TITLE XV: LAND USAGE

Chapter

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' 150.01 MINNESOTA ACCESSIBILITY CODE.

(A) The Minnesota Accessibility Code, established pursuant to M.S. ' ' 326B.01 - 326B.998, as they may be amended from time to time, and as provided for in Minn. Rules Ch. 1341, as it may be amended from time to time, is adopted as the building code for accessibility in this city. M.S. ' 326B.16 provides that a city which has not adopted the Uniform State Building Code is nevertheless responsible for the enforcement of the Minnesota Accessibility Code, and this section is intended to comply with that requirement.

(B) No building subject to the provisions of the Minnesota Accessibility Code shall be constructed, reconstructed or substantially altered, or undergo a change in use within the city unless the building will comply with the Minnesota Accessibility Code after the construction or alteration is completed or the change in use occurs.

(C) Any person who constructs, reconstructs or substantially alters any building subject to the Minnesota Accessibility Code, or changes the use of any such building shall, before construction or alteration begins, certify to the City Clerk that the applicable provisions of the Minnesota Accessibility Code will be complied with.

(D) No person shall be issued a building, zoning or land use permit unless they certify that any structure to be located on the property shall be constructed or reconstructed in compliance with the handicapped accessibility provisions, if they apply to the structure to be constructed, substantially altered or reconstructed.

(E) A violation of this section is a misdemeanor punished as provided for in ' 10.99.

' 150.02 CONTRACTOR'S LICENSE REQUIRED.

No residential building contractor, residential remodeler, or other person who is required to be licensed by the state under the provisions of M.S. '' 326B.805 B 326B.89, as they may be amended from time to time, and no person employing a residential contractor, who is required to be licensed, shall be issued a building, zoning or land use permit unless that contractor is licensed. Any person applying for a permit who is required to have a state license but who does not have a state license shall be reported to the State Commissioner of Commerce, who may begin an action against the person.
Penalty, see ' 10.99

' 150.03 MANUFACTURED HOMES.

After the date of the adoption of this code, only manufactured homes which comply with the Manufactured Home Building Code established by M.S. ' 327.31 may be located in and used as a dwelling within the city. A mobile home, manufactured home, house trailer or other mobile dwelling which does not comply with the Manufactured Home Building Code and which is used as a residence after the date of the adoption of this code is a nonconforming use as defined by M.S. ' 462.357, Subd. 1e, as it may be amended from time to time, and this nonconforming use may be continued, including through repair, maintenance, replacement, restoration or improvement but if the nonconformity or occupancy is discontinued for a period of more than one year, or the nonconforming use is destroyed by fire or other peril to the extent of greater than 50% of its market value and no building permit is applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.
Penalty, see ' 10.99

' 150.04 AMATEUR RADIO SUPPORT TOWERS.

Amateur radio support structures (towers) shall not exceed a height above ground level of 70 feet, unless a conditional use permit has been granted by the City Council. They shall be mounted on the roof of a dwelling or other building or located in the rear yard unless there is not sufficient space to erect them in those locations. They shall be installed in accordance with the instructions furnished by the manufacturer of that tower model. Because of the experimental nature of the amateur radio service, antennas mounted on a tower may be modified and changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.

' 150.05 LOCATION OF SEXUALLY ORIENTED BUSINESSES.

(A) *Findings.* The City Council makes the following findings regarding the effect sexually oriented businesses have on the character of the city's neighborhoods. In making these findings, the City Council accepts the recommendation of the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses* dated June 6, 1989, a copy of which is adopted by reference and included in Appendix II of Chapter 119 of this code. This ' 150.05 shall have no force and effect until the City Council accepts these recommendations by resolution of a majority of its members, using the model resolution contained in Appendix I of Chapter 119 of this code.

(1) Sexually-oriented businesses have an impact on the neighborhoods surrounding them which is distinct from the impact caused by other uses.

(2) Residential and commercial neighborhoods located within close proximity to sexually oriented businesses experience the following negative impacts:

(a) Increased crime rates, particularly in sex-related crimes such as rapes, prostitution, indecent exposure and other lewd and lascivious behavior;

(b) Property values which are either diminished or fail to appreciate at the rate of other comparable properties not located in proximity to sexually oriented businesses;

(c) Increased transiency and decreased stability of ownership;

(d) Deteriorated neighborhood appearance from litter and graffiti;

(e) Sex-related harassment of residents and customers by motorists and pedestrians;

(f) A perception that the area is Aunsafe;@ and

(g) Difficulty in attracting and retaining customers, employees, and desirable tenants.

(3) The adverse impacts which sexually oriented businesses have on surrounding areas diminish as the distance from the sexually oriented business increases.

(4) The adverse impacts of sexually-oriented businesses are exacerbated when the uses are located near each other.

(5) The presence of liquor establishments in the immediate vicinity of sexually oriented businesses also compounds the adverse impacts on the neighborhood.

(6) Sexually oriented businesses can exert a dehumanizing influence on persons attending places of worship, children attending day care centers or schools, and people using public parks and libraries.

(7) Sexually oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the character and quality of the residential housing in the area where they are located, thereby exacerbating the shortage of affordable and habitable housing for city residents.

(8) The concentration of sexually oriented businesses in one area can have a substantially detrimental effect on that area and on the overall quality of urban life. A cycle of decay can result from the influx and concentration of sexually oriented businesses. The presence of such businesses is perceived by others as an indication that the area is deteriorating and the result can be devastating: other businesses move out of the vicinity and residents flee from the area. The resulting decline in real estate values erodes the city's tax base and contributes to overall urban blight.

(9) Land use regulations are appropriate to minimize the detrimental effects that sexually oriented businesses have on adjacent land uses.

(B) If the city has not adopted zoning regulations for sexually oriented businesses, as defined by ' 153.03, then a sexually oriented business may locate only in those areas of the city which the City Council determines that the predominant use of the land is for commercial or industrial purposes.

(C) No person may operate a sexually oriented business on property, any part of which is within the area circumscribed by a circle that has a radius of 250 feet from any of the uses listed below. Distances must be measured by following a straight line, without regard to intervening structures or objects, between the closest points on the boundary lines of the property parcels where the two uses are located. This distance requirement applies to the following uses:

(1) Property used or zoned for residential uses;

(2) A day care facility, school, library, park, playground, state or federal wildlife area or preserve, religious institution, or other public recreational facility;

(3) Premises licensed under Chapter 112, Liquor Regulations; and

(4) Another sexually-oriented business.

(D) These provisions, along with Ch. 119, are intended to supercede the provisions of M.S. ' 617.242, as it may be amended from time to time, and render M.S. ' 617.242 inapplicable as authorized by the statute.

' 150.06 COMPLIANCE WITH CODE.

No person shall erect, alter or replace any structure within the city unless the structure complies with the applicable requirements of this code and the person has obtained a land use permit from the City

Clerk certifying compliance with all of the applicable requirements of this code. No person shall use any structure or premises for any purpose other than as permitted by this code, except that lawful nonconforming uses as of the date of the adoption of this code may continue only as provided in M.S. ' 462.357, Subd. 1e, as it may be amended from time to time.

CHAPTER 151: ZONING

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GENERAL PROVISIONS

' 151.01 AUTHORIZATION, INTENT AND PURPOSE.

(A) This chapter is enacted pursuant to the authority granted by the Municipal Planning Act, M.S. ' ' 462.351 et seq. The intent of this chapter is to ensure public health, safety and general welfare in

accordance with the adopted development goals, plans and policies as stated hereto. This plan for the city is to ensure that the land uses of the city are properly situated in relation to one another, providing for adequate space for each type of development; to control the density of development in each area of the city so that the property can be adequately serviced by such governmental facilities as streets, schools, recreation and utilities systems; to direct new growth into appropriate areas; to protect existing property by requiring that the development afford adequate light, air and privacy for persons living and working within the city; to improve the quality of the physical environment of the city; to protect and maintain property values, and to preserve and develop the economic base of the city.

(B) This chapter is not in effect until the provisions of ' 151.05 are complied with and notice and public hearing is provided as required by M.S. ' 462.357 Subd. 3, as it may be amended from time to time.

' 151.02 TITLE.

This chapter, together with the zoning map required at ' 151.05, shall be known as the@City Zoning Ordinance@ except as referred to herein, where it shall be known as Athis Ordinance@ or Athis chapter.@

' 151.03 INTERPRETATIONS OF TERMS.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage unless such meaning is clearly contrary to the intent of this chapter and so as to give this chapter its most reasonable application. For the purpose of this chapter, the words Amust@ and Ashall@ are mandatory and Amay@ is permissive. All distances, unless otherwise specified, shall be measured horizontally. For the purpose of this chapter, the terms in ' 151.04 have the meanings given them.

' 151.04 DEFINITION OF TERMS.

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

ACCESSORY STRUCTURE OR FACILITY. Any building or improvement located on the same lot as the principal use subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

ACCESSORY USE. A use on the same lot with and incidental and subordinate to the principal use or structure or facility.

BUILDING. Any structure having a roof supported by columns, walls or other means of support for the shelter or enclosure of persons or property.

BUILDING LINE. A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

COMMERCIAL USE. The principal use of land or buildings for the sale, lease, rental or trade of products, goods and services and other activities carried out for financial gain.

CONDITIONAL USE. A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to comprehensive land use plan of the community, and the use is compatible with the existing neighborhood. The city may impose additional conditions in specific instances to protect the health, safety and welfare.

DECK. A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to principal use or site and at any point extending more than three feet above ground level.

DWELLING, DUPLEX, TRIPLEX and ***QUAD.*** A dwelling structure on a single lot, having two, three, and four units respectively, being attached by common walls and each unit equipped with separate sleeping cooking, eating, living and sanitation facilities.

DWELLING, MULTIPLE. A building or portion thereof used for occupancy by three or more families living independently of each other.

DWELLING, ONE-FAMILY. A building used exclusively for occupancy by one family.

DWELLING, TWO-FAMILY. A building used exclusively for occupancy by two families living independently of each other.

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

DWELLING UNIT. Any structure or portion of a structure or other shelter designed as short or long-term living quarters for one or more persons, including rental or time-share accommodations, such as motel, hotel and resort rooms and cabins.

HOME OCCUPATION. A lawful occupation customarily carried on by a resident of a dwelling as an accessory use within the same building. Such occupation must be clearly secondary to the principal use and not change the nature of the principal use.

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

JUNK YARD. Land and structures used for the storage or keeping of junk, including scrap metals, or for the dismantling or wrecking of automobiles or other machinery, other than the storage of materials which is incidental or accessory to any business or industrial use on the same lot.

LIGHT INDUSTRIAL. The assembly, fabrication or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare or health or safety hazards outside the building or lot where the assembly, fabrication or processing takes place, where the processes are housed entirely within a building, or where the outdoor storage of goods and materials used does not exceed 25% of the floor area of all buildings on the lot.

LOT. A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means, and separated from other parcels or portions by that description for the purpose of sale, lease or separation. A lot must be situated and have its principal frontage on a public street.

LOT, CORNER. A lot situated at the intersection of two or more streets, or bounded on two or more adjacent sides by street lines.

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

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

LOT LINE, FRONT. A lot line abutting a dedicated public right-of-way.

LOT LINE, REAR. The lot line opposite and most distant from the front lot line. In the case of corner lots, the rear lot line shall be determined by the zoning administrator based upon characteristics of the surrounding neighborhood.

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

LOT WIDTH. The shortest distance between lot lines measured at the midpoint of the building line.

MANUFACTURED HOME. A structure, transportable in one or more sections which in the traveling mode is eight 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 permanent foundation when connected to required utilities, and includes the plumbing, heating and air conditioning and electrical systems contained therein, and which meets all the requirements established under M.S. ' 327.31, as it may be amended from time to time, the Manufactured Home Building Code.

NONCONFORMING STRUCTURE OR USE. A structure or use lawfully in existence on the effective date of this chapter or any amendment thereto, and not conforming to the regulations for the district in which it is situated.

NONCONFORMITY. Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

PLANNED UNIT DEVELOPMENT, COMMERCIAL. Typically include uses that provide transient, short-term lodging spaces, rooms or parcels, and their operations are essentially service-oriented. For example: hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are Commercial Planned Unit Developments.

PLANNED UNIT DEVELOPMENT, RESIDENTIAL. A use where the nature of residency is non-transient, and major or primary focus is not service-oriented. For example: residential apartments, manufactured home parks, townhouses and full-fee ownership residences would be considered as Residential Planned Unit Developments. To qualify as a Residential Planned Unit Development, a development must contain at least five dwelling units or sites.

RECREATIONAL VEHICLE. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towed by a light duty truck and is primarily designed not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

RESTAURANT. An establishment in which food and/or drink is offered or prepared and served for public consumption and is served to customers at tables by employees. Restaurants may include incidental take-out service.

SETBACK. The minimum distance from any lot line that an improvement may be placed, measured perpendicularly from the lot line to the closest point of the improvement.

SETBACK LINE. The line which is the specified setback -distance from and parallel to any lot line, or other specified line, such as the ordinary high water level, edge of wetland, floodplain, or top of bluff.

STORAGE. Goods, materials or equipment placed or left in a location on a premises.

STRUCTURE. Anything constructed, placed or erected on or attached to, in some manner, the ground.

STRUCTURE, PRINCIPAL. The building in which is conducted the primary use of the lot on which the building is located.

USE. The purpose or activity for which a premises is designed, arranged or intended or for which it is or may be occupied or maintained.

WIND ENERGY CONVERSION SYSTEM OR WINDMILL. An apparatus capable of converting wind energy into electricity.

YARD. An open space unobstructed from the ground upward with the exception of landscape materials and minor fixtures of a non-structural nature commonly found in a yard.

YARD, FRONT. The area between the front lot line and the front setback line.

YARD, REAR. The area between the rear lot line and the rear setback line.

YARD, SIDE. A space extending from the front yard to the rear yard along a side lot line measured perpendicularly from the side lot line to the closest point of a structure.

ZONING ADMINISTRATOR. The City Clerk or other person designated by the City Council to administer and enforce the provisions of this chapter.

' 151.05 ZONING MAP.

(A) This chapter has no effect until the boundaries of the use districts are delineated on an Official Zoning Map, created pursuant to M.S. ' 462.357, Subd. 1, as it may be amended from time to time, which, once it is adopted by ordinance after notice and hearing as provided in M.S. ' 462.357, Subd. 3, as it may be amended from time to time, is hereby adopted by reference and declared to be a part of this chapter. This map shall be on permanent file and available for public inspection in the City Office. It shall be the responsibility of the Clerk or other person appointed by the City Council to administer this chapter to maintain and keep the map up to date.

(B) All property within the city shall have the zoning designation shown on the official zoning map. If there is any discrepancy or inconsistency between the official zoning map and any other map, ordinance or source which purports to indicate the zoning of property, the official zoning map shall take precedence. The provisions of this section shall not be interpreted to require the city to zone all properties within the city limits or to prevent zoning of only a portion of the city.

(C) Zoning district boundary lines shown on the official zoning map are intended to follow lot lines, the center lines of streets or alleys, the center lines of street or alleys projected, railroad right-of-way lines, the center of watercourses or the corporate limits of the city, unless otherwise specifically indicated.

' 151.06 ANNEXED LAND.

Any land hereafter annexed to the city shall be considered to be in the district that is delineated on the adjacent areas than are designated for orderly annexation, unless otherwise reclassified.

' 151.07 COMPLIANCE WITH ORDINANCE.

(A) No structure or land shall hereafter be used or occupied and no structure shall hereafter be erected, constructed, reconstructed, moved or structurally altered, except in conformity with the regulations specified in the Zoning Ordinance for the district in which it is located.

(B) The provisions of this chapter shall be minimum requirements. Where the conditions imposed by any provision of this chapter differ from those required by any statute or other ordinance of the city, the regulations which are more restrictive or which impose the higher standard shall prevail.
Penalty, see ' 151.99

'151.08 SEVERABILITY.

Every section or subdivision of this chapter is declared separable from every other section or subdivision. If any section or subdivision is held to be invalid by competent authority, no other section or subdivision shall be invalidated by such action or decision.

ZONING DISTRICTS

' 151.20 CLASSIFICATION OF ZONING DISTRICTS.

(A) R-1 Single Family Residential District

(B) R-2 Multi-Family Residential District

(C) C-1 Central Business District

(D) C-2 Central Business District

(E) I Industrial

(F) Rural Residential and Agricultural District

' 151.21 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT.

(A) *Purpose.* The purpose of the R-1 Single Family Residential District is to provide for moderate density one and two-family dwelling units and directly related, complementary uses.

(B) *Permitted uses and structures.*

(1) One and two-family dwelling units.

