



**LE SUEUR PLANNING COMMISSION**

City Council Chambers  
203 South Second Street

**SPECIAL MEETING AGENDA**

Thursday, February 28, 2019  
6 P.M.

1. Call to Order
2. Approval of Special Meeting Agenda
3. Zoning Code Review
4. Adjournment until March 14, 2019

## SECTION 1 - GENERAL PROVISIONS & ADMINISTRATION

### General Provisions

- 153.001 Title
- 153.002 Purpose
- 153.003 Policy
- 153.004 Interpretation; conflicts; severability
- 153.005 Effect of private agreements
- 153.006 Compliance required
- 153.007 Uses not provided for
- 153.008 Authority for provisions
- 153.009 Application of this Chapter
- 153.010 Definitions
- 153.011 Existing Lots
- 153.012 Nonconformities

### Administration

- 153.020 General Administration
- 153.021 Appeals
- 153.022 Amendments
- 153.023 Conditional Use Permits
- 153.024 Interim Use Permits
- 153.025 Variances
- 153.026 Building Permits & Site Plan Review
- 153.027 Planned Unit Developments

## **GENERAL PROVISIONS**

### **§ 153.001 TITLE.**

Except where otherwise provided, this chapter shall be known as the “Le Sueur Zoning Ordinance” except as referred to herein, where it shall be known as “this chapter.”

### **§ 153.002 PURPOSES FOR ADOPTING CHAPTER.**

This chapter is adopted for the purpose of:

- (A) Protecting the public health, safety, comfort, convenience and general welfare;
- (B) Promoting orderly development of the residential, commercial, industrial, recreational and public areas;
- (C) Conserving the natural scenic beauty and attractiveness of the city;
- (D) Conserving and developing natural resources in the city;
- (E) Providing for the compatibility of different land uses and the most appropriate use of land throughout the city; and
- (G) Minimizing environmental pollution.

### **§ 153.003 POLICY.**

It is the policy of the city that the enforcement, amendment, and administration of this chapter be accomplished with due consideration of the recommendations contained in the Comprehensive Plan as developed and amended from time-to-time by the City Council of the city. The Council recognizes the Comprehensive Plan as the policy guide responsible for regulation of land use and development in accordance with the policies and purpose herein set forth.

### **§ 153.004 INTERPRETATION; CONFLICTS.**

In interpreting and applying the provisions of this chapter, they shall be held to the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare. Where the provisions of this chapter impose greater restrictions than those of any other ordinance, code provision, or regulation, the provisions of this chapter shall be controlling. Where the provisions of any statute, other ordinance, code provision, or regulation impose greater restrictions than this chapter, the provisions of such statute, other ordinance, code provision, or regulation shall be controlling.

### **§ 153.005 EFFECT ON PRIVATE AGREEMENTS.**

This chapter is not intended to abrogate any easement, covenant, or any other private agreement provided that where the regulations of this chapter are more restrictive or impose higher standards or requirements on such easements, covenants, or other private agreements, the requirements of this chapter shall govern.

### **§ 155.006 COMPLIANCE REQUIRED.**

No structure shall be located, erected, constructed, reconstructed, moved, converted, or enlarged, nor shall any structure or land be used or be designed to be used, except in full compliance with all the provisions of this chapter and after the lawful issuance of all permits and certificates required by this chapter.

#### **§ 153.007 USES NOT PROVIDED FOR.**

Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such case, the City Council, on its own initiative or upon request, may conduct a study to determine if the use is acceptable and, if so, what zoning district would be most appropriate, and determine the conditions and standards relating to development of the use. The City Council or property owner, upon receipt of the staff study, shall, if appropriate, initiate an amendment to this chapter to provide for the particular use under consideration or shall find that the use is not compatible for development within the city.

#### **§ 153.008 AUTHORITY FOR PROVISIONS.**

This chapter is enacted pursuant to the authority granted by the Municipal Planning Act, M.S. §§ 462.351 through 462.363.

#### **§ 153.009 APPLICATION OF THIS CHAPTER.**

This chapter shall be applicable to all lands and waters within the corporate limits of the city and/or any other lands so given the authority.

#### **§ 153.010 DEFINITIONS.**

#### **§ 153.011 EXISTING LOTS.**

A lot or parcel of land in a residential district which was of record as a separate lot or parcel in the office of the County Recorder or Registrar of Titles, on or before the date of adoption of this chapter may be used for lawful purposes according to the applicable zoning district and regulations, provided all applicable performance standards can be met. However, no such lot may be further reduced in size in a way that would have the effect of increasing the non-conformity of any aspect of the lot or of the use of said lot.

#### **§ 153.012 NONCONFORMING USES.**

Except as set forth in § 153.046, any structure or use existing on the effective date of the adoption of this chapter may be continued subject to the following provisions.

(A) No use or structure shall be expanded or enlarged except in conformity with the provisions of this chapter.

(B) A nonconforming use of a structure which has been discontinued for a period of 12 months or more as determined by the Zoning Administrator shall not be continued or reestablished, and any further use shall be in conformity with the provisions of this chapter.

(C) Except as otherwise provided by law, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

(1) the nonconformity or occupancy is discontinued for a period of more than one year; or

(2) any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a

municipality may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body.

(b) Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. A municipality may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This subdivision does not prohibit a municipality from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.

(c) Notwithstanding paragraph (a), a municipality shall 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 to flood flows in the floodway.

## ADMINISTRATION

### § 153.020 GENERAL ADMINISTRATION.

A. - Development application procedures. Certain applications of this Ordinance require study and action by the City Council, the Planning Commission, City staff, the applicant, and various experts, in varying combinations dependent upon the nature of the non-standard use or proposed use or change. These include proposed conditional use permits, variances, site plan reviews, Zoning Ordinance text or map amendments, and appeals on zoning questions.

