as the transition from CUP to rezoning should be carefully considered.

ARTICLE 06 USE-SPECIFIC STANDARDS

All uses established in Article 04, Part 2, that are permitted with standards or a conditional use permit, will have use-specific standards addressed in this Article. These standards apply to the use, no matter which zoning district. Many of these standards were already established within the ordinance, new standards have been identified, where needed.

ARTICLE 07 DEVELOPMENT STANDARDS

Development standards are zoning standards that apply despite the use or the zoning district. These are where we address things like noise, glare, landscaping, buffers, fences, and off-street parking. The off-street parking standards have been updated to include standards for all uses listed in the use table, with some required minimum parking standards slightly decreased. The landscaping, bufferyard and fences sections have all been updated to help clarify the requirements for each.

ARTICLE 08 SIGN REGULATIONS

The regulations regarding signs have not changed from the existing ordinance. The provisions, however, have been moved to their own Article, as Signs have specific regulations to them outside of uses and development standards.

SUMMARY OF CHANGES SINCE MAY 2020 DRAFT

Here is a list of changes to the ordinance since the May 4th Draft:

- Overall grammar, spelling, and formatting updates throughout
- Updated cross-references to other parts of the code, as well as Minnesota Statute, now all with consistent reference style
- Chapter 150
 - o Definitions that had been previously erased have been put back in (requested by City Clerk)
 - o Definition for Impervious Surface/Hardcover added (requested by City Clerk)
 - o Clarifying definitions for “Permitted with Standards Use,” “Preliminary PUD Plan,” and “Final PUD Plan” added
- Chapters 151 & 152
 - o Minor changes to wording of Chapters based off of Commissioner Tinsley’s comments; a number of his comments are more policy-focused, and outside of the scope of this update – these should be discussed by the P&Z and possibly the City Council for next steps (Tinsley’s comments and my responses are in the third attachment)
- Chapter 153
 - o Removal of subdivision landscaping requirements (requested by City Clerk)
 - o Clarification on the difference between lots and outlots added to §153.03.22
 - o Easement language updated by City Engineer
 - o Open Ditch Street Design standards, previously removed, were added back in (requested by City Engineer)
 - o Multi-Use Trails design references standards established by MnDOT Bicycle Facility Design Manual (added by City Engineer)
 - o Stormwater section completely revised by City Engineer
 - o Soil erosion and Exposed slopes sections updated by City Engineer
- Chapter 154
 - o Nonconformities section updated to replace language that had been previously removed (requested by City Clerk)
 - o Language referring to applicants’ responsibility for cost of consultant fees/time to process land use applications has been removed (requested by City Clerk)

- The Minor Site Review process has been removed completely, as the process was too burdensome on limited staff resources, and the existing process works well for the City, as suggested by the City Clerk
- Related, the “Major Site Review” has been renamed “Site Plan Review” and will still apply
- Elements within the Variance process have been relocated, for clarity
- The “Establishment of a Planned Unit Development (PUD)” process in § 154.02.26 has been reorganized and added to for clarity, more clearly showing the difference between the Preliminary PUD Plan and Final PUD Plan processes
- The Comprehensive Plan Amendment process has been removed, as other chapters of the City Code address this already
- Setbacks have been updated to meet existing standards (previous drafts had been working off of an incorrect online table of setback standards)
- Pool fencing/security standards have been removed (requested by City Clerk)
- Clarification that ADUs are only permitted as attached to the principal use; no ADUs are permitted in a detached accessory building (requested by City Clerk)
- Repetitive regulations regarding Home Businesses were deleted
- Standards for Outdoor Furnace Systems were deleted, as no longer permitted
- The off-street parking table was updated to include standards for all uses from the use table