(2) Public, government owned parks, playgrounds, athletic fields and other public recreational uses.

(3) Churches and places of religious assembly, public and private schools and government-owned buildings and facilities.

(4) Agricultural gardens and forestry.

(5) Manufactured homes which meet the standards set forth in ' 151.24.

(6) As required by M.S. ' 462.357, Subd. 7, as it may be amended from time to time, a state licensed residential facility or a housing with services establishment registered under M.S. Ch. 144D, as it may be amended from time to time, serving six or fewer persons, a licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under Minn. Rules, parts 9502.0315 to 9502.0445, as it may be amended from time to time, to serve 14 or fewer children shall be considered a permitted single family residential use of property for the purposes of zoning, except that a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use.

(C) *Accessory uses.*

(1) Customary accessory uses incidental to the principal uses such as gardens, private garages, screen porches, play equipment, signs, as set forth in division (D)(1) of this section, one storage shed not exceeding 12 feet in height or 500 square feet or covering more than 30% of the area of the side or rear yard in which they are located, satellite dishes and antennae, solar equipment, greenhouses not exceeding 12 feet in height or 500 square feet or covering more than 30% of the area of the side or rear yard in which they are located and swimming pools intended for single-family use.

(2) The renting of rooms by a resident family for lodging purposes only, and for not more than two rooms in a one-family dwelling.

(D) *Conditional uses.* Within the R-1 District no structure or land shall be used for the following except by conditional use permit and in conformance with the standards specified in division (I) of this section.

(1) Home occupations in a residence.

(2) Hospitals and nursing homes, licensed day care centers serving 12 or more persons and cemeteries.

(3) Accessory buildings other than those listed in (C)(1), including storage sheds and green houses over 12 feet in height or 500 square feet or covering more than 30% of the area of the side or rear yard in which they are located.

(4) Wind energy conversion systems or windmills.

(5) Private recreational facilities as a principal use and excluding accessory play equipment and swimming pools intended for single family use.

(E) *Lot requirements and setbacks.* The following minimum requirements shall be observed in an R-1 District, subject to additional requirements, exceptions and modifications set forth in this chapter:

(1) *Lot area*. 10,000 square feet (100 x 100).

(2) *Lot width.* 75 feet.

(3) *Setbacks.*

(a) *Front yards*. Not less than 30 feet;

(b) *Side yards.* 5 feet.

(c) *Side yards, corner lots.* 25 feet on side adjacent to street, but in no case less than the setback of an adjacent lot which has its front yard on the same street.

(d) *Rear yards.* 30 feet.

(4) *Detached accessory building setback requirements.* Not less than 5 feet from rear yard line and not less than 4 feet from the side yard lines in the rear yard. On corner lots not less than 25 feet from the adjacent street, but in no case less than the setback of an adjacent lot which has its front yard on the same street.

(5) *Access.* All lots shall front on and have ingress and egress by means of a public right-of-way.

(F) *Building requirements; height.* No structure shall exceed 2 stories or 35 feet, whichever is less.

(G) *Parking.* Refer to ' ' 151.35 through 151.39.

(H) *Height limitations.* Height limitations shall not apply to water towers, chimneys, flag poles, antennae, wind energy conversion systems, church spires, church belfries or church domes not containing habitable space and support towers permitted by ' 150.04.

(I) *Conditional use permit standards for the R-1 Single-Family Residential District.*

(1) *Purpose*. It is the intent of the city in establishing general and specific criteria for conditional uses that such uses be subject to careful evaluation to ensure that their location, size and design are consistent with the standards, purposes and procedures of this chapter and the comprehensive plan, if one exists. The Planning Commission, if one exists, may recommend and the City Council may impose conditions on such uses in order to effect the purpose of this chapter.

(2) *General standards.* No conditional use permit shall be granted unless the City Council determines that all of the following standards will be met:

(a) The use is consistent with the intent of this chapter;

(b) The use is consistent with the goals, policies and objectives of the comprehensive plan, if one exists;

(c) The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements; and

(d) The use does not have an undue adverse impact on the public health, safety or welfare.

(3) *Specific standards.* In addition to the standards specified in division (2) above, no conditional use permit shall be granted unless the City Council determines that all of the specific standards contained in this subdivision will be met.

(a) Licensed day care facilities for 15 or more persons:

1. Located only on a collector or arterial roadway as designated in the comprehensive plan, if one exists, or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

2. Buildings set back 50 feet from all property lines and parking lots set back 15 feet from streets and non-residential property and 25 feet from residential property;

3. Pick-up and drop-off areas located outside of parking setback area;

4. Outdoor recreational areas to be set back 15 feet from all property lines and screening provided to mitigate noise and adverse visual impacts on neighboring properties; and

5. One parking space provided for each six children based upon the licensed capacity of the center;

(b) Storage sheds or greenhouses in excess of 500 square feet of gross floor area or 12 feet in height or occupying more than 30% of the side or rear yard in which they are located:

1. Side and rear setbacks equal to the height of the structure or 15 feet, whichever is greater:

2. Not to be used for commercial activities:

3. Structure to be architecturally consistent with the principal structure;

4. Landscaping to be required to buffer views when the structure is highly visible from adjoining properties;

5. Minimum lot size of four acres; and

6. Must be located in a side or rear yard.

(c) Home occupations in a residence:

1. Such occupation shall be carried on in the-main building;

2. Not more than 25% of the floor space of the residence is used for this purpose;

3. No articles for sale be displayed so as to be visible from the street;

4. The conduct of the home occupation shall result in no change in the outside appearance of the building or land, or other visible evidence of the conduct of the home occupation, other than one sign, not exceeding one square foot in area, non-illuminated and mounted flat against the wall of the dwelling;

5. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood;

6. Only limited retail sales activity;

7. Maximum of one outside employee;

8. Adequate off-street parking based on number of employees and customers per day;

9. Parking area screened from offsite views;

10. No outside storage;

11. Shall not result in significant levels of noise, air or other pollution and shall meet the performance standards of ' 151.30;

12. Business hours restricted to no more than 8:00 a.m. to 9:00 p.m.; and

13. Outside parking of no more than one commercial type vehicle or vehicle identified for business purposes not to exceed one ton capacity which is used for both personal and business transportation. The vehicle is to be owned and registered by an occupant of the property and parked in a screened location.

(d) Private recreational facilities as a principal use:

1. Direct access limited to a collector or arterial roadway as identified in the comprehensive plan, if any, or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

2. Buildings set back 50 feet from all property lines;

3. No more than 70% of the site to be covered with impervious surface and the remainder to be suitably landscaped in accordance with ' 151.31;

4. Signs shall be designed to be consistent with the principal use;

5. Adequate off-street parking based on number of employees and customers per day;

6. Parking area and waste management areas screened from offsite views;

7. No outside storage; and

8. Shall not result in significant levels of noise, air or other pollution.

(e) Wind energy conversion systems (WECS):

1. Set back from the nearest property line a distance equal to the height of the tower plus one-half the diameter of the rotor;

2. Certified by a professional engineer as being of a design adequate for the atmospheric conditions of the area;

3. Equipped with over-speed or similar controls designed to prevent disintegration of the rotor in high winds;

4. Compliance with all building and electrical code requirements of the city, the noise regulations of the Minnesota Pollution Control Agency and the rules and regulations of the Federal Communications Commission and Federal Aviation Administration;

5. If the WECS has not been operated for a period of one year or fails to meet the conditions of this chapter, the City Council may order it dismantled and the site restored to its original condition;

6. If the owner or person responsible for the WECS does not maintain it or comply with all requirements of this chapter, the city may take such steps as are necessary to achieve compliance. The cost of such work, including administrative costs, shall be a lien against the property and may be collected as a special assessment. The city may sell salvaged and valuable materials at public auction on ten days' notice; and

7. The WECS shall meet the performance standards of ' 151.30.

(f) Hospitals or nursing homes:

1. Direct access limited to a collector or arterial roadway as identified in the comprehensive plan, if any, or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

2. Buildings set back 50 feet from all property lines;

3. No more than 70% of the site to be covered with impervious surface and the remainder to be suitably landscaped;

4. Signs shall be designed to be consistent with the principal use;

5. Adequate off-street parking based on number of employees and customers per day;

6. Parking area and waste management areas screened from offsite views;

7. No outside storage; and

8. Shall not result in significant levels of noise, air or other pollution and shall meet the performance standards of ' 151.30.

Penalty, see ' 151.99

' 151.22 R-2 MULTIPLE FAMILY RESIDENTIAL DISTRICT.

(A) *Purpose.* The purpose of the R-2 Multiple Family Residential District is to provide for medium density housing in multiple family structures and directly related complementary uses.

(B) *Permitted uses and structures.*

(1) Any permitted use in a Single-Family Residential District.

(2) Multiple-family dwelling.

(C) *Accessory uses.* Any accessory use permitted in Single-Family Residential District.

(D) *Conditional uses.* Within the R-2 District no structure or land shall be used for the following except by conditional use permit and in conformance with the standards specified in division (H) of this section.

(1) Any conditional use permitted in Single-Family Residential District.

(2) As required by M.S. ' 462.357, Subd. 8, a state licensed residential facility serving from 7 through 16 persons under M.S. Ch. 144D, as it may be amended from time to time, or a licensed day care facility serving from 13 through 16 persons.

(E) *Lot requirements and setbacks.* The following minimum requirements shall be observed in R-2 Districts, subject to additional requirements, exceptions and modifications set forth in this chapter:

(1) *Lot area.* 10,000 square feet for one and two-family dwellings and 3,000 square feet per dwelling unit for multiple-family dwellings.

(2) *Lot width.* 75 feet for one and two-family dwellings, and 100 feet for multiple family dwellings.

(3) *Setbacks.*

(a) *Front yards.* Not less than 30 feet.

(b) *Side yards.* 5 feet.

(c) *Side yards, corner lots.* 25 feet on side adjacent to street, but in no case less than the setback of an adjacent lot which has its front yard on the same street.

(d) *Rear yards.* 30 feet.

(4) *Detached accessory building setback requirements.* Not less than 5 feet from the rear lot line and not less than 4 feet from the side yard line in the rear yard. On corner lots, not less than 25 feet from adjacent lot which has its front yard on the same street.

(5) All lots shall front on and have ingress and egress by means a public right-of-way.

(F) *Parking.* Refer to '' 151.35 through 151.39.

(G) Height limitations shall not apply to water towers, chimneys, flag poles, antennae, wind energy conversion systems, church spires, church belfries or church domes not containing habitable space and support towers permitted by ' 150.04.

(H) Conditional use permit standards for the R-2 Multiple-Family Residential District.

(1) *Purpose*. It is the intent of the city in establishing general and specific criteria for conditional uses that such uses be subject to careful evaluation to ensure that their location, size and design are consistent with the standards, purposes and procedures of this chapter and the comprehensive plan, if one exists. The Planning Commission, if one exists, may recommend and the City Council may impose conditions on such uses in order to effect the purpose of this chapter.

(2) *General standards.* No conditional use permit shall be granted unless the City Council determines that all of the following standards will be met:

(a) The use is consistent with the intent of this chapter;

(b) The use is consistent with the goals, policies and objectives of the comprehensive plan, if one exists;

(c) The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements; and

(d) The use does not have an undue adverse impact on the public health, safety or welfare.

(3) *Specific standards.* In addition to the standards specified in division (2) above, no conditional use permit shall be granted unless the City Council determines that all of the specific standards contained in this subdivision will be met.

(a) A state licensed residential facility serving from 7 through 16 persons under M.S. Ch. 144D, as it may be amended from time to time, or a licensed day care facility serving from 13 through 16 persons.

1. Located only on a collector or arterial roadway as designated in the comprehensive plan, if one exists, or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

2. Buildings set back 50 feet from all property lines and parking lots set back 15 feet from streets and non-residential property and 25 feet from residential property;

3. Pick-up and drop-off areas located outside of parking setback area;

4. Outdoor recreational areas to be set back 15 feet from all property lines and screening provided to mitigate noise and adverse visual impacts on neighboring properties;

5. One parking space provided for each six attendees based upon the licensed capacity of the center; and

6. Meets the performance standards of ' 151.30.

(b) Storage sheds or greenhouses in excess of 500 square feet of gross floor area or 12 feet in height or occupying more than 30% of the side or rear yard in which they are located:

1. Side and rear setbacks equal to the height of the structure or 15 feet, whichever is greater;

2. Not to be used for commercial activities:

3. Structure to be architecturally consistent with the principal structure:

4. Landscaping to be required to buffer views when the structure is highly visible from adjoining properties;

5. Minimum lot size of four acres;

6. Must be located in a side or rear yard.

(c) *Home occupations in a residence*:

1. Such occupation shall be carried on in the-main building;

2. Not more than 25% of the floor space of the-residence is used for this purpose;

3. No articles for sale be displayed so as to be visible from the street;

4. The conduct of the home occupation shall result in no change in the outside appearance of the building or land, or other visible evidence of the conduct of the home occupation, other than one sign, not exceeding one square foot in area, non-illuminated and mounted flat against the wall of the dwelling;

5. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood;

6. Only limited retail sales activity;

7. Maximum of one outside employee;

8. Adequate off-street parking based on number of employees and customers per day;

9. Parking area screened from offsite views;

10. No outside storage;

11. Shall not result in significant levels of noise, air or other pollution and meets the performance standards of ' 151.30;

12. Business hours restricted to no more than 8:00 a.m. to 9:00 p.m.; and

13. Outside parking of no more than one commercial type vehicle or vehicle identified for business purposes not to exceed one ton capacity which is used for both personal and business transportation. The vehicle is to be owned and registered by an occupant of the property and parked in a screened location.

(d) *Private recreational facilities as a principal use*:

1. Direct access limited to a collector or arterial roadway as identified in the comprehensive plan, if any, or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

2. Buildings set back 50 feet from all property lines;

3. No more than 70% of the site to be covered with impervious surface and the remainder to be suitably landscaped;

4. Signs shall be designed to be consistent with the principal use;

5. Adequate off-street parking based on number of employees and customers per day;

6. Parking area and waste management areas screened from offsite views;

7. No outside storage; and

8. Shall not result in significant levels of noise, air or other pollution and meets the performance standards of ' 151.30.

(e) *Wind energy conversion systems (WECS)*:

1. Set back from the nearest property line a distance equal to the height of the tower plus one-half the diameter of the rotor;

2. Certified by a professional engineer as being of a design adequate for the atmospheric conditions of the area;

3. Equipped with over-speed or similar controls designed to prevent disintegration of the rotor in high winds;

4. Compliance with all building and electrical code requirements of the city, the noise regulations of the Minnesota Pollution Control Agency and the rules and regulations of the Federal Communications Commission and Federal Aviation Administration;

5. If the WECS has not been operated for a period of one year or fails to meet the conditions of this chapter, the City Council may order it dismantled and the site restored to its original condition;

6. If the owner or person responsible for the WECS does not maintain it or comply with all requirements of this chapter, the city may take such steps as are necessary to achieve

compliance. The cost of such work, including administrative costs, shall be a lien against the property and may be collected as a special assessment. The city may sell salvaged and valuable materials at public auction on ten days' notice; and

7. The WECS shall meet the performance standards of ' 151.30.

(f) *Hospitals or nursing homes*:

1. Direct access limited to a collector or arterial roadway as identified in the comprehensive plan, if any, or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

2. Buildings set back 50 feet from all property lines;

3. No more than 70% of the site to be covered with impervious surface and the remainder to be suitably landscaped;

4. Signs shall be designed to be consistent with the principal use;

5. Adequate off-street parking based on number of employees and customers per day;

6. Parking area and waste management areas screened from off site views;

7. No outside storage; and

8. Shall not result in significant levels of noise, air or other pollution and meets the performance standards of ' 151.30.

Penalty, see ' 151.99

' 151.23 MANUFACTURED HOME PARKS.

(A) *General.* Manufactured home parks that are licensed by the State Department of Health are conditional uses in any zoning district that allows the construction or placement of a building used or intended to be used by two or more families. All manufactured home parks shall, in addition to any requirements imposed by rule of the State Department of Health or law, meet the following performance standards and any other conditions placed on them by the conditional use permit.

(B) *Permitted uses and structures.*

(1) Manufactured homes.

(2) Essential services such as water, sewer, telephone and electric utilities.

(C) *Accessory uses.*

(1) Recreational vehicles and equipment.

(2) Recreational facilities, gardens, commons and open space which are operated for the enjoyment and convenience of the residents of the principal use and their guests, such as tennis courts and swimming pools.

(3) Building for storage of maintenance equipment incidental to the principal use.

(4) Solar panels and equipment.

(D) *Conditional use.* Customary home occupations as set forth in ' 151.21(D).