B. - Decision process. The City Council, acting as the Board of Adjustment and Appeals under Minnesota Statutes 462.357(6), 462.359(4), and 15.99, shall make the decisions within the legislative and executive framework of the City on applicable development applications.

C. - Application procedure. An application for a Zoning Ordinance text or map amendment, conditional use permit, interim use permit, variance, and/or site plan review shall be processed in accordance with the following procedure:

1. *Timeline.* Pursuant to Minnesota Statutes 15.99, an application for an amendment shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended by the City pursuant to statute or a time waiver is granted by the applicant.
2. *Application.* Applications shall be filed with the Zoning Administrator on an official application form of the City, accompanied by a fee as established by City Council resolution. The application shall also be accompanied by detailed written and graphic materials fully explaining the proposed change, development, or use. The number of copies to be provided and any additional data shall be determined by the Zoning Administrator. Applications shall be complete before they are accepted. A complete application shall include the following information:
  - a. A City application form(s) relating to the request signed by all persons with an interest in the subject property affected by the request. A copy of an Owner's Duplicate Certificate of Title or other approved documentation of interest shall also be submitted with the signed application form(s).
  - b. All supporting information required by this Ordinance and/or outlined in \_\_\_\_\_ of this Ordinance and application documents included with the City application forms.
  - c. Payment of all fees associated with the applicable application(s). Applicants shall be responsible for all costs incurred by the City and/or employed consultants. Expenses shall be charged against the required escrow accounts in accordance with this chapter.
  - d. A pre-application meeting shall be required by City staff at which the appropriate application procedures, requirements and applicable provisions relating to the request will be reviewed and explained.
  - e. An application will be deemed complete unless the applicant receives written notice within fifteen (15) business days exclusive of Saturdays, Sundays and legal holidays of its submission indicating it is not complete and indicating what information is missing. This notice shall be considered given by its deposit in the U.S. Mail, first class postage prepaid, addressed to any listed applicant at the address given on the application form. In the event the applicant fails to provide an address on the application form, this notice requirement for incomplete applications shall be deemed waived by the applicant.

3. *Additional Data.* The City Council, Planning Commission, and City staff may request additional information from the applicant concerning the application or may retain expert opinions at the expense of the City, or may require as a condition of proceeding with its consideration of any matter, that the applicant furnish expert opinion and data at the expense of the application.
4. *Technical Reports.* The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where applicable, and provide general assistance in preparing a recommendation on the action to the Planning Commission and City Council. The technical reports are to be entered in and made part of the record of the Planning Commission and forwarded to the City Council.
5. *Notice of Hearing.* For applications involving zoning amendments, conditional use permits, and variances, the Zoning Administrator shall set a date for a public hearing. Notice of such hearing shall consist of a legal property description, a general description of the property location, and a description of the request to be published in the official newspaper at least ten (10) days prior to the hearing. Written notices shall be mailed not less than ten (10) days nor more than thirty (30) days prior to the hearing to all owners of property, according to the records available to the City within three hundred fifty (350) feet of each parcel included in the request.
6. *Notice Not Received.* Failure of the City to send, or a property owner to receive notice shall not invalidate any proceedings under this Ordinance, provided that a bona fide attempt has been made to comply with the requirements of this Ordinance.
7. *Hearing.* After receipt of the report of the Zoning Administrator, the Planning Commission shall conduct the public hearing and consider the application.
8. *Presentation of Application.* The applicant or a representative of the applicant shall appear before the Planning Commission in order to present the case for the application and to answer questions concerning the request. Failure of the proponent to appear at either the Planning Commission or City Council, consideration of the matter may constitute grounds for rejection of the application. The Planning Commission and the City Council may each require sworn testimony and a verified transcription of the proceedings at the expense of the City. The applicant shall have the same privilege of presenting sworn testimony and may provide for a transcript of the proceedings at the expense of the applicant.
9. *Recommendations of Planning Commission.* The Planning Commission shall recommend such actions or conditions relating to the application as deemed necessary or desirable to carry out the intent and purpose of this Ordinance and the Comprehensive Plan. Such recommendation shall be either in the minutes or by written resolution and forwarded to the City Council.
10. *Record Before City Council.* The Zoning Administrator shall place the report and recommendation of the Planning Commission and the City staff on the agenda for the next regular City Council meeting after Planning Commission action, or the expiration of sixty (60) days after the first consideration by the Commission, whichever is earlier, subject to the limitations of Minnesota Statutes 15.99. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.
11. *City Council Review.* Subject to the limitations of Minnesota Statutes 15.99, the City Council shall act upon an application after it has received the report and recommendation from the Planning Commission. If, upon receiving the reports and recommendations of the Planning Commission and Zoning Administrator, the City Council desires further consideration, or finds that inconsistencies exist in the review process, data submitted or recommended action, the City Council may, before taking final action, refer the matter back to the Planning Commission with a statement detailing the reasons for referral.