(E) *Lot requirements and setbacks.* The following minimum requirements shall be observed in a manufactured home park, subject to additional requirements, exceptions and modifications set forth in this chapter:

(1) *Lot area.* Each individual manufactured home site shall contain at least 5,000 square feet for exclusive use of the occupant.

(2) *Lot width.* Each individual manufactured home site shall have a lot width of at least 50 feet.

(3) *Setbacks for each individual manufactured home site.*

(a) *Front yards.* Not less than 15 feet.

(b) *Side yards.* 5 feet.

(c) *Rear yards.* 8 feet.

(4) *Detached accessory building setback requirements.* Not less than 5 feet from the rear lot line and not less than 4 feet from the side yard lines in the rear yard.

(F) *Parking.* Refer to '' 151.35 through 151.39.
Penalty, see ' 151.99

' 151.24 MANUFACTURED HOMES.

The city authorizes the placement of manufactured homes in residential districts within the city if such manufactured homes comply with the following conditions:

(A) Manufactured homes shall comply with all zoning regulations for the district in which they are located.

(B) A building permit and any other required permits shall be obtained for manufactured homes.

(C) All such manufactured homes shall be built in compliance with any Minnesota Statutes regulating manufactured homes.

(D) Connection to city utilities, if available, shall be required.
Penalty, see ' 151.99

' 151.25 C-1 CENTRAL BUSINESS DISTRICT.

(A) *Purpose.* The purpose of the C-1 Central Business District is in recognition of the existing downtown business and commercial development and the need for its future expansion, rehabilitation and redevelopment.

(B) *Permitted uses and structures.*

(1) Business and commercial establishments including:

(a) Retail establishments, including grocery, hardware, drug, clothing, variety and furniture stores; eating and drinking places, auto dealers, automobile service stations, farm implement dealerships, farm supply stores, seasonal evergreen sales and meat locker shops.

(b) Personal services, including laundries, beauty shops, barber shops, funeral homes, shoe repair shops, printing and publishing shops and photographic studios.

(c) Professional services, including medical and dental clinics and attorney's offices.

(d) Repair services, including automobile, jewelry, radio and television repair shops, appliance repair shops, farm and implement repair shops, plumbing contractor's shop and electrical contractor's shop.

(e) Entertainment and amusement services, including motion picture theatres, recreation halls and bowling alleys.

(f) Lodging services, including hotels and motels.

(g) Finance, insurance, real estate and tax services.

(2) Public and semi-public buildings, including post office, fire hall and city hall.

(3) Private clubs.

(4) Apartments, provided they are located above the first floor level.

(5) Automobile parking lots.

(6) Essential services, such as sewer, water, telephone and electric utility facilities.

(7) Churches and places of religious assembly.

(C) *Accessory uses.* Uses incidental to the foregoing principal uses, such as off-street parking and loading and unloading areas, signs, indoor storage of merchandise and wholesaling and manufacturing, when incidental to a permitted use, solar panels, satellite dishes and antennas.

(D) *Conditional uses.* Within the C-1 District no structure or land shall be used for the following except by conditional use permit and in conformance with the standards specified in division (I) of this section.

(1) One and two-family dwellings and multiple-family dwellings, including manufactured homes meeting the standards as set forth in ' 151.24, and manufactured home parks licensed by the state.

(2) Nonresidential licensed day care facilities.

(3) Outdoor storage incidental to a principal use.

(4) Drive-thru or drive-up window accessory to a principal use.

(5) Sidewalk cafes and outdoor eating or dining areas accessory to a principal use.

(E) *Lot requirements and setbacks.* The following minimum requirements shall be observed in C-1 Districts, subject to additional requirements, exceptions and modifications set forth in this chapter:

(1) *Lot area.* None.

(2) *Lot width.* None.

(3) *Setbacks.*

(a) *Front yards.* None.

(b) *Side yards.* None.

(c) *Rear yards.* 15 feet.

(4) All lots shall front on and have ingress and egress by means of a public right-of-way.

(F) *Building requirements; height.* No structure shall exceed 3 stories or 45 feet, whichever is less.

(G) *Parking.* Refer to ' ' 151.35 through 151.39.

(H) *Height limitations.* Height limitations shall not apply to water towers, chimneys, flag poles, antennae, wind energy conversion systems, church spires, church belfries or church domes not containing habitable space and support towers permitted by ' 150.04.

(I) *Conditional use permit standards for the C-1 Central Business District.*

(1) Purpose. It is the intent of the city in establishing general and specific criteria for conditional uses that such uses be subject to careful evaluation to ensure that their location, size and design are consistent with the standards, purposes and procedures of this chapter and the comprehensive plan, if one exists. The Planning Commission, if one exists, may recommend and the City Council may impose conditions on such uses in order to effect the purpose of this chapter.

(2) *General standards.* No conditional use permit shall be granted unless the City Council determines that all of the following standards will be met:

(a) The use is consistent with the intent of this chapter;

(b) The use is consistent with the goals, policies and objectives of the comprehensive plan, if one exists;

(c) The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements; and

(d) The use does not have an undue adverse impact on the public health, safety or welfare.

(e) The use meets meet the performance standards of ' 151.30.

(3) *Specific standards.* In addition to the standards specified in division (2) above, no conditional use permit shall be granted unless the City Council determines that all of the specific standards contained in this division (I) will be met.

(a) One and two family dwellings and multiple-family dwellings, including manufactured homes meeting the standards set forth in ' 151.24 and manufactured home parks licensed by the state.

1. Building and site design shall provide a quality residential environment which is compatible with the permitted use;

2. At least two off-street parking spaces must be provided for the each residential unit, with such parking to be in a garage, carport or on a paved area specifically intended for that purpose;

3. The dwelling unit must be in compliance with all applicable building, housing, electrical, plumbing, heating and related city codes;

4. The use will be permitted only where the dwelling unit will not have an undue adverse impact on adjacent properties and where there will not be a substantial alteration of the neighborhood character;

5. The city may require buffering or screening if needed.

(b) Nonresidential licensed daycare facilities.

1. Shall have loading and drop-off points designed to avoid interfering with traffic and pedestrian movements and designed to promote the safety of children entering the center;

2. Outdoor play areas shall be fenced and located and designed in a manner which mitigates visual and noise impacts on adjoining residential areas (if any);

3. One parking space for each six attendees based on the licensed capacity of the center shall be provided; and

4. Shall obtain all applicable state, county and city licenses.

(c) Outdoor storage incidental to a principal use.

1. Outdoor storage shall not be located within 100 feet of any residential parcel;

2. Outdoor storage shall be screened by suitable materials, such as a fencings or natural landscaping features (trees, shrubbery, berms), as determined by Council. The screen must be, at minimum, equal to the height of the tallest item stored on the site;

3. Outdoor storage must be located in a rear or side yard;

4. Shall be kept in a neat and orderly fashion;

5. Shall not contain any unlicensed or inoperable motor vehicles; and

6. Shall not be operated in a manner as to constitute a nuisance or harborage of rodents or other wild animals.

(d) Drive-thru or drive-up windows accessory to a principal use.

1. Drive-up windows and stacking areas shall not be located adjacent to any residential parcel;

2. Stacking areas shall provide for a minimum of six cars per aisle;

3. Public address system shall not be audible from any residential parcel;

4. Drive-up windows and stacking areas shall be screened with suitable materials from adjacent parcels; and

5. Drive-up windows shall be designed to avoid interfering with traffic and pedestrian movements.

(e) Sidewalk cafes and outdoor eating or dining areas accessory to a principal use.

1. Shall be located in a controlled or cordoned-area with at least one opening to an acceptable pedestrian walk. When a liquor license is involved, an enclosure is required and the enclosure shall not be interrupted; access shall be only through the principal building;

2. Shall not be permitted within 200 feet of any residential parcel and shall be separated from residential parcels by the principal structure or other method of screening acceptable to the city;

3. Shall be located and designed so as not to interfere with pedestrian and vehicular circulation;

4. Shall not be located to obstruct parking spaces;

5. Shall be located adjacent to an entrance to the principal use;

6. Shall be equipped with refuse containers and periodically patrolled for litter pick-up; and

7. Shall not have speakers or audio equipment which is audible from adjacent parcels.

Penalty, see ' 151.99

' 151.26 C-2 COMMERCIAL DISTRICT.

(A) *Purpose.* The purpose of the C-2 Commercial District is to provide for commercial development outside of the C-1 Central Business District.

(B) *Permitted uses and structures.* All uses of a commercial nature, including retail, light industrial, wholesale, service, office, financial, recreational, professional, lodging, and sexually oriented businesses in compliance with Chapters119 and 153, including all uses permitted in the C-1 Central Business District, and those other commercial uses as are not considered industrial as listed in ' 151.27.

(C) *Accessory uses.* Those accessory uses permitted in the C-1 Central Business District.

(D) *Conditional uses.* Within the C-2 district no structure or land-shall be used for the following except by conditional use permit and in conformance with the standards specified in section (I) of this ordinance: All conditional uses permitted in the C-1 District.

(E) *Lot requirements and setbacks.* The following minimum requirements shall be observed in C-2 Districts, subject to additional requirements, exceptions and modifications set forth in this chapter:

(1) *Lot area.* None.

(2) *Lot width.* None.

(3) *Setbacks*.

(a) *Front yards*. None.

(b) *Side yards.* None.

(c) *Rear yards.* 15 feet.

(4) All lots shall front on and have ingress and egress by means of a public right-of-way.

(F) *Building requirements; height*. No structure shall exceed three stories or 45 feet, whichever is less.

(G) Parking. Refer to '' 151.35 through 151.39.

(H) Height limitations shall not apply to water towers, chimneys, flag poles, antennae, wind energy conversion systems, church spires, church belfries or church domes not containing habitable space and support towers permitted by ' 150.04.

(I) Conditional use permit standards for the C-2 Central Business District.

(1) *Purpose*. It is the intent of the city in establishing general and specific criteria for conditional uses that such uses be subject to careful evaluation to ensure that their location, size and design are consistent with the standards, purposes and procedures of this chapter and the comprehensive plan, if one exists. The Planning Commission, if one exists, may recommend and the City Council may impose conditions on such uses in order to effect the purpose of this chapter.

(2) *General standards.* No conditional use permit shall be granted unless the City Council determines that all of the following standards will be met:

(a) The use is consistent with the intent of this chapter;

(b) The use is consistent with the goals, policies and objectives of the comprehensive plan, if one exists;

(c) The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;

(d) The use does not have an undue adverse impact on the public health, safety or welfare; and

(e) The use meets the performance standards of ' 151.30.

(3) *Specific standards.* In addition to the standards specified in division (2) above, no conditional use permit shall be granted unless the City Council determines that all of the specific standards contained in this subdivision will be met.

(a) *One and two family dwellings and multiple family dwellings, including manufactured homes meeting the standards set forth in ' 151.24 and manufactured home parks licensed by the state.*

1. Building and site design shall provide a quality residential environment which is compatible with the permitted use;

2. At least two off-street parking spaces must be provided for the each residential unit, with such parking to be in a garage, carport or on a paved area specifically intended for that purpose;

3. The dwelling unit must be in compliance with all applicable building, housing, electrical, plumbing, heating and related city codes;

4. The use will be permitted only where the dwelling unit will not have an undue adverse impact on adjacent properties and where there will not be a substantial alteration of the neighborhood character; and

5. The city may require buffering or screening if needed.

(b) *Nonresidential licensed daycare facilities.*

1. Shall have loading and drop-off points designed to avoid interfering with traffic and pedestrian movements and designed to promote the safety of children entering the center;

2. Outdoor play areas shall be fenced and located and designed in a manner which mitigates visual and noise impacts on adjoining residential areas (if any);

3. One parking space for each six attendees based on the licensed capacity of the center shall be provided; and

4. Shall obtain all applicable state, county and city licenses.

(c) *Outdoor storage incidental to a principal use.*

1. Outdoor storage shall not be located within 100 feet of any residential parcel;

2. Outdoor storage shall be screened by suitable materials, such as a fencings or natural landscaping features (trees, shrubbery, berms), as determined by Council. The screen must be, at minimum, equal to the height of the tallest item stored on the site;

3. Outdoor storage must be located in a rear or side yard;

4. Shall be kept in a neat and orderly fashion;

5. Shall not contain any unlicensed or inoperable motor vehicles; and

6. Shall not be operated in a manner as to constitute a nuisance or harborage of rodents or other wild animals.

(d) *Drive-thru or drive-up windows accessory to a principal use.*

1. Drive-up windows and stacking areas shall not be located adjacent to any residential parcel;

2. Stacking areas shall provide for a minimum of six cars per aisle;

3. Public address system shall not be audible from any residential parcel;

4. Drive-up windows and stacking areas shall be screened with suitable materials from adjacent parcels; and

5. Drive-up windows shall be designed to avoid interfering with traffic and pedestrian movements.

(e) *Sidewalk cafes and outdoor eating or dining areas accessory to a principal use.*

1. Shall be located in a controlled or cordoned area with at least one opening to an acceptable pedestrian walk. When a liquor license is involved, an enclosure is required and the enclosure shall not be interrupted; access shall be only through the principal building;

2. Shall not be permitted within 200 feet of any residential parcel and shall be separated from residential parcels by the principal structure or other method of screening acceptable to the city;

3. Shall be located and designed so as not to interfere with pedestrian and vehicular circulation;

4. Shall not be located to obstruct parking spaces;

5. Shall be located adjacent to an entrance to the principal use;

6. Shall be equipped with refuse containers and periodically patrolled for litter pick-up; and

7. Shall not have speakers or audio equipment which is audible from adjacent parcels.

' 151.27 INDUSTRIAL.

(A) *Purpose.* The purpose of the I Industrial District is to provide for industrial development outside of the other districts authorized by this chapter. Development within the district shall be regulated through the performance standards outlined in ' 151.30 of this chapter to promote sensitive site design and to mitigate external site impacts.

(B) *Permitted uses and structures.* Within the I District no structure or land may be used except for the following uses occurring within an enclosed building:

(1) Warehouse

(2) Storage

(3) Manufacturing

(4) Processing

(5) Office

(6) Wholesale

(7) Research

(8) Government buildings

(9) Other such industrial uses which in the determination of the City Council and as formally documented will be compatible and will not be detrimental to uses allowed in this or contiguous districts.

(C) *Accessory structures and uses.* Within the I District the following accessory uses are permitted provided they are subordinate to and associated with a permitted use:

(1) Living quarters for security personnel, provided they are located within the principal structure;

(2) Overnight outside storage of vehicles, provided the vehicles are associated with the business and are screened from view from residential properties or public views;

(3) Outside storage, including fuel storage, provided it is screened from general public view;

(4) Retail or service uses not exceeding 25% of the gross floor area of the principal structure;

(5) Other uses customarily associated with but subordinate to a permitted use, as determined by the city.

(6) Solar panels and equipment, satellite dishes and-antennas.

(D) *Conditional uses.* Within the I District no land or structure may be used for the following except by conditional use permit and in conformance with the performance standards contained in ' 151.30 of this ordinance:

(1) Retail, or service uses occupying between 25% and 50% of the gross area of the principal structure.

(2) Wind energy conversion systems or windmills.

(E) *District standards.* No building or land in the I District shall be used except in conformance with the following:

(1) *Building height*. Maximum of 45 feet or three stories, whichever is less;

(2) *Front yard setback*. Minimum of 35 feet from local and neighborhood collector streets as identified in the comprehensive plan, if any, or the zoning map if no comprehensive plan is in existence; or a minimum of 50 feet from railroad lines and from major collector or arterial roadways as designated in the comprehensive plan if any, or the zoning map if no comprehensive plan is in existence;

(3) *Side and rear yard setbacks*. Minimum setbacks shall be in accordance with the following when measured from land designated accordingly in the comprehensive plan if any, or the zoning map if no comprehensive plan is in existence:

(a) 70 feet from R-1 and R-2 residential uses;

(b) 30 feet from C-1 and C-2 commercial business uses; and

(c) 20 feet from I District uses.

(4) *Lot coverage*. Maximum lot coverage shall be 85% and shall be calculated to include building footprints; parking areas; driveways; loading, storage and trash areas and other areas covered by any impervious surface;

(5) Access: from a collector or arterial roadway as designated in the comprehensive plan, if any, or a street specifically designed to accommodate industrial traffic;

(6) Trash enclosures or accessory buildings not to exceed 600 square feet in size shall be located behind the front building line of the principal building and not in any required set back;

(7) Parking shall be regulated pursuant to '' 151.35 through 151.39; and

(8) Performance standards shall be regulated pursuant to ' 151.30.

(F) *Conditional use permit standards for the Industrial District*.

(1) *Purpose*. It is the intent of the city in establishing general and specific criteria for conditional uses that such uses be subject to careful evaluation to ensure that their location, size and design are consistent with the standards, purposes and procedures of this chapter and the comprehensive plan. The Planning Commission, if any, may recommend and the City Council may impose conditions on such uses in order to ensure compliance or to effect the purpose of this chapter.

(2) *General standards.* No conditional use permit shall be granted unless the City Council determines that all of the following standards will be met:

(a) The use is consistent with the intent of this chapter;

(b) The use is consistent with the goals, policies and objectives of the comprehensive plan, if any;

(c) The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;

(d) The use is in compliance with the performance standards specified in ' 151.30, of this chapter; and

(e) The use does not have an undue adverse impact on the public health, safety or welfare.

(3) In addition to the standards specified in division (2), no conditional use permit shall be granted unless the City Council determines that each of the following specific standards will be met.

(a) Retail or service uses occupying between 25% and 50% of the gross area of the principal structure:

1. Shall be no exterior modifications to the building;

2. Shall have no outside storage or display and no accessory structures for retail sales purposes; and

3. Shall have sufficient parking to accommodate the additional retail traffic.

(b) Wind energy conversion systems or windmills.

1. Set back from the nearest property line a distance equal to the height of the tower plus one-half the diameter of the rotor;

2. Certified by a professional engineer as being of a design adequate for the atmospheric conditions of the area:

3. Equipped with over-speed or similar controls designed to prevent disintegration of the rotor in high winds;

4. Compliance with all building and electrical code requirements of the city, the noise regulations of the Minnesota Pollution Control Agency and the rules and regulations of the Federal Communications Commission and Federal Aviation Administration;

5. If the WECS has not been operated for a period of one year or fails to meet the conditions of this chapter, the City Council may order it dismantled and the site restored to its original condition; and

6. If the owner or person responsible for the WECS does not maintain it or comply with all requirements of this chapter, the city may take such steps as are necessary to achieve compliance. The cost of such work, including administrative costs, shall be a lien against the property and may be collected as a special assessment. The city may sell salvaged and valuable materials at public auction on ten days' notice.

' 151.28 RURAL RESIDENTIAL AND AGRICULTURAL DISTRICT.

(A) *Purpose*. The purpose of the Rural Residential and Agriculture District is to allow suitable areas of the city to be retained and utilized in open space and/or agricultural uses.

(B) *Permitted uses.* The following are permitted uses in the Rural Residential and Agriculture District:

(1) Agriculture, including farm dwellings and agricultural related buildings and structures subject to state pollution control standards, but not including commercial feedlots or other commercial operations.

(2) One-family dwelling units.

(3) Public, government owned parks, playgrounds, wild life areas and game refuges, athletic fields and other public recreational uses.

(4) Churches and places of religious assembly, public and private schools and government-owned buildings and facilities.

(5) Manufactured homes which meet the standards set forth in ' 151.24.

(6) As required by M.S. ' 462.357, Subd. 7, as it may be amended from time to time, a state licensed residential facility or a housing with services establishment registered under M.S. Ch. 144D, as it may be amended from time to time, serving six or fewer persons, a licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under Minn. Rules, parts 9502.0315 to 9502.0445, as it may be amended from time to time, to serve 14 or fewer children shall be considered a permitted single-family residential use of property for the purposes of zoning, except that a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use.

(C) *Accessory uses.* The following are permitted accessory uses in the Rural Residential and Agriculture District:

(1) Operation and storage of such vehicles, equipment and machinery which are incidental to permitted or conditional uses allowed in this district.

(2) Boat houses, piers and docks serving a single-family residence.

(3) Private garages, screen porches, play equipment, solar panel equipment, satellite dishes and antennae.

(4) The renting of rooms by a resident family for lodging purposes only, and for not more than two rooms in a one-family dwelling.

(D) *Conditional uses.* Within the Rural Residential and Agriculture District no structure or land shall be used for the following except by conditional use permit and in conformance with the standards specified in division (I) of this chapter.

(1) Bed and breakfast inns.

(2) Wind energy conversion systems or windmills.

(3) Home occupations.

(E) *Lot requirements and setbacks.* The following minimum requirements shall be observed in the Rural Residential and Agriculture District, subject to additional requirements, exceptions and modifications set forth in this chapter:

(1) *Lot area.* A minimum of two and one-half acres of upland area, upland being land above the 100-year flood elevation or non-wetland.

(2) *Lot width.* A minimum of 200 feet.

(3) *Lot depth.* A minimum of 300 feet.

(4) *Setbacks.*

(a) *Front yard.* A minimum of 40 feet.

(b) *Side yards.* A minimum of 10 feet.

(c) *Side yards, corner lots*. A minimum of 30 feet on side adjacent to street, but in no case less than the setback of an adjacent lot which has its front yard on the same street.

(d) *Rear yard.* A minimum of 30 feet.

(e) *Rear yard, corner lots*. A minimum of 15 on side adjacent to street, but in no case less than the setback of an adjacent lot which has its rear yard on the same street.

(5) *Detached accessory building setback requirements.* Not less than five feet from rear yard line and not less than four feet from the side yard lines in the rear yard. On corner lots not less than 25 feet from the adjacent street, but in no case less than the setback of an adjacent lot which has its front yard on the same street.

(6) *Access*. All lots shall front on and have ingress and egress by means of a public right-of-way.

(F) *Building requirements; height.* No structure shall exceed two stories or 35 feet, whichever is less.

(G) *Parking*. Refer to ' ' 151.35 through 151.39.

(H) Height limitations shall not apply to water towers, chimneys, flag poles, antennae, wind energy conversion systems, church spires, church belfries or church domes not containing habitable space and support towers permitted by ' 150.04.

(I) Conditional use permit standards for the Rural Residential and Agriculture Single-Family Residential District.

(1) *Purpose*. It is the intent of the city in establishing general and specific criteria for conditional uses that such uses be subject to careful evaluation to ensure that their location, size and design are consistent with the standards, purposes and procedures of this chapter and the comprehensive plan, if one exists. The Planning Commission, if one exists, may recommend and the City Council may impose conditions on such uses in order to effect the purpose of this chapter.

(2) *General standards.* No conditional use permit shall be granted unless the City Council determines that all of the following standards will be met:

(a) The use is consistent with the intent of this chapter;

(b) The use is consistent with the goals, policies and objectives of the comprehensive plan, if one exists;

(c) The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements; and

(d) The use does not have an undue adverse impact on the public health, safety or welfare.

(3) *Specific standards.* In addition to the standards specified in division (2), no conditional use permit shall be granted unless the City Council determines that all of the specific standards contained in this division will be met.

(a) *Home occupations.*

1. Such occupation shall be carried on in the main building;

2. Not more than 25% of the floor space of the residence is used for this purpose;

3. No articles for sale be displayed so as to be visible from the street;

4. The conduct of the home occupation shall result in no change in the outside appearance of the building or land, or other visible evidence of the conduct of the home occupation, other than one sign, not exceeding one square foot in area, non-illuminated and mounted flat against the wall of the dwelling.

5. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood.

6. Only limited retail sales activity;

7. Maximum of one outside employee;

8. Adequate off-street parking based on number of employees and customers per day;

9. Parking area screened from offsite views;

10. No outside storage;

11. Shall not result in significant levels of noise, air or other pollution;

12. Business hours restricted to no more than 8:00 a.m. to 9:00 p.m.; and

13. Outside parking of no more than one commercial type vehicle or vehicle identified for business purposes not to exceed one ton capacity which is used for both personal and business transportation. The vehicle is to be owned and registered by an occupant of the property and parked in a screened location.

(b) *Wind energy conversion systems (WECS).*

1. Set back from the nearest property line a distance equal to the height of the tower plus one-half the diameter of the rotor;

2. Certified by a professional engineer as being of a design adequate for the atmospheric conditions of the area;

3. Equipped with over-speed or similar controls designed to prevent disintegration of the rotor in high winds;

4. Compliance with all building and electrical code requirements of the city, the noise regulations of the Minnesota Pollution Control Agency and the rules and regulations of the Federal Communications Commission and Federal Aviation Administration;

5. If the WECS has not been operated for a period of one year or fails to meet the conditions of this chapter, the City Council may order it dismantled and the site restored to its original condition;

6. If the owner or person responsible for the WECS does not maintain it or comply with all requirements of this chapter, the city may take such steps as are necessary to achieve compliance. The cost of such work, including administrative costs, shall be a lien against the property and may be collected as a special assessment. The city may sell salvaged and valuable materials at public auction on ten days' notice; and

7. The WECS shall meet the performance standards of ' 151.30.

(c) *Bed and breakfast inns.*

1. The conduct of the bed and breakfast inn shall result in no change in the outside appearance of the building or land, or other visible evidence of the conduct of the bed and breakfast inn, other than one sign, not exceeding one square foot in area, non-illuminated and mounted flat against the wall of the dwelling.

2. No traffic shall be generated by such bed and-breakfast inn in greater volume than would normally be expected in a residential neighborhood.

PERFORMANCE STANDARDS

' 151.30 PERFORMANCE STANDARDS.

(A) *Purpose*. The purpose of performance standards is to establish specific and quantifiable limitations on identified types of pollution and other activities which have a high nuisance potential. The performance standards apply in all zoning districts unless specifically stated to the contrary.

(B) *Performance Standards Regulating Exterior Lighting.*

(1) Exterior lighting shall be designed and arranged to limit direct illumination and glare upon or into any contiguous parcel. Reflected glare or spill light shall not exceed five-tenths foot-candles as measured on the property line when abutting any residential parcel and one foot-candle on any abutting commercial or industrial parcel. Street lights installed in public right-of-way shall be excepted from these standards.

(2) Mitigative measures shall be employed to limit glare and spill light to protect neighboring parcels and to maintain traffic safety on public roads. These measures shall include lenses, shields, louvers, prismatic control devices and limitations on the height and type of fixtures. The city may also limit the hours of operation of outdoor lighting if it is deemed necessary to reduce impacts on the surrounding neighborhood.

(3) No flickering or flashing lights shall be permitted.

(4) Direct, off-site views of the light source shall not be permitted except for globe and/or ornamental light fixtures approved in conjunction with a site and building plan. Globe and ornamental fixtures shall only be approved when the developer can demonstrate that off-site impacts stemming from direct views of the bulb are mitigated by the fixture design and/or location.

(5) The city may require submission of a light distribution plan if deemed necessary to ensure compliance with the intent of this chapter.

(C) *Performance standards regulating noise and vibration*.

(1) Noises emanating from any use shall be in compliance with and regulated by the standards of the Minnesota Pollution Control Agency. Any use established or remodeled after the effective date of this chapter shall be so operated as to prevent vibration discernable at any point beyond the lot line of the site on which such use is located. The city may also limit the hours of operation of outdoor noise if it is deemed necessary to reduce impacts on the surrounding neighborhood.

(2) Ground vibration and noise caused by motor vehicles, trains, aircraft operations or temporary construction or demolition shall be exempt from these regulations. However, if deemed appropriate, the city may establish limits on the hours of operation of temporary construction or demolition operation to limit off-site impacts.

(D) *Performance standards regulating smoke and particulate matter*. No use shall produce or emit smoke, dust or particulate matter exceeding applicable regulations established by the Minnesota Pollution Control Agency.

(E) *Performance standards regulating odor*. No use shall produce unreasonable or disturbing odors beyond the property line exceeding applicable regulations established by the Minnesota Pollution Control Agency.

(F) *Performance standards regulating toxic or noxious matter*. No use or operation shall emit a concentration of toxic or noxious matter across the property line which exceeds applicable regulations of the Minnesota Pollution Control Agency.

(G) *Performance Standards Regulating Radiation*. No operation shall be conducted which exceeds the standards established by applicable regulations of the Minnesota Department of Health.

(H) *Performance standards regulating heat and humidity*. No use shall produce any unreasonable, disturbing or unnecessary emissions of heat or humidity beyond the property line which cause material distress, discomfort or injury to persons of ordinary sensitivity.

(I) *Performance standards regulating electromagnetic interference*. No use shall produce electromagnetic interference with normal radio or television reception in any residential district, or exceed applicable standards established by any applicable federal or state regulations.

(J) *Performance standards regulating liquid or solid waste*. All uses shall be subject to applicable regulations of the city governing discharge into a public storm or sanitary sewer, waterway or stream.

' 151.31 LANDSCAPING REQUIREMENTS.

(A) All open areas of a lot which are not used or improved for required parking areas, drives or storage shall be landscaped with a combination of overstory trees, understory trees, shrubs, flowers and ground cover materials.

(B) All new landscape trees and shrubs must meet the American Standard for Nursery Stock and American National Standard relating to planting guidelines, quality of stock and appropriate sizing of the root ball. Landscape trees must be balled and burlapped or moved from the growing site by tree spade. Deciduous trees will be not less than one and one quarter inches but not more than three inches caliper for balled and burlapped trees, and not less than three inches but not more than six inches caliper for spade-moved trees. Coniferous trees will not be less than six feet in height but no more than eight feet for balled and burlapped trees, and not less than eight feet in height but not more than fourteen feet for spade-moved coniferous trees. The city may allow larger balled and burlapped or spade moved trees if these trees are accompanied with a three year guarantee.

(C) All lot areas not covered by buildings, sidewalks, parking lots, driveways, patios or similar hard surface materials shall be covered with sod or an equivalent ground cover approved by the city. This requirement shall not apply to site areas retained in a natural state.

OFF-STREET PARKING AND LOADING REQUIREMENTS

' 151.35 PURPOSE.

The purpose of the off-street parking regulations is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public, by establishing minimum requirements for off-street parking of motor vehicles in accordance with the utilization of various parcels of land and structures. No building shall be hereafter erected, substantially altered, or its use changed unless off-street parking spaces have been provided in accordance with the provisions of this chapter.
Penalty, see ' 151.99

' 151.36 REQUIRED OFF-STREET PARKING.

The number of off-street parking spaces provided shall be at least the minimum number provided for the following uses:

(A) One and two-family dwellings: Two spaces per unit.

(B) Multiple-family dwellings: Two spaces per unit.

(C) Manufactured home park: Two spaces per unit.

(D) Theatres, auditoriums, churches and other similar places of assembly: One space per every four seats.

(E) Restaurants, bars and the like: One space for every three seats.

(F) Retail stores: One space per every 500 square feet of retail floor space.

(G) Motels, hotels: One space per sleeping room or unit.

(H) Service commercial shops, such as auto repair shops, furniture repair shops, appliance repair shops and the like: One space per every 500 square feet of gross floor space.

(I) Industrial establishments: One space per every two persons of maximum employment during any work period.

(J) Wholesale, warehouses: One space per every employee during any work period.

(K) Uses not mentioned: For any use not specifically mentioned in the schedule of off-street parking requirements, the number of spaces required shall be that required for that use in the schedule which is determined by the City Council to be most similar.
Penalty, see ' 151.99

' 151.37 SPECIAL OFF-STREET PARKING REQUIREMENTS.

(A) *Offices outside C-1 District.* Adequate off-street parking area shall be provided for all employees so as to avoid routine usage of the public street for parking. However, parking will be allowed on the side of the public street adjacent to the office's property for routine employee parking.

(B) *Industrial establishments within C-1, C-2 and I Districts.* Adequate off-street parking areas shall be required for all employees so as to avoid routine usage of a public street for parking, except during the climatic seasons that result in a deterioration of the available parking area serviceability to a point that reasonable judgment dictates temporary disuse. Parking will be allowed on the side of the public street adjacent to the establishment's property for routine employee parking.
Penalty, see ' 151.99

' 151.38 OFF-STREET LOADING.

(A) *Off-street loading spaces.* No building shall be hereafter erected, substantially altered, or its use changed unless loading spaces have been provided in accordance with the provisions of this chapter. One off-street loading space shall be provided and maintained on the same lot for each commercial and industrial use requiring regular delivery of goods.

(B) *Improvement and maintenance of off-street parking and loading spaces.* All parking and loading areas shall provide drainage of surface water to prevent drainage of such water on the adjacent properties or walkways. The owner of any parking or loading area shall maintain the area in good condition.
Penalty, see ' 151.99

' 151.39 PARKING AND STORAGE OF CERTAIN VEHICLES.

No motor vehicle or trailer without current license plates shall be parked or stored on any property in a residential district other than in a completely enclosed building, or as otherwise provided in this code.
Penalty, see ' 151.99

' 151.40 REQUIREMENTS AND PROHIBITIONS.

(A) Required parking and loading areas and the driveways providing access to them shall not be used for storage, display, sales, rental or repair of motor vehicles or other goods or for the storage of inoperable vehicles or snow.