12. *City Council action.* Upon receiving the request and any report and recommendations of the Planning Commission and the city staff, the City Council shall have the option to set and hold a public hearing if deemed necessary and shall make recorded findings of fact.
  - (a) The City Council may adopt and amend a zoning ordinance by a majority vote of all its members. The adoption or amendment of any portion of a zoning ordinance 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 the City Council.
  - (b) In the case of a conditional use permit, the Council may impose any condition it considers necessary to protect the public health, safety, and welfare.
  - (c) In the case of an amendment, the amendment shall not become effective until such time as the City Council approves an ordinance or code provision reflecting the amendment and after the ordinance or code provision is published in the official newspaper.
13. *Notice to Applicant.* The Zoning Administrator shall notify the applicant of the decision of the City Council in writing, including any relevant resolution and findings which may have been passed by the City Council.
14. *Filing of Notice of Action.* A certified copy of any Zoning Ordinance amendment, conditional use permit, interim use permit, or variance authorized shall be filed with the Le Sueur County Recorder.
15. *Reconsideration.* Whenever an application for an amendment or conditional use permit has been considered and denied by the City Council, a similar application for the amendment or conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or City Council for an additional six months from the date of the second denial unless a decision to reconsider such matter is made by not less than four-fifths vote of the full City Council..

D. - Expiration of zoning approvals.

1. Unless otherwise specified by the City Council at the time it is authorized, a conditional use permit, interim use permit, or variance shall be null and void and expire if the applicant fails to implement such approvals and fulfill each and every condition attached thereto within one (1) year from the date of its authorization unless a petition for an extension of time in which to implement the approved plans has been granted by the Zoning Administrator provided that:
  - a. The extension is requested in writing and filed with the City at least thirty (30) days prior to the expiration of the initial request.
  - b. The request for extension states facts demonstrating that a good faith attempt has been made to complete or utilize the use or activity permitted in the approval.
  - c. A maximum of one (1) administrative extension shall be granted.
  - d. The extension shall not exceed six (6) months from the initial expiration date.
  - e. There shall be no charge for the filing of a petition for an administrative extension.
2. Upon receiving a recommendation from the Planning Commission and City staff, the City Council may grant an extension of greater than six (6) months provided that:
  - a. The conditions described in Subsection 1 a through c above are satisfied.



- b. The extension shall not exceed one (1) additional year.
- c. The filing of a petition for extension is subject to fee requirements established by the City's fee schedule.

E. - Performance agreement. Upon approval of a conditional use permit, interim use permit, variance, permit with zoning requirements, or other such action authorized by this chapter, the City may require the applicant to enter into a performance agreement prior to the issuing of building permits or initiation of work on the proposed improvement or development. Said agreement shall guarantee conformance and compliance with the conditions of the approval and the codes of the City. The performance agreement shall be prepared and approved by the City Attorney and shall contain, but not be limited to, the following items and conditions:

1. *Performance Security.* The performance agreement shall require the applicant to provide financial security to assure compliance with the agreement and conditions of the approval. The security may be in the form of a surety bond, cash escrow, certificate of deposit, irrevocable letter of credit, securities or cash deposit. The security shall be in an amount determined by the City Engineer or Building Official under the direction of and approved by the Council, to cover estimated costs of labor and materials for the proposed improvements or development. The project can be handled in stages with prior approval of the City.
2. *Security Release.* The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the application approval and Building Code of the City has been issued by the City Building Official.
3. *Security Forfeiture.* Failure to comply with the conditions of the application approval and/or the ordinances of the City shall result in forfeiture of the security.
4. *Hold Harmless and Indemnification of City.* The applicant shall agree to indemnify and hold harmless the City and its agents and employees against any and all claims, demands, losses, damages and expenses (including attorney fees) arising out of or resulting from the applicant's negligent or intentional acts, violation of any safety law, and regulation or any code in the performance of this agreement, without regard to any inspection or review made or not made by the City, its agents or employees or failure to take any other prudent precaution. In the event any City employee, agent or representative shall come under the direct or indirect control of the applicant, or the City, upon failure of the applicant to comply with any conditions of the approval, performs said conditions pursuant to the bond, the applicant shall indemnify and hold harmless the City, its employees, agents and representatives for its own negligent or intentional acts in the performance of the applicant's required work under the permit.
5. *Fees.* The applicant shall agree to pay any and all attorney and consultant fees incurred by the City to enforce the terms and conditions of any application approval or provisions of any performance agreement relating to said permits.

F. - Cost recovery.

1. *Purpose.* The costs of the City for receiving, analyzing, processing, hearing and final process for requests of changes, modification, or special consideration under this chapter, such as requests for amendments (map or text), site and building plan reviews, conditional use permits, interim use permits, and variances are considered to be unique to the applicant requesting such consideration, and it is the intent of this section to provide that all costs of the City occasioned by such requests shall be borne by the applicant. The reimbursement to the City shall be limited to actual costs of the City. Actual costs shall include all engineering, legal, planning, or other consultant fees or costs paid by the City for other consultants for expert review of a development application.

2. *Base Zoning Fee.* Each applicant shall pay a non-refundable base zoning fee at the time an application is presented to the City for a zoning change of any nature, site and building plan review, a conditional use, an interim use, or a variance. This fee is intended to reimburse the City for its costs for administrative processing a development application. If this fee proves to be insufficient to cover such costs, such additional costs will be charged as a part of the zoning deposit, or the supplemental zoning deposit.
3. *Escrow Deposit.* In addition to the non-refundable base zoning fee, each applicant shall pay an escrow deposit in an amount established by City Council on the fee schedule at the time of application. All actual costs including, but not limited to, planning, engineering, legal, or other consultant fees or costs, incurred by the City in the processing of the application shall be paid from or reimbursed to the City, from the escrow deposit. Actual costs not fully paid or reimbursed from the base zoning fee shall be paid or reimbursed from this escrow or supplemental deposit.
4. *Supplemental Deposit.* At any time while the application is pending and before its final conclusion, if the Zoning Administrator determines that the amount of the escrow deposit is or is estimated to be insufficient to pay for present or anticipated actual costs of the application, a supplementary deposit shall be required by the Zoning Administrator to be paid by the applicant. The one (1) or more supplemental deposits shall be in an amount sufficient to pay all actual costs of the City.
5. *Refunds—Administrative Costs.* The base zoning fee, intended to cover administrative costs, is non-refundable.
6. *Refunds—Direct Costs.* If the direct costs of the City in processing the application are less than the amount of the escrow deposit and any supplemental deposit, any such unexpended amount shall be refunded to the applicant upon the conclusion of the proceedings, and any such costs in excess of the supplemental deposits on hand with the City shall be paid by the applicant prior to completion of the proceedings by the City.