(B) All required parking spaces shall be accessed by adequate maneuvering space.

' 151.41 REDUCTIONS ALLOWED.

If warranted by the unique characteristics and/or documented parking demand for similar developments, the city may allow a reduction in the number of parking spaces actually constructed as long as the applicant provides proof of a future parking plan. The plan must show the location for all minimum required parking spaces in conformance with all applicable setback requirements. The city may require installation of the additional parking spaces whenever the need arises.

PERMITS AND REQUIREMENTS FOR FENCES, WALLS OR HEDGES

' 151.45 APPLICATION.

The requirements of this subchapter shall apply to all new or replacement fences, walls, or shrubbery erected or installed from and after the effective date of this subchapter, but shall not apply to the mere repair of existing fences.

' 151.46 GENERAL REQUIREMENTS.

(A) All fences of more than 30 inches in height shall require a permit.

(B) No fence shall contain barbed wire.

(C) No fence shall be charged with electric current, except within an agricultural district.

(D) No fence, wall or other obstruction to vision above a height of 30 inches from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between the right-of-way lines at a distance along each line of 25 feet from their point of intersection.

(E) Fences must be maintained so as not to endanger life or property and any fence which, through lack of repair, type of construction or otherwise, that imperils health, life or property or the well-being of a neighborhood shall be deemed a nuisance.

(F) All fences must be located on the private property of the person, firm or corporation constructing the fence.

(G) All fences must comply with all other requirements of law or this code as it applies to fence installation and materials.
Penalty, see ' 151.99

' 151.47 RESIDENTIAL REGULATIONS.

(A) *Prohibited material.* No fence or wall shall be constructed of any electrically charged element or barbed wire.

(B) *Approved material.* All fences in residential districts shall be constructed of stone, brick, finished wood, chained link or vinyl. The finished side of the fence, or that side of the fence without exposed support or posts, shall face the neighboring property or streets.

(C) *Side and rear yard requirements.* No fence or wall located in a side or a rear yard shall be of height exceeding four feet, measured from its top edge to the ground at any point.

(D) *Front yards.* No fence or wall shall be located in a front yard.

(E) *Maintenance.* Every fence or wall shall be maintained in a good and safe condition at all times. Every damaged or missing element of any fence or wall shall be prepared or replaced immediately.

(F) *Setbacks.* No fence may be located less than six inches from a property line. No fence, wall, hedge or other screening device shall be permitted to encroach on any public right-of-way.
Penalty, see ' 151.99

' 151.48 VARIANCE.

Any deviation from the provisions of this subchapter shall require a variance. If a variance is requested, the variance shall be considered in accordance with the zoning variance procedures and fees for this variance will be in accordance with the zoning variance fee.

ADMINISTRATION AND ENFORCEMENT

' 151.49 CONSISTENCY WITH STATE LAW.

Notwithstanding anything in this chapter to the contrary, the provisions of M.S. ' 15.99 as it may be amended from time to time, and the following sections shall govern the process for making decisions under this chapter. To the extent to which these sections conflict with the provisions of M.S. ' 15.99, as it may be amended from time to time, the provisions of that statute shall apply.

' 151.50 APPLICATIONS.

(A) Notwithstanding anything to the contrary in this chapter, all applications for any site plan, conditional use permit, land use permit, variance, or for any other city approval required by this chapter, or to amend this chapter, shall be made in writing on a form provided by the city, if the city has a form, to the City Clerk or other person appointed by the City Council to administer this chapter. The Zoning Administrator is authorized to reject in writing any incomplete application within 15 business days of receipt if the application is incomplete, stating the reasons for its rejection, including what information is missing. This rejection shall be sent by first-class mail to the applicant. Every application shall contain the legal description of the property and a statement of the specific permit or action being sought.

Nothing in this section shall be deemed to prevent the city from requesting additional information from the applicant upon which to base a decision.

(B) As authorized by M.S. ' 462.353, as it may be amended from time to time, if a dispute arises over a specific fee imposed by the city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court, as provided by M.S. ' 462.361, as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision of the court.

' 151.51 PUBLIC NOTICE AND HEARINGS.

As required by M.S. ' 462.357 and M.S. ' 462.3595 a public hearing shall be held by the City Council or the Planning Commission, if a Planning Commission exists in the city, before any conditional use permit, variance, or zoning amendment may be granted. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the city at least ten days prior to the day of the hearing. In the case of an amendment to the zoning code which involves changes in district boundaries affecting an area of five acres or less, and in the case of an application for a conditional use permit or a variance, a similar notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the zoning code amendment, conditional use or variance relates. The applicant shall provide a list of the owners of affected property and property situated wholly or partly within 350 feet of the property to which the hearing relates. The Clerk or other person appointed by the City Council to administer this chapter may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the Clerk or other person appointed by the City Council to administer this chapter and shall be made a part of the records of the proceedings. 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 the mailed notice requirements has been made.

' 151.52 FINAL ACTIONS.

As required by M.S. ' 15.99 as it may be amended from time to time, commonly called the 60-day rule, all approvals and denials of applications for a zoning amendment, site plan, conditional use permit, land use permit, variance or any other application which requires a city approval under this chapter must be made within the timeline and following the process of M.S. ' 15.99. Failure to follow the requirements of the statute may result in automatic approval of applications.

' 151.53 NOTICE OF DECISION.

As required by M.S. ' 15.99, as it may be amended from time to time, commonly called the 60-day rule, notice of approvals and denials of applications for a zoning amendment, site plan, conditional use permit, land use permit, variance or any other application which requires a city approval under this chapter must be provided within the timeline and following the process of M.S. ' 15.99. Failure to follow the requirements of the statute may result in automatic approval of applications.

' 151.54 LAND USE PERMIT REQUIRED.

No structure or fence subject to ' 151.46 shall be constructed until a land use permit has been obtained from the City Clerk or other person appointed by the City Council to administer this chapter. The application shall contain a plan showing the location on the structure or fence on the property that demonstrates that all requirements of this code will be met. The application shall also contain the plans for the structure to be built that demonstrates that the structure will meet all of the standards established by this zoning code. If an application requires a zoning amendment, conditional use permit or variance, no land use permit shall be issued by the Clerk or other person appointed by the City Council to administer this chapter until any application for a zoning amendment, conditional use permit or variance has been acted upon by the City Council. A decision by the Clerk or other person appointed by the City Council to administer this chapter not to issue a land use permit may be appealed to the Board of Appeals and Adjustments as provided for in ' 151.60. No residential contractor who is required to be licensed by the state, and no person employing a residential contractor who is required to be licensed, shall be issued a land use permit unless that contractor is licensed. Any person applying for a permit who is required to have a state license, but who does not have a state license, shall be reported to the State Commissioner of Commerce.

' 151.55 CONDITIONAL USE PERMITS.

Pursuant to M.S. ' 462.3595, as it may be amended from time to time, conditional uses may be approved by the City Council by a showing by the applicant that the standards and criteria stated in this zoning code, and any conditions imposed by the City Council, will be satisfied. A public hearing on the granting of a conditional use permit shall be held in the manner provided in ' 151.51. A conditional use permit shall remain in effect as long as the conditions agreed upon are observed, but the Council may enact or amend the zoning code to change the status of conditional uses. A conditional use permit shall not become effective until a certified copy is filed by the applicant with the County Recorder, which shall include the legal description of the property included.

' 151.56 BOARD OF APPEALS AND ADJUSTMENTS.

The City Council shall be the Board of Appeals and Adjustments for this city, and have the powers granted under M.S. ' ' 462.357, Subd. 6 and 462.359, Subd. 4, as they may be amended from time to time.

' 151.57 VARIANCES.

Pursuant to M.S. ' 462.357, Subd. 6, as it may be amended from time to time, the City Council, acting as a Board of Appeals and Adjustments, may issue variances from the provisions of this zoning code. A variance is a modification or variation of the provisions of this zoning code as applied to a specific piece of property. A variance from the literal provisions of this zoning code may be granted by the Board of Appeals and Adjustments only when the variance is in harmony with the general purposes and intent of the zoning code and the variance is consistent with the comprehensive plan, if the city has adopted one. A variance may be granted when the applicant for the variance establishes that there are ***PRACTICAL DIFFICULTIES*** in complying with the zoning ordinance. ***PRACTICAL DIFFICULTIES*** as used in connection with granting a variance, means the property owner proposes to use the property in a reasonable manner not permitted by the zoning code; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

Variances shall be granted for earth sheltered construction as defined in M.S. ' 216C.06, Subd. 14, as it may be amended from time to time, when in harmony with this zoning code. The Board of Appeals and Adjustments may not permit as a variance any use that is not allowed under this zoning code for property in the zone where the affected person's land is located. The Board of Appeals and Adjustments may permit as a variance the temporary use of a one-family dwelling as a two-family dwelling. The Board of Appeals and Adjustments may impose conditions in the granting of variances to ensure compliance and to protect adjacent properties. A condition must be directly related to and must bear rough proportionality to the impact created by the variance. The variance shall not become effective until a certified copy is filed by the applicant with the County Recorder, which shall include the legal description of the property included.

' 151.58 NONCONFORMING USES.

(A) As required by M.S. ' 462.357, as it may be amended from time to time, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of these zoning regulations, may be continued, including through repair, replacement, restoration, maintenance

or improvement, but not including expansion, unless the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming use is destroyed by fire or other peril to the extent of greater than 50% of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, the City Council may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property. A subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

(B) Notwithstanding division (A), the city may regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the National Flood Insurance Program and not increase flood damage potential or increase the degree of obstruction of flood flows in the floodway.

(C) Nonconforming shoreland lots of record are subject to the provisions of M.S. ' 462.357, as it may be amended from time to time.

' 151.59 AMENDMENTS.

(A) The clerk, or other person appointed by the City Council, may inspect any property that is the subject of any application under this chapter, with either the permission of the owner, resident or other person in control of the property, or after first obtaining an administrative search warrant as provided for under ' 10.20.

(B) An amendment to this zoning code may be initiated by the City Council or by petition of affected property owners. The requirements for public notice and hearing contained in ' 151.51 shall be followed. The zoning code may be amended by a majority vote of all of the members of the City Council. The adoption of an amendment which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds majority vote of all members of the City Council.

' 151.60 APPEALS.

Appeals to the City Council acting as the Board of Appeals and Adjustments may be taken by any affected person where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer of the city in the enforcement of the zoning code. No mailed or published notice of the hearing on the appeal is required, but a public hearing shall be held on each appeal.

' 151.61 RECORD OF DECISIONS.

The Council may provide that a record be made of its proceedings concerning its actions on any application for a permit, zoning ordinance amendment, or appeal. This record may include the minutes of the meeting, the findings of the Council and the action taken.

' 151.62 PLANNING COMMISSION.

The provisions of Minnesota Basic Code of Ordinances ' ' 31.45 to 31.48 are inoperable until the Council appoints a Planning Commission. Nothing in those provisions requires the Council to appoint a Planning Commission.

' 151.63 FEES.

As provided by M.S. ' 462.353, Subd. 4, as it may be amended from time to time, fees may be established as follows:

(A) The Council may in a separate ordinance, or in the Ordinance Establishing Fees and Charges, prescribe fees sufficient to defray the costs incurred in reviewing, investigating, and administering applications for an amendment to the provisions of this chapter and to all official maps, and applications for a permit, a variance or for some other approval required under this chapter.

(B) These fees must be fair, reasonable and proportionate to the actual cost of the service for which the fee is imposed. The city shall adopt management and accounting procedures to ensure that fees are maintained and used only for the purpose for which they are collected.

(C) If a dispute arises over a specific fee imposed by a city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court as provided by M.S. ' 462.361, as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision by the court.

' 151.64 CERTIFICATION OF TAXES PAID.

Prior to approving an application for any city land use permit, the applicant shall provide certification to the city that there are no delinquent property taxes, special assessments, unpaid utility charges certified for payment as taxes, interest, or city utility fees due upon the parcel of land to which the land use permit relates.

' 151.99 ENFORCEMENT.

(A) The City Council may direct the Clerk or other person appointed by the City Council to administer this chapter to send a notice of any violation. When so directed, a notice of a violation shall be mailed by the Clerk or other person appointed by the City Council to administer this chapter to any person who, in the opinion of the Clerk or other person appointed by the City Council to administer this chapter, is in violation of the provisions of the zoning code. The notice shall state the nature of the violation and the penalty for the violation. A person who is issued a notice of violation may appeal the issuance to the City Council under the provisions of ' 151.60.

(B) If the person to whom the notice of violation is directed fails to comply with the applicable provisions of the zoning code, that person is guilty of a misdemeanor and shall be punished as provided by ' 10.99.

(C) Each day the violation continues is a separate offense.

(D) The city may also enforce any provision of this zoning code by mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction.

(E) A person who knowingly makes or submits a false statement or document in connection with an application or procedure required by this section is guilty of a misdemeanor and shall be punished as provided by ' 10.99.

(F) A person who violates, fails to comply with or assists, directs or permits the violation of a performance standards required by ' 151.30 must reimburse the city or its agent for the actual costs of the tests, measurements or other procedures necessary to demonstrate that violation.

(G) A violation of this chapter or a condition imposed under this chapter is a public nuisance. The public nuisance may be abated in accordance with Chapter 92.

(H) No section or part of this chapter designating the duties of an official, employee or appointee of the city may be construed to make that official, employee or appointee liable for the penalty provided by the city ordinances for violation of this chapter.

CHAPTER 152: SUBDIVISION CONTROL

Section

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' 152.01 PURPOSE.

(A) In order to integrate new subdivisions with the development objectives of the city and to contribute to an attractive, stable and wholesome environment, adequate public services and an integrated safe road and highway system, the subdividing of land in the city shall be required. The provisions of this chapter shall not be in effect until the provisions of Chapter 151, Zoning, become effective, as provided in ' ' 151.01 (B) and 151.05. If the city has in effect as of the effective date of this chapter, any ordinances regulating the subdivision of land within shorelands or floodplains, the provisions of those ordinances shall supersede the provisions of this chapter within the areas regulated. The provisions of this chapter shall not be in effect until a certified copy of this chapter is filed with the County Recorder as required by M.S. ' 462.36, as it may be amended from time to time.

(B) *Minimum design features.* The design features set forth in this chapter are minimum requirements. The city may impose additional or more stringent requirements concerning lot size, streets and overall design as deemed appropriate considering the property being subdivided.

(C) *Zoning ordinance and zoning map consistency.* Subdivisions and preliminary or final plats may only be approved if they are consistent with the city=s zoning ordinance and official zoning maps, if any.

' 152.02 LEGAL AUTHORITY.

This chapter is enacted pursuant to M.S. ' 462.358, as may be amended from time to time.

' 152.03 COMPLIANCE.

(A) Any subdivision creating parcels, tracts, or lots which results in one or more parcels, tracts or lots of less than five acres shall be platted, except as provided in this chapter.

(B) The provisions of M.S. Ch. 505 shall prevail over any inconsistent provisions in this chapter.

(C) No conveyance other than those described in division (A) above, shall be recorded unless it meets the requirements of ' 152.11 herein.

(D) No conveyance or other document creating a subdivision of any real property other than by a duly approved plat, shall be recorded unless accompanied by a registered surveyor=s drawing for recording. The surveyor=s drawing shall accurately illustrate the subdivider=s entire lot, parcel or tract which is subdivided by the conveyance or other document, and shall illustrate the location of any wetlands, lakes, rivers, streams or other public waters on that property. No conveyance or other document shall be recorded unless accompanied by this surveyor=s drawing.

(E) Any surveyor performing a survey in the city shall file a copy of that survey with the County Recorder and the Clerk.

(F) No deed or other document purporting to subdivide property shall be recorded or certified for recording by the County Auditor, County Treasurer or County Recorder unless it meets the requirements set forth above.

' 152.04 SAVINGS CLAUSE.

All plats approved under this chapter are approved for city purposes only and shall not release the subdivider from any liability or obligation imposed by Minnesota Statutes or Federal Law. In the event

any provision of this chapter shall be found contrary to law by a Court of competent jurisdiction from whose final judgment no appeal has been taken, such provision shall be considered void. All other provisions of this chapter shall continue in full force and effect as though the voided provision had never existed.

' 152.05 EXEMPTIONS.

(A) The division of a surveyed lot, parcel or tract for the purpose of attachment to contiguous lots where no residual plot or lot or real property is left unattached is exempted from the provisions of this chapter, as are subdivisions conveying property to a public utility for such things as substations, poles, towers, telephone booths, and the like.

(B) If the parcel can be described as a rectangular portion of a parcel of the government rectangular survey system, a surveyor=s drawing will not be required.