#### **§ 153.021 APPEALS AND THE BOARD OF ZONING ADJUSTMENTS.**

The City Council, serving as the Board of Appeals and Adjustments, shall, after receiving the written report of the Zoning Administrator, make findings of fact and make a decision on appeals where it is alleged by the appellant that error has occurred in any order, interpretation requirement, decision or determination made by any administrative office or the Zoning Administrator in the enforcement of this Ordinance. However, said appeal shall be filed not later than sixty (60) days after the applicant has received a written order from the City or the appeal shall be void.

#### **§ 153.022 AMENDMENTS.**

A. - Initiation. The City Council, Planning Commission, or City Administrator may initiate a request to amend the text or the district boundaries of this Ordinance. The procedural requirements of this section shall not apply to such proposed amendments except to the extent required by State Statute. Any person owning real estate within the City may initiate a request to amend the district boundaries or text of this Ordinance so as to affect the said real estate. Any resident of the City may initiate a request to amend the text of this Ordinance.

B. - Procedure. Application for an amendment of this Ordinance (text or map) requires a public hearing and is to be processed in accordance with the procedures set forth in Section 153.020 of this chapter.

C. - Criteria. The Planning Commission shall consider possible effects of the proposed amendment. Its judgment shall be based upon, but not limited to, the following factors:

1. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the City's Comprehensive Plan.
2. The proposed use is or will be compatible with present and future land uses of the area.
3. The proposed use conforms with all performance standards contained in this Ordinance.
4. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
5. Traffic generation by the proposed use is within capabilities of streets serving the property.

D. - Effectuation. Approval of an amendment of this Ordinance (text or map) shall become effective upon its passage and publication.

### **§ 153.023 CONDITIONAL USE PERMITS**

A. - Purpose. The purpose of a conditional use permit is to provide the City with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. A conditional use is a use which because of certain characteristics cannot be properly classified as a permitted use in the zoning district within which it is proposed. Conditional use permits are designed to meet the problem which arises where certain uses, although generally compatible with the basic use classification of a particular zone, should not be permitted to be located as a matter of right in every area included within the zone because of hazards inherent in the use itself or special problems which its proposed location may present. In making this determination, whether or not the conditional use is to be allowed, the City may consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises, or on any adjoining streets, and all other or further factors as the City shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.

B. - Procedure. An application for a conditional use permit requires a public hearing and is to be processed in accordance with the procedures outlined in Section 150.20 of this chapter.

C. Application requirements. The information required for all conditional use permit applications generally consists of the following items, and shall be submitted when requested by the city:

(a) *Site development plan.* A site development plan, which shall include:

1. The location of all buildings on lots, including both existing and proposed structures;
2. The location of all adjacent buildings located within 200 feet of the exterior boundaries of the property in question;
3. The location and number of existing and proposed parking spaces;
4. Vehicular circulation;
5. Architectural elevations (type and materials used in all external surfaces);
6. The location and candle power of all luminaries;
7. Curb cuts, driveways, and number of parking spaces.

(b) *Dimension plan.* A dimension plan, which shall include:

1. Lot dimensions and area;
  2. Dimensions of proposed and existing structures;
  3. A “typical” floor plan and a “typical” room plan;
  4. Setbacks of all buildings located on the property in question;
  5. Proposed setbacks;
  6. A sanitary sewer and water plan with estimated use per day.
- (c) *Grading plan.* A grading plan, which shall include:
1. Existing contours;
  2. Proposed grading elevations;
  3. Drainage configurations;
  4. Storm sewer catch basins and invert elevations;
  5. Spot elevations;
  6. A proposed road profile.
- (d) *Landscape plan.* A landscape plan, which shall include:
1. The location of all existing trees, their type and diameter, and which trees will be removed;
  2. The location, type, and diameter of all proposed plantings;
  3. The location of and material used for all screening devices.
- (e) A legal description of the property under consideration.
- (f) Proof of ownership of the land for which a conditional use permit is requested.

D. - Criteria. The Planning Commission and City Council shall consider possible effects of the proposed conditional use. Its judgment shall be based upon, but not limited to, the following factors:

1. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the Official City Comprehensive Plan.
2. The proposed use is or will be compatible with present and future land uses of the area.
3. The proposed use conforms with all performance standards contained in this Ordinance.
4. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
5. Traffic generation by the proposed use is within capabilities of streets serving the property.

E. Additional Conditions. In permitting a new conditional use or in the event of the modification of an existing conditional use, the City Council may impose, in addition to the standards and requirements expressly specified by this chapter, additional conditions which the City Council considers necessary in

its sole discretion to protect the best interests of people in the surrounding area and the community as a whole. These conditions may include, but are not limited to, the following:

- (1) Increasing the required lot size or yard distance;
- (2) Limiting the height, size and location of buildings;
- (3) Controlling the location and number of vehicle access points;
- (4) Increasing the street widths;
- (5) Increasing the number of required off-street parking spaces as required by this chapter;
- (6) Requiring storm water management, fencing, screening, landscaping or other facilities to protect adjacent or nearby property;
- (7) Designating sites for open space or recreational purposes; and
- (9) Allowing the Planning Commission or the City Council to review the conditional use permit at any time and to modify, amend, cancel or revoke the conditional use permit if there is noncompliance with the conditions set forth in the conditional use permit.

F. - Revocation. The Planning Commission may recommend, and the City Council may direct, the revocation of any conditional use permit for cause upon determination that the authorized conditional use is not in conformance with the conditions of the permit or is in continued violation of this Ordinance, City codes, or other applicable regulations. The City Council or Planning Commission shall initiate an application and the Zoning Administrator shall notify the responsible person that they have an opportunity to show cause why the permit should not be revoked. The revocation shall be processed and considered pursuant to Section 150.20 Subsection C of this chapter. The Zoning Administrator shall provide the responsible person a copy of the proceedings and findings of the Planning Commission and City Council.

G. - Permit modifications. Conditional Use Permits must be maintained consistent with the terms of their approval. Modifications and amendments shall be processed and reviewed consistent with the terms of this Chapter.

H. - Abandonment. In the event the conditional use is discontinued, the permit shall lapse by non-use one (1) year after notice from the City.

#### **§ 153.024 INTERIM USE PERMITS.**

A. - Purpose. The purpose and intent of allowing interim uses is:

1. To allow a use for a temporary period of time until a permanent location is obtained or while the permanent location is under construction.
2. To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.

3. To allow a use which is reflective of anticipated long-range change to an area and which is in compliance with the Comprehensive Plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.

B. - Application, submission requirements, and procedure. The application, public hearing, public notice, and procedure requirements for an interim use permit shall be the same as those for a conditional use permit as provided in this chapter.

C. - Criteria. The Planning Commission and City Council shall consider possible effects of the proposed interim use. Its judgment shall be based upon, but not limited to, the factors outlined in Section 150.23 of this chapter.

D. - General performance standards. As may be applicable, the evaluation of any proposed interim use permit request shall be subject to and include, but not be limited to, the general performance standards and criteria outlined in this chapter, and:

1. The date or event that will terminate the use can be identified with certainty.
2. The use will not impose additional unreasonable costs on the public.
3. The user agrees, in writing, to any conditions that the City Council deems appropriate for permission of the use, including the specified termination date or event.
4. The use is specifically allowed as an interim use in the respective zoning district.

E. - Termination. An interim use shall terminate on the happening of any of the following events, whichever occurs first:

1. The date or event stated in the permit.
2. Upon violation of conditions under which the permit was issued.
3. The property is redeveloped to a permitted or conditional use allowed in the respective zoning district.

F. - Abandonment. In the event the interim use is discontinued, the permit shall lapse by non-use one (1) year after notice from the City.

### **§ 153.025 VARIANCES.**

A. - Purpose. The purpose of a variance is to provide for deviations from the literal provisions of this Ordinance in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of this Ordinance.

B. - Procedures.

An application for variance from the provisions of this Ordinance requires a public hearing and is to be processed in accordance with the procedures set forth in Section 153.020 of this Ordinance.

C. - Board of Adjustment and Appeals. The City Council shall act as the Board of Adjustment and Appeals.

D. - Criteria. The Board of Adjustment and Appeals shall not approve any variance request unless they find all of the following criteria have been met:

1. A variance shall only be granted when it is in harmony with the general purposes and intent of the ordinance.
2. A variance shall only be granted when it is consistent with the comprehensive plan.
3. A variance may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. Economic considerations alone do not constitute a practical difficulty. In order for a practical difficulty to be established, all of the following criteria shall be met:
  - a. The property owner proposes to use the property in a reasonable manner. In determining if the property owner proposes to use the property in a reasonable manner, the board shall consider, among other factors, whether the variance requested is the minimum variance which would alleviate the practical difficulty and whether the variance confers upon the applicant any special privileges that are denied to the owners of other lands, structures, or buildings in the same district.
  - b. The plight of the landowner is due to circumstances unique to the property not created by the landowner.
  - c. That the granting of the variance will not alter the essential character of the neighborhood in which the parcel of land is located.
4. The variance does not involve a use that is not allowed within the respective zoning district.

E. - Conditions. The Board of Adjustment and Appeals may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

F. Application requirements. In addition to any other requirements outlined in the City Code and this chapter, site and construction plans shall be required and shall be submitted to and subject to approval by the Building Official prior to the issuance of any building permit. At a minimum, site and building plans and information requirements shall consist of the following:

The applicant shall file with the Zoning Administrator a completed application form which shall contain all necessary exhibits including, but not limited to:

- (a) Site development plan. A site development plan, which shall include:
  1. A certified survey of the property in question.
  2. The location *and design* of all buildings on lots, including both existing and proposed structures;
  3. The location of all adjacent buildings located within 200 feet of the exterior boundaries of the property in question;
  4. The location and number of existing and proposed parking spaces;
  5. Vehicular circulation;
  6. Architectural elevations (type and materials used in all external surfaces);
  7. *Photometric plan, including* The location and candle power of all luminaries;
  8. Curb cuts, driveways, and number of parking spaces.
- (b) Dimension plan. A dimension plan, which shall include:
  1. Lot dimensions and area;
  2. Dimensions of proposed and existing structures;
  3. A “typical” floor plan and a “typical” room plan;

4. Setbacks of all buildings located on the property.
  5. Proposed setbacks;
  6. A sanitary sewer and water plan with estimated use per day.
- (c) Grading plan. A grading plan, which shall include:
1. Existing contours;
  2. Proposed grading elevations;
  3. Drainage configurations;
  4. Storm sewer catch basins and invert elevations;
  5. Spot elevations;
  6. A proposed road profile.
- (d) Landscape plan. A landscape plan, which shall include:
1. The location of all existing trees, their type and diameter, and which trees will be removed;
  2. The location, type, and diameter of all proposed plantings;
  3. The location of and material used for all screening devices.