(C) Metes and bounds subdivisions of less than five acres, as provided in ' 152.03(A), that will be permanently attached to an adjacent contiguous parcel will be exempt from the minimum size requirements provided all other conditions of this chapter are complied with.

' 152.06 DEFINITIONS.

As used in this chapter, words in the present tense shall include future tense and words used in the singular number shall include the plural number and the plural the singular. The word ***SHALL*** and ***MUST*** are mandatory and not discretionary. The word ***MAY*** is permissive. For the purpose of this chapter certain terms and words are herein defined as follows:

ADMINISTRATIVE OFFICER. The Clerk of the City or another person appointed by the City Council to administer this chapter.

ALLEY. Any strip of land publicly or privately owned, less than 33 feet in width between property lines, set aside for public vehicular access to abutting property.

ARTERIAL ROAD or ***HIGHWAY (PRIMARY)***. A road or highway of considerable continuity designed primarily to serve as an interconnection link between sectors of the city and beyond (such as from within a city to outlying areas).

BACKLOT. Residential lots without water frontage located in the Shoreland Area of the city.

BACKSLOPE. The portion of the roadway cross-section beginning at the outside edge of the ditch bottom, sloping upward to a point where the slope intersects the existing ground line.

CUL-DE-SAC. A road having but one end open to traffic and the other end being permanently terminated by a vehicular turnaround.

DEDICATED STREET. A roadway designated for public use.

DEVELOPMENT OBJECTIVES. Those goals defined as part of the city=s comprehensive planning program which indicate how the city wishes to develop itself in line with orderly and logical direction.

EASEMENT. A grant by an owner of land for the specific use of said land by the public, generally, or to a person or persons.

FEE SCHEDULE. A document setting forth the city=s fees for permits, appeals, variances and subdivision filings as adopted by ordinance by the City Council as provided in ' 152.13.

FINAL PLAT. The final map, drawing or chart on which the subdivider=s plan of subdivision is presented to the City Council for approval and which, if approved, will be submitted to the County Recorder.

INSLOPE. The portion of the roadway cross-section beginning at the outside edge of the roadway shoulder, sloping downward to the inside edge of the ditch bottom.

LOT. A parcel of land designated by plat, metes and bounds, registered land survey, auditor=s plat or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease or separation.

METES AND BOUNDS. A description of real property which identifies a parcel of land by its shapes and boundaries, starting at a known point and describing the bearing and distances of lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by described lines or portions thereof.

OWNER. Any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this chapter.

PRELIMINARY PLAT. The preliminary map drawing or chart indicating the proposed layout of the subdivision to be submitted to the Planning Commission, if the city has a Planning Commission, and City Council for their consideration.

PUBLIC ROAD. A particularly described and identified right-of-way, at least 33 feet in width, dedicated to public use for road or highway purposes.

SERVICE ROAD. A public road having a traveled surface of at least 24 feet in width lying parallel and adjacent to an ***ARTERIAL ROAD*** or ***HIGHWAY*** and which provides access to abutting properties and protection from through traffic.

STRUCTURE. Any building or appurtenance, including but not limited to, vision obstructing fences, decks, retaining walls, satellite dishes, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, tower poles and other supporting facilities.

SUBDIVIDER. Any person commencing proceedings under this chapter to affect a subdivision of land for himself/herself or for another.

SUBDIVISION. A parcel of land which is divided.

' 152.07 PLATTING PROCEDURES.

(A) *Generally.* The following procedures shall be followed in the administration of this section and no real property within the jurisdiction of this section shall be subdivided and offered for sale or a plat recorded until a pre-application meeting has been held, a preliminary plat has been reviewed and approved and until a final plat has been reviewed and approved as set forth in the procedures provided herein.

(B) *Pre-application meeting.* Prior to the submission of any plat for consideration by the Planning Commission, if the city has a Planning Commission, under the provisions of this chapter, the subdivider may meet with the Administrative Officers to introduce himself or herself as a potential subdivider and learn the relevant requirements of the city's code.

(C) *Preliminary plat.*

(1) *Submission of plat.* The subdivider shall submit to the Administrative Officer ten copies of a preliminary plat of his/her proposed subdivision, the requirements of which are set forth in this chapter. They shall be filed at least 30 days prior to a regularly scheduled Planning Commission meeting, if the city has a Planning Commission, or a Council meeting, and shall be accompanied by the fees set forth in the fee schedule.

(2) *Notice procedure.* Notice of the public hearing at which the Planning Commission, if the city has a Planning Commission, will consider the preliminary plat shall be made by the Administrative Officer pursuant to M.S. ' 462.358, Subd. 3b, as it may be amended from time to time. The owner or

subdivider shall also be notified as to the time and place of the public hearing. As required by M.S. ' 505.03, as it may be amended from time to time, at least 30 days prior to taking final action on a preliminary plat, the proposed preliminary plat must be presented by the Administrative Officer to the Commissioner of Transportation for review if the plat includes or borders on a trunk highway or state rail bank property. Within five days after receiving a preliminary plat that includes or borders on an existing or proposed county road or state rail bank property, the Administrative Officer must submit it to the County Engineer for review. The Commissioner of Transportation and the County Engineer must report to the city within 30 days with any comments and recommendations they may have. No preliminary plat may be approved by the city until these comments and recommendations are received and considered. Within ten days after approval of the preliminary plat, notice must be sent to the Commissioner and the County Board explaining how their comments and recommendations have been met.

(3) *Public hearing.* At the public hearing set for consideration of the preliminary plat, the Planning Commission, if the city has a Planning Commission, or the City Council shall consider comments to the notice of plat, and it shall also review the preliminary plat from the standpoint of environmental impact, compatibility with surrounding area, suitability of area for subdividing, public health and welfare, crowding potential, the compatibility with the city Comprehensive Plan and overall city planning.

(4) *Planning Commission action.* At the conclusion of the public hearing set forth in the preceding division, the Planning Commission, if the city has a Planning Commission, shall either recommend approval, conditional approval or denial of the preliminary plat. The Planning Commission may also table the preliminary plat for future consideration. The Planning Commission shall not recommend approval of a preliminary plat unless the presentation requirements set forth in ' 152.08 have all been met. No lot on the preliminary plat shall be recommended for approval if, in the opinion of the Planning Commission, a lot does not have dedicated road access, an adequate building site, or sufficient area for an on-site individual sewage treatment system in areas where public services are not available, meeting the requirements of all rules and regulations in this chapter and the code of the city. The action of the Planning Commission shall be stated in writing setting forth the conditions of approval, reasons for approval or the reasons for denial. The Planning Commission=s recommendation shall then be submitted to the City Council.

(5) *City Council action.* The City Council shall consider the Planning Commission=s action, if the city has a Planning Commission, at their next regularly scheduled meeting, and shall either approve, approve with conditions, deny or table for future consideration the application. As required by M.S.' 462.358, Subd. 3b, as it may be amended from time to time, the Council must either approve or deny the application for a preliminary plat within 120 days after the application has been submitted, unless an extension of time has been agreed to in writing by the subdivider. The 120-day period does not begin to run until the application contains all of the information required by '' 152.08(B) and 152.09. Failure to comply with the time limits for approval in M.S. ' 462.358, Subd. 3b, as it may be amended from time to time, may result in automatic approval of a preliminary plat. The Council shall

not approve a preliminary plat unless the presentation requirements set forth in ' 152.08 have all been met. No lot on the preliminary plat shall be approved if, in the opinion of the Council, a lot does not have dedicated road access, an adequate building site, or sufficient area for an on-site individual sewage treatment system in areas where public services are not available, meeting the requirements of all rules and regulations in this chapter and the code of the city. The action of the Council shall be stated in writing, setting forth the conditions of approval, reasons for approval or the reasons for denial. Approval shall mean the acceptance of the design as a basis for preparation of the final plat, and the submission of such final plat for approval. Approval by the City Council of all engineering proposals presented in the preliminary plat which pertain to such things as water supply, sewage disposal, storm drainage, gas and electric service, road gradients and widths and the surface of roads is required prior to the approval of the final plat. The Council may, after notifying the subdivider, employ qualified persons to check and verify each proposal, the costs of such services shall be paid by the subdivider.

(D) *Final plat.*

(1) *Filing of the final plat.*

(a) The owner or subdivider shall file with the Administrative Officer within one year of the date of the approval of the preliminary plat the final plat which shall substantially conform to the preliminary plat as approved (see ' 152.08(C) for filing document requirements) and all applicable city regulations and ordinances, state and federal rules, regulations and laws.

(b) Final plat approval shall not be granted to any plat which is not filed within the time herein specified, unless an extension is requested in writing and for good cause, granted by the City Council. The final plat shall be presented to the City Council at a scheduled meeting which is at least two weeks after the date of filing with the Administrative Officer.

(2) *Contents.* The subdivider may file a final plat limited to such portion of the preliminary plat which the subdivider proposed to record and develop at one time, provided that such portion must conform to all requirements of this chapter. Lots which have received preliminary approval but are not included on the final plat must be considered as a new subdivision.

(3) *Review.* The Administrative Officer shall check the final plat to see that it is in substantial conformity with the preliminary plat as approved by the City Council and that it meets all applicable city regulations and ordinances, state and federal rules, regulations and laws.

(4) *City Council action.* Final plat approval shall not be granted unless all presentation requirements of ' 152.08 have been met and the plat conforms to all applicable city regulations and ordinances, state and federal rules, regulations and laws. The City Council shall approve, deny or table the final plat, and the Clerk shall notify the owner or subdivider of the Board=s actions within 60 days of the submittal of the final plat, as required by M.S. ' 462.358, Subd. 3b, as it may be amended from time to time, unless an extension of time has been agreed to in writing by the subdivider. Failure to meet

the time limit requirements of M.S. ' 462.358, Subd. 3b, as it may be amended from time to time, may result in automatic approval of the final plat. The final plat, if approved, shall then be recorded with the County Recorder by the subdivider. If any irregularity prevents recording of the final plat, the County Auditor shall notify the owner or subdivider. Any approval of the final plat by the Council shall be null and void if the plat is not recorded with the County Recorder within 90 days after the date of approval unless application for an extension of time is made, in writing, during said 90-day period, to the City Council and for good cause granted by the Council.

' 152.08 PLATTING PRESENTATION REQUIREMENTS.

(A) *Lot suitability.* Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the city shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites or any other feature of the natural land likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the community.

(B) *Preliminary plat.*

(1) Preliminary plat must be prepared by a Minnesota Registered Land Surveyor and certified as such. Plats must conform to the technical requirements of M.S. ' 505.021, as it may be amended from time to time.

(2) Scale: 1 inch equals 100 feet, if possible, but not smaller than 1 inch equals 200 feet.

(3) Identification and description:

(a) Proposed name of subdivision, which name shall not duplicate or closely resemble the name of any plat previously recorded in the city;

(b) Location by section, township, range or by other identifying description;

(c) Names and addresses of the owner, subdivider, surveyor and designer of the plan;

(d) Graphic scale;

(e) North point;

(f) Date of preparation; and

(g) A dedication statement as required by M.S. ' 505.021, Subd. 2, as it may be amended from time to time, describing what part of the subdivision land is dedicated, to whom and for what purpose.

(4) Existing conditions in tract and in surrounding area to a distance of 300 feet:

(a) Boundary line of proposed subdivision, clearly outlined and dimensioned;

(b) Total acreage and total water frontage (shoreland areas) and water boundaries;

(c) Platted roads, rights-of-way and utility easements;

(d) Boundary lines and ownership of adjoining land;

(e) Sewers, water mains or wells, culverts or other underground facilities;

(f) Plans for the provision of potable water, sewage disposal, drainage and flood control;

(g) Existing structures;

(h) Summary of soil and vegetation types (terrestrial and aquatic);

(i) Lakes, water courses and wetlands and such other information as soil tests, location of the ordinary high water level and contours at vertical intervals of not more than ten feet. All elevation data shall be mean sea level or some other assumed, workable datum;

(j) Evidence that the ground water level is at least three feet below the level of finished grades or plans for resolving any ground water problems; and

(k) All other information required by M.S. ' 505.021, as it may be amended from time to time.

(5) *Subdivision design features.*

(a) Layout and width of proposed road rights-of-way and utility easements, showing road names, approximate lot dimensions, parks and other public areas. All roads must be identified. The road right-of-way layout shall include all contiguous land owned or controlled by the subdivider.

(b) Proposed use of all parcels, and if zoning change is contemplated proposed rezoning.

(c) Preliminary road grades and drainage plans shall be shown on a copy of the contour map.

(d) Statement of proposed protective covenants.

(e) Statement of source of water supply.

(f) Statement of provisions for sewage treatment. In areas where a public sewage treatment system is unavailable, a lot must contain sufficient suitable area for the installation of two standard on-site sewage treatment systems. Lots that would require use of holding tanks shall not be approved.

(g) *Dedications.* Easement dedications must be provided over natural drainage or ponding areas for management of stormwater and significant wetlands. Provisions for surface water drainage and flood control must be provided.

(6) *Preliminary Title Opinion.* The subdivider shall provide a Preliminary Title Opinion, prepared by an attorney of the subdivider=s choosing, in substantial conformity with the form set forth as Appendix I to this chapter.

(7) *On-site.* Within 14 days of submitting the preliminary plat, the subdivider must clearly stake and identify the tentative proposed lot corners and the proposed center line of the road serving the proposed subdivision.

(C) *Final plat.* The final plat shall include the following:

(1) Such information as was found necessary for review and requested by the Planning Commission, if the city has a Planning Commission, or City Council;

(2) (a) Data requirements as set forth in M.S. Ch. 505, as it may be amended from time to time; and

(b) All interior and exterior boundary lines shall be correctly designated on the plat and shall show bearings on all straight lines, or angles at all angle points, and central angle and radii and arc lines for all curves. Durable iron monuments shall be set at each angle and curve point on the interior and exterior boundary lines and at all block corners and at all intermediate points on the block or lot lines indicating a change of direction in the lines. The plat shall indicate that the monuments have been set;

(3) An identification system for all lots and blocks. All lots shall be numbered consecutively;

(4) The area (in square feet) and dimensions of all lots in feet;

(5) The subdivider shall submit two hardshells, one transparency copy and six duplicate copies of the final plat;

(6) All signatures on the plat must be in black ink;

(7) Certification by a registered land surveyor to the effect that the plat represents a survey made by him/her and that monuments and markers shown thereon exist as located and that all dimensional and geodesic details are correct;

(8) Notarized certification by the fee owner, any contract for deed vendees and by any mortgage holder of record, of the adoption of the plat and the dedication of roads and other public areas as required by M.S. ' 505.021, Subd. 3, as it may be amended from time to time;

(9) Certification showing that all taxes, special assessments and utility charges currently due on the property to be subdivided have been paid in full for the calendar year in which the plat is filed;

(10) Form for approval by Registered Land Surveyor:

I hereby certify that I have reviewed this plat and found it to be in compliance with the surveying requirements of the Subdivision Control Ordinance of the City and Minnesota Statutes Ch. 505.

(11) The subdivider shall provide the County Auditor=s Office with a Final Title Opinion prepared by the attorney who prepared the Preliminary Title Opinion in substantial conformity with the form set forth as Appendix II to this chapter, within 14 days of the final plat being recorded. The attorney shall also sign the following statement on the face of the plat prior to filing:

I hereby certify that proper evidence of title has been presented to and examined by me, and I hereby approve this plat as to form and execution.

(12) Form for Mortgage Statement:

I hereby attest to the fact that there are no mortgages, other than shown, outstanding against any of the property in this subdivision.

Signed_____ Dated_____.
Subdivider

(13) Form for comparison by Administrative Officer:

Comparison with Preliminary Plat made this_____ day of_____,_____.

Signed_____
City Administrative Officer

(14) Form for approval by City Council:

Accepted and approved by the City Council of the city of _____ , Minnesota, this_____day of,_____, _____.

Signed_____
Mayor Signed
Signed_____
City Clerk

(15) Form for approval by County Treasurer:

I hereby certify that the taxes for the year_____for the lands described within are paid.

Signed_____ Dated_____
County Treasurer

(16) Form for approval by County Auditor:

No delinquent taxes and transfer entered. Dated_____

Signed_____
County Auditor Signed
Signed_____
Deputy Auditor

(17) Form for approval by County Recorder:

I hereby certify that the within instrument was filed in this office for record on the_____day of_____, at_____o=clock_____.M., and was duly recorded in Book of_____on page_____.

Signed _____
County Recorder Signed
Signed _____
Deputy Recorder

' 152.09 PLAT DESIGN STANDARDS.