### **§ 153.026 BUILDING PERMITS & SITE PLAN REVIEW.**

*A. Purpose.* The purpose of this section is to establish a formal plan review procedure and provide regulations pertaining to the enforcement of site design and construction standards as agreed to by the contractor through officially submitted plan documents.

*B.* No person, firm or corporation shall erect, construct, enlarge, alter, repair, move, improve, convert or demolish any building or structure in the city, or cause the same to be done without first obtaining a separate zoning permit and building permit for each building or structure from the Zoning Administrator and Building Inspector respectively.

*C.* Building permits shall be issued by the Building Inspector in accordance with the state statutes.

*D. Plan required.* In addition to other plan requirements outlined in the City Code and this chapter, site and construction plans shall be required and shall be submitted to and subject to approval by the Zoning Administrator and Building Official prior to the issuance of any building permit. At a minimum, site and building plans and information requirements shall consist of the following:

- (1) Scalable site development plan, which shall include:
  - (a) Location of all buildings on lots including both existing and proposed structures.
  - (b) Location of all adjacent buildings located within 200 feet of the exterior boundaries of the property in question.
  - (c) Location and number of existing and proposed parking spaces.
  - (d) Curb cuts, driveways and vehicular circulation.
  - (e) Architectural elevations (type and materials used in all external surfaces).
  - (f) Location of all illuminaries.
  - (g) Landscaping plan.



(2) Legal description of property under consideration.

(3) Proof of ownership of the subject site.

E. **Administrative Review.** All site and building plan reviews may be administrative at the discretion of the Zoning Administrator.

F. **Planning Commission and City Council action.** All building and site plans for construction, expansion, alteration, or change in the use of multiple family, commercial, or industrial construction or use may be reviewed by the Planning Commission and/or the City Council, upon the request of the Zoning Administrator.

G. **Zoning Permits.** In cases where a building permit is not required by the state building code but zoning review is required by this chapter, a zoning permit is required. An application for a zoning permit shall be accompanied by the materials required by this subsection.

1. Persons requesting a zoning permit shall fill out a zoning permit application form available from the Zoning Administrator. In those cases where a contractor is used, the contractor shall obtain the zoning permit application form but the form must be signed by the property owners.

2. Completed zoning permit application forms and a fee, as established from time to time by city resolution, shall be submitted to the Zoning Administrator. If the proposed improvement conforms in all respects to this chapter and all other federal, state and local laws, statutes, rules and regulations as determined by the Zoning Administrator, a zoning permit shall be issued by the Zoning Administrator within 60 days.

H. **Plan agreements.** All site and construction plans officially submitted to the city shall be treated as a formal agreement between the building contractor and the city. Once approved, no changes, modifications or alterations shall be made to any plan detail, standards, or specifications without prior submission of a plan modification request to the Building Official for review and approval.

I. **Enforcement.** The Building Official shall have the authority to order the stopping of any and all site improvement activities, when and where a violation of the provisions of this section has been officially documented by the Zoning Administrator and/or Building Official.

#### **§ 153.027 PLANNED UNIT DEVELOPMENTS A. - Purpose.**

The Section is established to provide comprehensive procedures and standards to allow for the mixing of uses and flexibility from the general performance standards to allow for more innovative and efficient design for the development of neighborhoods or areas. The PUD process by allowing flexibility from the strict provisions of this Ordinance related to setbacks, heights, lot area, width, depth, yards, and other equivalent performance standards by rezoning to a PUD District (or as a conditional use when applicable) is intended to encourage:

1. Innovations in development to the end that the growing demands for all styles of economic expansion may be met by greater variety in type, design, and siting of structures and by the conservation and more efficient use of land in such developments.
2. Higher standards of site and building design through the use of trained and experienced land planners, architects and landscape architects.
3. More convenience in location and design of development and service facilities.

4. The preservation and enhancement of desirable site characteristics such as existing vegetation, natural topography and geologic features and the prevention of soil erosion.
5. A creative use of land and related physical development which allows a phased and orderly transition of land from activity to another.
6. An efficient use of land resulting in smaller networks of utilities and streets thereby lowering development costs and public investments.
7. A development pattern in harmony with the objectives of the Comprehensive Plan. (PUD is not intended as a means to vary applicable planning and zoning principals.)
8. A more desirable and creative environment than might be possible through the strict application on zoning and subdivision regulations of the City.
9. That the flexibilities granted through the PUD process for the development produce a clear and identified benefit to the City that would not have been achievable following the standard zoning procedure. B. - General requirements and standards.
  1. Ownership. An application for PUD must be filed by the landowner or jointly by all landowners of the property included in a project. The application and all submissions must be directed to the development of the property as a unified whole. In the case of multiple ownership, the approved final plan shall be binding on all owners.
  2. Comprehensive Plan Consistency. The proposed PUD shall be consistent with the City Comprehensive Plan.
  3. Compatibility. The proposed PUD shall be compatible with the adjacent land uses.
  4. Common Open Space. Common open space at least sufficient to meet the minimum requirements established in the Comprehensive Plan and such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of the residents/users of the PUD shall be provided within the area of the PUD development.
  5. Operating and Maintenance Requirements for PUD Common Open Space/Facilities. Whenever common open space or service facilities are provided within the PUD, the PUD Plan shall contain provisions to assure the continued operation and maintenance of such open space and service facilities to a pre-determined reasonable standard. Common open space and service facilities within a PUD may be placed under the ownership of one or more of the following, as approved by the City:
    - a. Dedicated to public, where a community-wide use is anticipated and the City agrees to accept the dedication.
    - b. Property owner control, where only use by tenants is anticipated.
    - c. Property Owners Association, provided all of the following conditions are met:
      - 1) Prior to the use or occupancy or sale or the execution of contracts for sale of an individual building unit, parcel, tracts or common area, a declaration of covenants, conditions and restrictions or an equivalent document or document such as specified by Laws 1963, Section 457, Section 11 and a set of floor plans such as specified by Laws 1963, Section 457, Section 13 shall be filed with the City, said filing with the City to be made prior to the filings of said declaration or document or floor plans with the recording officers of the County.
      - 2) The declaration of covenants, conditions and restrictions or equivalent document shall specify that deeds, leases or documents of conveyance affecting buildings, units, parcels,

tracts, townhouses or apartments shall subject said properties to the terms of said declaration.

- 3) The declaration of covenants, conditions and restrictions shall provide that an owner's association or corporation shall be formed and that all owners shall be members of said association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners proportionate shares of joint or common costs. This declaration shall be subject to the review and approval of the City Attorney. The intent of this requirement is to protect the property values of the individual owner through establishing private control.
  - 4) The declaration shall additionally, amongst other things, provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the City or fails to pay taxes or assessments on properties as they become due and in the event the City incurs any expenses in enforcing its rules and regulations, which said expenses are not immediately reimbursed by the association or corporation, then the City shall have the right to assess each property its prorate share of said expenses. Such assessments, together with interest thereon and costs of collection, shall be a lien on each property against which ease such assessment is made.
  - 5) Membership must be mandatory for each owner and all successors or assigns.
  - 6) The open space restrictions must be permanent and not for a given period of years.
  - 7) The Association must be responsible for liability insurance, local taxes, and the maintenance of the open space facilities to be deeded to it.
  - 8) Property owners must pay a prorate share of the cost of the Association by means of an assessment to be levied by the Association which meets the requirements for becoming a lien on the property in accordance with Minnesota Statutes.
  - 9) The Association must be able to adjust the assessment to meet changed needs.
  - 10) The by-laws and rules of the Association and all covenants and restrictions to be recorded must be approved by the City Council prior to the approval of the final PUD plan.
6. *Staging of Public and Common Open Space.* When a PUD provides for common or public open space, and is planned as a staged development over a period of time, the total area of common or public open space or land escrow security in any stage of development shall, at a minimum, bear the same relationship to the total open space to be provided in the entire PUD as the stages or units completed or under development bear to the entire PUD.
  7. *Density.* The maximum allowable density in a PUD zoning district shall be determined by standards negotiated and agreed upon between the applicant and the City. In all cases, the negotiated standards shall be consistent with the development policies as contained in the Comprehensive Plan. Whenever a PUD is to be developed in stages, no such stage shall, when averaged with all previously completed stages, have a residential density that exceeds one hundred (100) percent of the proposed residential density of the entire PUD. A PUD by conditional use permit must comply with the applicable base zoning district.
  8. *Utilities.* In any PUD, all utilities, including telephone, electricity, gas and cable shall be installed underground, unless approved specifically by the City Council.
  9. *Utility Connections.* The following requirements must be met with regards to utility connections.
    - a. *Water Connections.* Where more than one (1) property is served from the same service line, individual unit shut off valves shall be provided as required by the City.

- b. Sewer Connections. Where more than one (1) unit is served by a sanitary sewer lateral which exceeds three hundred (300) feet in length, provision must be made for a manhole to allow adequate cleaning and maintenance of the lateral. All maintenance and cleaning shall be the responsibility of the property owners association or owner.
10. *Roadways*. All streets shall conform to the design standards contained in the Subdivision Chapter of the City Code, unless otherwise approved by the City.
  11. *Landscaping*. In any PUD, landscaping shall be provided according to a plan approved by the City, which shall include a detailed planting list with sizes and species indicated as part of the final plan. In assessing the landscaping plan, the City shall consider the natural features of the particular site, the architectural characteristics of the proposed structures and the overall scheme of the PUD plan.
  12. *Urban Servicing Requirements*. All development shall be carefully phased so as to ensure that all developable land will be accorded a present vested right to develop at such time as services and facilities are available. Lands which have the necessary available municipal facilities and services may be granted approval in accordance with existing City Code provisions and development techniques.
  13. *Setbacks*. No residential garage facade shall be located less than 20 feet from the back of the curb line along those roadways that are part of an internal street pattern.

C. - Submission requirements. A minimum of five (5) large scale copies and thirteen (13) reduced scale (not less than 11" x 17") copies of the following exhibits, analysis and plans shall be submitted to the City during the PUD process, at the times specified in Sections \_\_\_\_ of this Chapter, as applicable. If, in the opinion of the Zoning Administrator, reduced scale drawings (11" x 17") are determined to be illegible, the submission of larger scale materials shall be required. The scale of such materials shall be the minimum necessary to ensure legibility.

1. *General Concept Stage*.

a. General Information:

- 1) The landowner's name and address and their interest in the subject property.
- 2) The applicant's name and address if different from the landowner.
- 3) The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, land planner, engineer, and surveyor.
- 4) Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or registered property report, and such other evidences as the City Attorney may require to show the status of title or control of the subject property.

b. Present Status:

- 1) The address and legal description of the subject property.
- 2) The existing zoning classification and present use of the subject property and all lands within one thousand (1,000) feet of the subject property.
- 3) A map depicting the existing development of the subject property and all land within one thousand (1,000) feet thereof and indicating the location of existing streets, property

lines, easements, water mains and storm and sanitary sewers, with invert elevations on and within one hundred (100) feet of the subject property.