(A) *Roads.* The design of all roads shall be considered in relation to existing and planned roads, to reasonable circulation of traffic, topographical conditions, to run off of storm waters and to the proposed uses of the areas to be served.

(1) Where adjoining areas are not subdivided, the arrangement of roads in new subdivisions shall make provisions for the proper projection of roads. When a new subdivision adjoins unsubdivided land susceptible of being subdivided, then the new road shall be carried to the boundaries of such unsubdivided land. Where new roads extend existing adjoining roads, their projections shall be at the same or greater width, but in no case, less than the minimum required width.

(2) The minimum road design standards of the city, including road width and grade standards, shall be observed by the subdivider, as set forth in Appendix III.

(3) Straight segments of at least 50 feet in length shall be introduced between reverse curves on city streets and alleys.

(4) Insofar as practical, road intersections shall be at right angles and no intersection shall be at an angle of less than 45 degrees. It must be evidenced that safe and efficient traffic flow is encouraged.

(5) Private roads shall not be approved nor shall public improvements be approved for any previously existing private road.

(6) Where a proposed plat is adjacent to a highway, the City Council may require the subdivider to provide a service road along the right-of-way.

(7) The road arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

(8) At road intersections, curb lines shall be rounded at a radius of not less than 15 feet.

(B) *Easements.*

(1) Utility easements at least ten feet wide shall be provided for utilities where necessary. They shall be centered on rear and other lot lines or within alley rights-of-way. They shall have continuity of alignment from block to block. At deflection points, easements for pole line anchors shall be provided where necessary.

(2) Where a subdivision is traversed by a water course, drainage way, channel or road, there shall be provided a storm water easement or drainage right-of-way substantially with the lines of such

water course, together with such further width or construction or both as will be adequate for stream channel, but also adjoining areas that have been subject to flooding in years of heavy runoff.

(C) *Lots.*

(1) Where possible, side lot lines shall be at right angles to straight or radial to curved road lines. Each lot shall front on a public road or highway. Lots with frontage of two parallel roads shall be permitted only under unusual circumstances.

(2) Lot remnants which are below the minimum lot size must be added to adjacent or surrounding lots rather than be allowed to remain as an unusable outlot or parcel unless the owner can show plans consistent with the purpose of this chapter for the future use of such remnants.

(3) Lots must be designed and have adequate size to meet the zoning requirements of the zoning district in which they are located related to setbacks, width and required yard sizes. Lots must also be of adequate size to allow off-street parking, loading areas and such other facilities as are required by the zoning ordinances of the city. If the city does not have zoning ordinances in place, or if there are portions of the city not zoned but where subdivision is occurring, the following minimum lot sizes shall apply:

(a) For residential lots intended for single and-two-family dwellings:

1. Width of not less than 80 feet at the right-of-way line of inside street curvature; and

2. Width of not less than 65 feet at the right-of-way line of outside street curvature (including cul-de-sac).

(b) For residential lots intended for multiple family dwelling of three of more families living independently of one another:

1. Width of not less than 130 feet at the right-of-way line of inside street curvatures;

2. Width of not less than 80 feet at the right-of-way line of outside street curvatures (including cul-de-sac); and

(4) All lots must have a minimum of 30 feet in width at the rear lot line.

(5) Lots abutting on a water course, drainage way, channel or stream shall have an additional depth or width, as required, to assure house sites that are not subject to flooding.

(6) On lots determined to be irregular in shape (e.g., triangular), the developer shall demonstrate to the city an ability to properly place principal buildings and accessory structures upon the site which are compatible in size and character to the surrounding area.

' 152.10 REQUIRED IMPROVEMENTS.

(A) As a condition of approval of a final plat and before the City Council approves a final plat, the subdivider shall give satisfactory assurance of the provision of the following requirements:

(1) *Monuments.* Steel monuments shall be placed at all block corners, angle points, points of curves in roads and at intermediate points as shown on the final plat. All U.S., state, city or other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position.

(2) *Roads.* All roads shall be improved in accordance with the road design standards as specified in Appendix III.

(a) Trees and boulevard sodding shall be planted in conformance with the standards and specifications as required by the City Council.

(b) Street signs of the design approved by City Council shall be installed at each street intersection.

(c) Driveway approaches and sidewalks of a standard design or pedestrian pathways as may be required by the City Council shall be installed.

(d) Street lighting fixtures as may be required by the City Council shall be installed.

(3) *Water supply.* Wherever connection with a community or public water system is possible, the public water shall be used. In other case, individual wells shall be used. Either shall be provided in accordance with state and city regulations.

(4) *Sanitary sewer.* Wherever trunk line sanitary sewer facilities are available, the subdivider shall be required to install sanitary sewers and connect the same to such trunk line sewers. In other cases, individual on-site sewage treatment systems shall be used. Either shall be provided in accordance with state and city regulations.

(5) *Stormwater management.*

(a) When possible, existing natural drainageways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff before discharge to public waters.

(b) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

(c) When development density, topographic features, and soil runoff using natural features, and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and man-made materials and facilities.

(6) *Landscaping*. All developments shall be landscaped with a combination of overstory trees, understory trees, shrubs, flowers and ground cover materials. All areas not covered by buildings, streets, sidewalks, parking lots, driveways or similar hard surface materials shall be covered with sod or an equivalent ground cover approved by the city. This requirement shall not apply to site areas retained in a natural state. All new landscape trees and shrubs must meet the American Standard for Nursery Stock and American National Standard relating to planting guidelines, quality of stock and appropriate sizing of the root ball. Landscape trees must be balled and burlapped or moved from the growing site by tree spade. Deciduous trees will be not less than one and one quarter inches but not more than three inches caliper for balled and burlapped trees, and not less than three inches but not more than six inches caliper for spade-moved trees. Coniferous trees will not be less than six feet in height but no more than eight feet for balled and burlapped trees, and not less than eight feet in height but not more than fourteen feet for spade-moved coniferous trees. The city may allow larger balled and burlapped or spade moved trees if these trees are accompanied with a three year guarantee.

(7) *Erosion and sediment control.* The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion. If determined necessary by the City Engineer, the subdivider shall be required to submit an erosion and sediment control plan. Erosion and sediment control measures shall be consistent with best management practices (BMPs) for erosion and sedimentation control as specified in the "Minnesota Stormwater Manual" (MPCA, 2005), as amended, and shall be sufficient to retain sediment on site. Erosion and sediment controls shall meet the standards for the general permit authorization to discharge stormwater associated with construction activity under the national pollutant discharge elimination system/state disposal system permit program permit MN Rl00001 (NPDES general construction permit) issued by the Minnesota Pollution Control Agency, as amended. Final stabilization of the site must be completed in accordance with the NPDES construction permit requirements.

(B) All required improvements shall be installed by the subdivider except that the city reserves the right to elect to install all or part of the improvements required under the provisions of this title pursuant to M.S. Ch 429, as it may be amended from time to time. If the city elects to install the improvements the city may require the developer to post a cash escrow or letter of credit guaranteeing payment of the assessments.

(C) Satisfactory assurance that all required improvements shall be provided shall include:

(1) Entering into a development contract setting forth the conditions under which the plat is approved and setting forth required improvements.

(2) Furnishing the city financial security in the form of a cash escrow or letter of credit. Letters of credit must be from a state or federally chartered bank or savings and loan association, insured by the Federal Deposit Insurance Corporation, that has an office in the state of Minnesota or a subsidiary of such bank or savings association with an office in the state of Minnesota. If the subdivider fails to perform any obligations under the development contract, the city may apply the security to cure the default.

(a) If the subdivider is going to install the public improvements, the required security shall be the sum of the following fixed or estimated costs:

1. Utilities.

2. Streets.

3. Streetlights and operating cost for one year (if any are required).

4. Erosion control.

5. Engineering, to include developer's design, surveying and inspection.

6. Landscaping (if any is required).

7. Storm sewer connection charges.

8. Principal amount of special assessments previously levied against the property together with one year of interest.

9. Real estate tax for one year, if there are special assessments.

10. City engineering fees.

11. Sanitary sewer area charges (if any are required).

12. Lateral sanitary sewer and water main access charges.

13. Wetland mitigation (if any is required).

14. Custom graded lots (if any is required).

15. Removal of buildings and temporary improvements (if any is required).

16. Tree preservation.

17. Lot corners/iron monuments.

(b) If the city is going to install the public improvements, the required security shall be the sum of the following fixed or estimated costs:

1. Principal amount of special assessments for public improvements to be installed together with one year of interest.

2. Streetlights (if any are required).

3. Erosion control.

4. Landscaping.

5. Storm sewer connection charges.

6. Real estate tax for one year.

7. Principal amount of special assessments previously levied against the property together with one year of interest.

(3) The city shall require of a subdivider submission of a warranty/maintenance bond in the amount equal to the original cost of the improvements or such lesser amount as agreed to by the City Engineer. 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 acceptance or one year following final acceptance of the final bituminous wearing surface as approved by the City Engineer. The required period for sod, trees and landscaping is one growing season.

(D) No final plat shall be approved by the Council without first receiving a report from the City Engineer that the improvements described therein together with the agreements and documents required under this section, meet the requirements of the city.

(E) No final plat shall be approved by the Council without first receiving certification from the City Clerk, Administrator or Finance Officer that all fees required to be paid to the city in connection with the plat have been paid or that satisfactory arrangements have been made for payment.

' 152.105 DEDICATION REQUIREMENTS.

(A) As a condition of subdivision approval, subdividers shall dedicate a portion of any proposed subdivision for conservation purposes or for public use as parks, recreational facilities as defined and outlined in M.S. ' 471.191, playgrounds, trails, wetlands or open space; provided that the city may choose to accept an equivalent amount in cash for part or all of the portion required to be dedicated based on the fair market value of the land following the criteria of M.S. ' 462.358, Subd. 2b, as it may be amended from time to time.

(B) Land shall be reasonably suitable for its intended use and shall be at a location convenient to the people to be served. Factors used in evaluating the adequacy of proposed park and recreation areas shall include size, shape, topography, geology, hydrology, tree cover, access and location. Land with trash, junk, pollutants, flooding or wetlands and unwanted structures is generally not acceptable.

(C) The Planning Commission, if the city has a Planning Commission, and the City Council, shall determine the land and/or cash contribution requirements for proposed subdivisions.

(D) Any increase in density of subdivisions shall be reviewed for reconsideration of park land and/or cash contribution requirements.

(E) When a proposed park, playground, recreation area or other public ground has been indicated in the city's official map or comprehensive plan and is located in whole or in part within a proposed subdivision, it shall be designated as such on the plat and shall be conveyed to the city. If the subdivider elects not to dedicate an area in excess of the land required hereunder for such proposed public site, the city may consider acquiring the site through purchase or condemnation.

(F) Land area conveyed or dedicated to the city shall not be used in calculating density requirements of the city zoning ordinance and shall be in addition to and not in lieu of open space requirements for planned unit developments.

(G) Where private open space for park and recreation purposes is provided in a proposed subdivision, these areas may be used for credit, at the discretion of the City Council, against the land or cash dedication requirement for park and recreation purposes, provided the City Council finds it is in the public interest to do so.

(H) The dedication requirements are presumptively appropriate. A subdivider may request a deviation from the presumptive requirements based upon the anticipated impact of that particular subdivision. The request must be made before final subdivision approval by the city.

(I) (1) In residential subdivisions where a land dedication is required, the following formula will be used to determine the dedication requirement:

Density: Units Per Acre	Land Dedication Percentage		
0	B	2.5	10%
2.5	B	4	11%
4+	B	6	13%
6+	B	8	15%
8+	B	10	17%
10+	B	17% - 20%	

(2) In commercial or industrial subdivisions where a land dedication is required, the following formula will be used to determine the dedication: 5% of the gross area of land being platted.

(J) In lieu of land dedication the city may require cash fees established pursuant to M.S. ' 462.358, Subd. 2b, as it may be amended from time to time, for commercial, industrial, multi-family dwelling units and single-family dwelling units, in amounts established in a separate ordinance or in the Ordinance Establishing Fees and Charges adopted pursuant to ' 30.11 of this code, as that ordinance may be amended from time to time.

(K) The city may elect to receive a combination of cash, land and development of the land. The fair market value of the land the city wants and the value of the development of the land shall be calculated. That amount shall be subtracted from the cash contribution required by division (J) of this section. The remainder shall be the cash contribution requirement.

(L) Fair market value shall be determined as of the time of final subdivision approval in accordance with the following:

(1) The city and the developer may agree as to the fair market value; or

(2) The fair market value may be based upon a current appraisal submitted to the city by the subdivider at the subdivider's expense. The appraisal shall be made by appraisers who are approved members of the SREA or MAI, or equivalent real estate appraisal societies.

(3) If the city disputes such appraisal the city may, at the subdivider's expense, obtain an appraisal of the property by a qualified real estate appraiser, which appraisal shall be conclusive evidence of the fair market value of the land.

(M)Planned developments with mixed land uses shall make cash and/or land contributions in accordance with this section based upon the percentage of land devoted to the various uses.

(N) Cash contributions are to be calculated at the time of final subdivision approval. The council may require the payment at the time of final subdivision approval or at a later time under terms agreed upon in the development agreement. Delayed payment shall include interest at a rate set by the city.

(O) Cash contributions shall be deposited in the park dedication fund and shall only be used for the acquisition of land for the purposes set forth in division (A) of this section, and the planning and development of land for such purposes.

(P) Property being subdivided without an increase in the number of lots shall be exempt from park and trail dedication requirements if similar requirements were satisfied in conjunction with an earlier subdivision. If the number of lots is increased, then the dedication shall be based on the additional lots created.

' 152.1051 PROTECTED AREAS AND TREE PRESERVATION.

(A) *Protected areas*. Where land proposed for subdivision is deemed environmentally sensitive by the city due to the existence of wetlands, drainageways, watercourses, floodable areas, significant trees, steep slopes or wooded areas, the design of said subdivision shall clearly reflect all necessary measures to ensure against adverse environmental impacts. Based upon the necessity to control and maintain certain sensitive areas, the city shall determine whether said protection will be accomplished through lot enlargement and redesign or dedication of those sensitive areas in the form of outlots. In general, measures of protection shall include design solutions that allow for construction and grading involving a minimum of alteration to sensitive areas. Such measures, when deemed appropriate by the city, may include, but shall not be limited to, the following:

(1) The establishment of buffers designed consistent with adopted management plans, if any, easements and/or outlots over wetlands, drainageways and watercourses as approved by the City Engineer.

(2) The implementation of flood control measures, including ponding and infiltration design standards as specified in adopted management plans, if any, and approved by the City Engineer.

(3) The enlargement of lots or redesign of the subdivision.

(4) The submission of a tree preservation plan subject to the approval of the City Council.

(5) The utilization of appropriate erosion control measures subject to approval by the City Engineer.

(6) Soil testing to determine the ability of the proposed subdivision to support development.

(7) The limitation of development on slopes steeper than three to one (3:1).

(8) Structure conformance to the natural limitations presented by the topography and soil so as to create the least potential of soil erosion, as determined by the City Engineer.

(B) *Tree preservation.* The following process for preserving significant trees shall be required of subdividers. Subdividers shall preserve, where feasible, all healthy trees of significant value even if the trees are less than six inches in diameter.

(1) *Definitions*. The following words and terms, whenever they occur in this section, are defined as follows:

(a) ***DIAMETER.*** The measurement of a tree's trunk measured four and one-half feet above the ground.

(b) ***DRIP LINE***. The farthest distance away from the trunk of a tree that rain or dew will fall directly to the ground from the leaves or branches of the tree or one foot per one inch of diameter, whichever is greater.

(c) ***SIGNIFICANT TREE.*** A healthy tree measuring six inches in diameter or greater.

(d) ***TREE CERTIFICATION.*** A certified inventory of trees on the site after work is complete listing all trees and their final disposition, which is signed by a licensed forester or landscape architect.

(e) ***TREE PRESERVATION PLAN.*** A plan and inventory certified by a forester or landscape architect indicating all of the significant trees and their locations in the proposed development or on the lot. The tree preservation plan shall include the size, species, tag numbers, and location of all significant trees proposed to be saved and removed on the area of development, and the measures proposed to protect the significant trees to be saved.

(f) ***TREE PROTECTION***. Snow fencing or polyethylene laminar safety netting placed at the drip line of the significant trees to be preserved. The tree protection measures shall be shown on tree preservation plan drawings and remain in place until all grading and construction activity is terminated.

(2) Subdivider responsibilities. Subdividers shall:

(a) Prepare a tree preservation plan. Such plan shall be superimposed on the grading plan, if any.

(b) Ensure the tree preservation plan is followed during the plan development including any mass grading.

(3) The tree preservation plan must be certified by a forester or landscape architect. The forester or landscape architect shall indicate on the plan the following items:

(a) Graded areas and proposed grades.

(b) Size, species, tag numbers, and location of all significant trees.

(c) Identification of all significant trees proposed to be saved and significant trees proposed to be removed.

(d) Measures proposed to protect significant trees shall include, but are not limited to:

1. Installation of snow fencing or polyethylene- laminar safety netting at the drip line.

2. Placing fill against the trunk of the tree, on the root crown, and under the drip line of the tree shall be prohibited.

3. Installation of erosion control measures.

4. Prevention of change in soil chemistry due to concrete washout and leakage or spillage of toxic materials such as fuels or paints.

5. Pruning of oak trees must not take place from April 15 through July 1. If wounding of oak trees occurs, a nontoxic tree wound dressing must be applied immediately. Excavators must have a nontoxic tree wound dressing with them on the development site.

(4) During preliminary plat review, the tree preservation plan will be reviewed according to the best available layout to preserve significant trees and the efforts of the subdivider to mitigate damage to significant trees.

(5) The subdivider shall provide a financial guarantee as part of the development contract in an amount necessary to guarantee replacement of all significant trees which were to have been saved but were actually destroyed or damaged.

(6) After grading has been completed and streets and utilities installed, the forester or landscape architect shall:

(a) Certify in writing to the city the status of all trees indicated as save trees in the approved plan.

(b) Certify in writing to the city whether tree protection measures were installed.

(c) Certify the status of any remove designated trees that were saved.

(7) If a significant tree indicated to be saved on the tree preservation plan is destroyed or damaged, tree replacement as required by this chapter will be enforced by the city.

(8) The financial security required in division (5) above will be released upon certification in writing by the forester or landscape architect indicating the tree protection measures were installed on graded lots and tree replacement is completed, if necessary;

(9) Removal of tree preservation measures shall require written approval from the City Engineer. Tree preservation measures shall not be removed from the site until the City Engineer has approved the grading as built plans for a mass graded site nor prior to the release of financial securities held by the city.

(10) Tree Replacement Policy. Subdividers shall be required to replace the significant trees which were indicated on the tree preservation plan to be saved but ultimately were destroyed or damaged. The subdivider and builder shall be required to replace each of the significant trees destroyed or damaged with two replacement trees. Replacement trees must consist of nursery stock and be no less than the following sizes:

(a) *Deciduous trees.* No less than two and one-half-inches in diameter.

(b) *Coniferous trees*. No less than six feet high.

(11) Replacement trees shall be species similar to the trees which were destroyed or damaged and shall comply with the requirements of ' 152.10.

(12) Replacement trees shall not be placed on easements or street rights of way. The city shall determine the locations of tree replacement for subdivider's tree plans.

' 152.11 METES AND BOUNDS STANDARDS.

No subdivision of real property in which the divided tract is described by metes and bounds shall be permitted, unless all tracts meet the following standards:

(A) Each lot, located in a shoreland area or containing a wetland area must be a minimum of five acres in size; and all other lots must be a minimum of two and one-half acres in size;

(B) Certification of public road access;

(C) All roads must be identified on the surveyor=s drawing;

(D) Sufficient suitable area for the installation of two standard on-site sewage treatment systems;

(E) A registered surveyor=s drawing accompanies the document creating the subdivision for recording, as required by ' 152.03(D) above; and

(F) The surveyor=s drawing contains the following form for signature by the property owner: I hereby certify that the subdivided property described in this survey meets the city requirements for public road access and sewage treatment systems.

' 152.12 ADMINISTRATION.

(A) *Variances from standards.* In any case where, upon application of any subdivider to the Board of Adjustment, it appears by reason of exceptional circumstances, that the strict enforcement of any provision of the standards would cause unusual hardship under the circumstances, the Board of Adjustment may permit a variance therefrom upon such conditions as it may prescribe consistent with the general purposes of this chapter and the intent of this and all other applicable State and local regulation.

(B) *Appeals.* The Board of Adjustment shall hear and decide appeals from and review any order, requirements, decisions or determinations made by any city Administrative Officer charged with enforcing any provision of this chapter.

' 152.13 FEES.

As provided by M.S. ' 462.353, Subd. 4, as it may be amended from time to time, fees may be established as follows:

(A) The Council may in a separate ordinance or in the Ordinance Establishing Fees and Charges, adopted pursuant to ' 30.11 of this code, as that ordinance may be amended from time to time, prescribe fees sufficient to defray the costs incurred in reviewing, investigating and administering applications for a preliminary or final plat, or an application for some other approval required under this chapter.

(B) These fees must be fair, reasonable and proportionate to the actual cost of the service for which the fee is imposed. The city shall adopt management and accounting procedures to ensure that fees are maintained and used only for the purpose for which they are collected.

(C) If a dispute arises over a specific fee imposed by a city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court as provided by M.S. ' 462.361, as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision by the court.

' 152.99 ENFORCEMENT AND PENALTIES.

(A) This chapter shall be administered and enforced by the Administrative Officer who is hereby designated the enforcing officer.

(B) Any violation of the terms and provisions of this chapter shall constitute a misdemeanor and shall be punished as provided in ' 10.99. All fines paid for violations shall be credited to the City General Revenue Fund. Each 24-hour day that a violation continues shall constitute a separate offense.

(C) In the event of a violation or threatened violation of this chapter, the City Council and/or the Administrative Officer, in addition to other remedies may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the City Attorney to institute such action. This will include, but not be limited to, mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction.

(D) A person who knowingly makes or submits a false statement or document in connection with an application or procedure required by this section is guilty of a misdemeanor and shall be punished as provided by ' 10.99.

APPENDIX I: PRELIMINARY TITLE OPINION

City Council of the City of _____

RE: Plat of_____

Subdividers_____

Preliminary Opinion

I hereby certify that I have examined the above-described plat including the signatories thereon and an abstract of title consisting of entries_____through_____inclusive, last certified by (Abstract Co.) to the hour of 8:00 a.m. on_____. From such examination I conclude that good record title in fee simple absolute is in the subdividers= so as to vest in the public those right-of-way rights and easement rights as in the plat, subject to the following:

1.

2.

3.

which shall be cured prior to the recording of the plat. I further agree to furnish the Final Title Opinion following the recording of the plat as required by Chapter 152 of the City Code of Ordinances.

Sincerely,

APPENDIX II: FINAL TITLE OPINION

City Council of the City of _____

RE: Plat of_____

Subdividers_____

Gentlemen:

Final Opinion

I hereby certify that I have examined all records relating to the above described plat in the office of the County Recorder from the date of the abstract of title to_____, the date the plat was recorded. From such examination I conclude:

1. That all defects cited in the Preliminary Opinion have been cured;

2. That as of the date of recording, good record title in fee simple absolute was in the subdividers; and

3. That the public is vested with those right-of-way rights and easement rights as in the plat indicated.

Sincerely,

APPENDIX III: MINIMUM ROAD STANDARDS

1. All construction of roads dedicated for public use shall be in compliance with the Minnesota Department of Transportation State Aid Design Standards for Roads as well as the following minimum standards.

2. All roads dedicated for public use or for the use of lot owners on a plat presented for the approval shall have a permanent minimum width of 66 feet right-of-way (during the road construction period the right-of-way width may exceed 66 feet to provide for the appropriate backslope). Dead end roads require a cul-de-sac which has a minimum 120-foot diameter. Alleys require a minimum width of 20 feet right-of-way.

3. All dedicated roadways have a roadbed of not less than 32 feet and shall have a bituminous surface. All cul-de-sacs, regardless of surface type, shall have a minimum traveled surface diameter of 100 feet.

4. When necessary for drainage, ditches along the roadbed shall not be less than two feet deep.

CHAPTER 153: ANTI-BLIGHT REGULATIONS

Section

153.01 Purpose
153.02 Findings
153.03 Definitions
153.04 Exceptions
153.05 Location of sexually oriented businesses
153.06 Sign restrictions for sexually oriented businesses

153.99 Penalty

' 153.01 PURPOSE.

The purpose of this chapter is to control, through zoning regulations, certain land uses that have a direct and detrimental effect on the character of the city's residential and commercial neighborhoods. The City Council specifically recognizes the sanctity and fundamental nature of free speech and does not intend to regulate or ban speech based on content. This chapter is intended to supercede the provisions of M.S. ' 617.242, as it may be amended from time to time, and to render M.S. ' 617.242 inapplicable as authorized by the statute.

' 153.02 FINDINGS.

The City Council makes the following findings regarding the effect sexually-oriented businesses have on the character of the city's neighborhoods. In making these findings, the City Council accepts the recommendations and conclusions of the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses*, dated June 6, 1989, a copy of which is adopted by reference and included in Appendix II of Chapter 119 of this code. This Chapter 153 shall have no force and effect until the City Council accepts these recommendations by resolution of a majority of its members, using the model resolution contained in Appendix I of Chapter 119 of this code.

(A) Sexually oriented businesses have an impact on the neighborhoods surrounding them which is distinct from the impact caused by other uses.

(B) Residential and commercial neighborhoods located within close proximity to sexually oriented businesses experience the following negative impacts:

(1) Increased crime rates, particularly in sex-related crimes such as rapes, prostitution, indecent exposure and other lewd and lascivious behavior;

(2) Property values which are either diminished or fail to appreciate at the rate of other comparable properties not located in proximity to sexually oriented businesses;

(3) Increased transiency and decreased stability of ownership;

(4) Deteriorated neighborhood appearance from litter and graffiti;

(5) Sex-related harassment of residents and customers by motorists and pedestrians;

(6) A perception that the area is Aunsafe@; and

(7) Difficulty in attracting and retaining customers, employees, and desirable tenants.

(C) The adverse impacts which sexually oriented businesses have on surrounding areas diminish as the distance from the sexually oriented business increases.

(D) The adverse impacts of sexually oriented businesses are exacerbated when the uses are located near each other.

(E) The presence of liquor establishments in the immediate vicinity of sexually oriented businesses also compounds the adverse impacts on the neighborhood.

(F) Sexually oriented businesses can exert a dehumanizing influence on persons attending places of worship, children attending day care centers or schools, and people using public parks and libraries.

(G) Sexually oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the character and quality of the residential housing in the area where they are located, thereby exacerbating the shortage of affordable and habitable housing for city residents.

(H) The concentration of sexually oriented businesses in one area can have a substantially detrimental effect on that area and on the overall quality of urban life. A cycle of decay can result from the influx and concentration of sexually oriented businesses. The presence of such businesses is perceived by others as an indication that the area is deteriorating and the result can be devastating: other businesses move out of the vicinity and residents flee from the area. The resulting decline in real estate values erodes the city's tax base and contributes to overall urban blight.

(I) Land-use regulations are appropriate to minimize the detrimental effects that sexually oriented businesses have on adjacent land uses.

' 153.03 DEFINITIONS.

The following words and terms shall have the following meanings when used in this section, except as provided otherwise in ' 153.04:

SEXUALLY ORIENTED BUSINESS. Shall include the following:

(1) A business that meets any of the following criteria, measured on a daily, weekly, monthly, or yearly basis:

(a) Has more than 25% of its inventory, stock-in-trade, or publicly displayed merchandise in sexually oriented materials;

(b) Devotes more than 25% of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to sexually oriented materials; or

(c) Derives more than 25% of its gross revenues from sexually oriented materials; or

(2) A business that engages for any length of time in a sexually oriented use as defined in this section, or any other use that has an emphasis on specified sexual activities or specified anatomical areas.

SEXUALLY-ORIENTED MATERIALS. Visual, printed, or aural materials, and other objects or devices, which:

(1) Contain, depict, simulate, or describe specified sexual activities or specified anatomical areas;

(2) Are marketed for use in conjunction with, or are primarily used only with or during, specified sexual activities; or

(3) Are designed for sexual stimulation.

SEXUALLY-ORIENTED USE. Includes any of the following activities and businesses, even if the activity exists for only a short-time:

(1) ***ADULT BODY PAINTING STUDIO.*** An establishment or business that provides the service of applying paint, ink or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.

(2) ***ADULT BOOKSTORE.*** An establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape, movies, or motion picture film if it meets the criteria established in the definition of Asexually oriented business,@ as defined in this section.

(3) ***ADULT CABARET.*** A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on:

(a) The depiction of nudity, specified sexual activities or specified anatomical areas; or

(b) The presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

(4) ***ADULT COMPANIONSHIP ESTABLISHMENT.*** A business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(5) ***ADULT CONVERSATION/RAP PARLOR.*** A business or establishment that provides the services of engaging in or listening to conversation, talk or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(6) ***ADULT HEALTH/SPORT CLUB.*** A health/sport club that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(7) ***ADULT HOTEL OR MOTEL.*** A hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(8) ***MASSAGE PARLOR/HEALTH CLUB.*** A massage parlor or health club that provides massage services distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(9) ***ADULT MINI-MOTION PICTURE THEATER.*** A business or establishment with a capacity of less than 50 persons that as a prevailing practice presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(10) ***ADULT MODELING STUDIO.*** A business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted.

(11) ***ADULT MOTION PICTURE ARCADE.*** Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

(12) ***ADULT MOTION PICTURE THEATER.*** A motion picture theater with a capacity of 50 or more persons that as a prevailing practice presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.

(13) ***ADULT NOVELTY BUSINESS.*** An establishment or business that has a variety of items for sale if it meets the criteria established in the definition of Asexually oriented business,@ as defined in this section.

(14) ***ADULT SAUNA.*** A sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(15) ***ADULT STEAM ROOM/BATHHOUSE FACILITY.*** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

SPECIFIED ANATOMICAL AREAS. Shall include the following:

(1) Less than completely and opaquely covered human genitals, pubic area, buttock, anus, or female breast below a point immediately above the top of the areola; and

(2) Human male genitals in a state of sexual arousal, whether or not completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Shall include the following:

(1) Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context of a sexual relationship; anilingus; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia; piquerism or zooerastia;

(2) Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;

(3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;

(4) Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts;

(5) Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding or other physical restraint of any person;

(6) Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or

(7) Human excretion, urination, menstruation, or vaginal or anal irrigation.

' 153.04 EXCEPTIONS.

This section does not regulate the following:

(A) Any material with significant literary content or social commentary;

(B) A business where sexually oriented materials are sold, bartered, distributed, leased, furnished, or otherwise provided for off-site use or entertainment, if (1) the sexually oriented material on each item is blocked from view by an opaque cover as required under M.S. ' 617.293, and (2) each item is in an area accessible only by an employee of the business;

(C) Any person or organization exempted under M.S. ' 617.295;

(D) Any activity regulated under M.S. ' 617.202;

(E) Displaying works of art showing specified anatomical areas, so long as no sexually oriented materials are for sale and the business does not have a liquor license; and

(F) Movies rated G, PG, PG-13, NC-17 or R.

' 153.05 LOCATION OF SEXUALLY ORIENTED BUSINESSES.

(A) A sexually-oriented business may locate only in the C-2 and I zones.

(B) No person may operate a sexually oriented business on property, any part of which is within the area circumscribed by a circle that has a radius of 250 feet from any of the uses listed below. Distances must be measured by following a straight line, without regard to intervening structures or objects, between the closest points on the boundary lines of the property parcels where the two uses are located. This distance requirement applies to the following uses:

(1) Property used or zoned for residential uses;

(2) A day care facility, school, library, park, playground, state or federal wildlife area or preserve, religious institution or other public recreational facility;

(3) Premises licensed under city code Chapter 112, Liquor Regulations; and

(4) Another sexually-oriented business.

Cross-reference:

Sexually Oriented Businesses, Ch. 119

' 153.06 SIGN RESTRICTIONS FOR SEXUALLY ORIENTED BUSINESSES.

In order to protect children from exposure to lurid signs and materials, to avoid the appearance that the windows are boarded up and that the property is deteriorating, and to preserve the value of property surrounding sexually oriented businesses, the following sign regulations apply to all sexually oriented businesses.

(A) All signs must be flat wall signs. No signs may be freestanding, located on the roof or contain any flashing lights, moving elements or electronically or mechanically changing messages.

(B) No merchandise, photos or pictures of the products or entertainment on the premises may be displayed in or immediately behind window areas or any other area, if they can be viewed from outside the portion of the building in which the business is located.

(C) Window areas must not be covered or made opaque in any way. No signs may be placed in a window. A sign no larger than one square foot must be placed on the main entrance door and must state, Aadults only.@ The letters of this message must be a minimum of two inches high. The only other information on this sign may be the hours of operation.

Cross-reference:

Sexually Oriented Businesses, Ch. 119

' 153.99 PENALTY.

A violation of this section is a misdemeanor under Minnesota law and is subject to the penalties and provisions of ' 10.99