- c. A written statement generally describing the proposed PUD and the market which it is intended to serve and its demand showing its relationship to the Comprehensive Plan and how the proposed PUD is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the City.
- d. Site Conditions. Graphic reproductions of the existing site conditions at a scale of one hundred (100) feet. All of the graphics should be the same scale as the final plan to allow easy cross reference. The use of overlays is recommended for clear reference.
  - 1) Contours—minimum one-half (½) foot intervals.
  - 2) Location, type and extent of tree cover.
  - 3) Slope analysis.
  - 4) Location and extent of water bodies, wetlands and streams and floodplains within three hundred (300) feet of the subject property.
  - 5) Significant rock outcroppings.
  - 6) Existing drainage patterns.
  - 7) Vistas and significant views.
  - 8) Soil conditions as they affect development.
- e. Schematic drawing of the proposed development concept including but not limited to the general location of major circulation elements, public and common open space, and internal and surrounding land uses.
- f. Schematic drawing of resubdivision plans for the proposed development, if any, in the event of sanitary sewer availability.
- g. A statement of the estimated density/intensity of use proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:
  - 1) Area devoted to uses.
  - 2) Area devoted to use by building type.
  - 3) Area devoted to common open space.
  - 4) Area devoted to public open space.
  - 5) Approximate area devoted to streets.
  - 6) Approximate area devoted to, and number of, off-street parking and loading spaces and related access.
- h. When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit and the proportion of the total PUD public or common open space and dwelling units to be provided or constructed during each such stage, and the overall chronology of development to be followed from stage to stage.

- i. When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities.
  - j. General intents of any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.
  - k. Schematic utilities plans indicating placement of water, sanitary and storm sewers.
  - l. The Zoning Administrator may excuse an applicant from submitting any specific item of information or document required in this stage, which is determined to be unnecessary to the consideration of the specific proposal for PUD approval.
  - m. The Zoning Administrator may require the submission of any additional information or documentation which is determined to be necessary or appropriate for full consideration of the proposed PUD or any aspect or stage thereof.
2. *Development Stage.* Development stage submissions should depict and outline the proposed implementation of the general concept stage for the PUD. Information from the general concept stage may be included for background and to provide a basis for the submitted plan. The development stage submissions shall include but not be limited to:
- a. Zoning classification required for development stage submission and any other public decisions necessary for implementation of the proposed plan.
  - b. Five (5) sets of preliminary plans, drawn to a scale of not less than one inch equals one hundred (100) feet or scale requested by the City and thirteen (13) reduced scale (not less than 11" x 17") copies containing at least the information specified in this section. If, in the opinion of the Zoning Administrator, reduced scale drawings (11" x 17") are determined to be illegible, the submission of larger scale materials shall be required. The scale of such materials shall be the minimum necessary to ensure legibility.
    - a. Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat theretofore recorded in the County).
    - b. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property.
    - c. The location, size, use and arrangement including height in stories and feet and total square feet of ground area coverage and floor area, of proposed buildings, and existing buildings which will remain, if any.
    - d. Location, dimensions of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian; and the total site coverage of all elements.
    - e. Location, designation and total area of all common open space.
    - f. Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities.
    - g. Proposed lots and blocks, if any, and numbering system.
    - h. Proposed re-subdivision plan, if any, upon availability of sanitary sewer service.
    - i. The location, use and size of structures and other land uses on adjacent properties.
    - j. Detailed sketches and provisions of proposed landscaping.
    - k. General grading and drainage plans for the developed PUD.

1. Any other information that may have been required by the City in conjunction with the approval of the general concept plan.
  3. An accurate legal description of the entire area within the PUD for which final development plan approval is sought.
  4. A tabulation indicating the number of residential dwelling units and expected population.
  5. A tabulation indicating the gross square footage, if any, of commercial and industrial floor space by type of activity (e.g. drug store, dry cleaning, supermarket).
  6. Preliminary architectural "typical" plans indicating use, floor plan, elevations and exterior wall finishes of proposed buildings, including mobile homes.
  7. A detailed site plan, suitable for recording, showing the physical layout, design and purpose of all streets, easements, rights-of-way, utility lines and facilities, lots, blocks, public and common open space, general landscaping plan, structure, including mobile homes and uses.
  8. Preliminary grading and site alteration plan illustrating changes to existing topography and natural site vegetation. The plan shall clearly reflect the site treatment and its conformance with the approved concept plan.
  9. A preliminary plat prepared in accordance with the Subdivision Section of the City Code.
  10. A Soil Erosion Control Plan acceptable to watershed districts, Department of Natural Resources, Soil Conservation Service, or any other agency with review authority clearly illustrating erosion control measures to be used during construction and as permanent measures.
  11. A statement summarizing all changes which have been made in any document, plan, data or information previously submitted, together with revised copies of any such document, plan or data.
  12. Such other and further information as the Zoning Administrator shall find necessary to a full consideration of the entire proposed PUD or any stage thereof.
  13. The Zoning Administrator may excuse an applicant from submitting any specific item of information or document required in this Section if it is found to be unnecessary to the consideration of the specific proposal for PUD approval.
3. *Final Plan Stage.* After approval of a general concept plan for the PUD and approval of a development stage plan for a section of the proposed PUD, the applicant shall submit the following material for review by the City prior to issuance of a building permit.
- a. Proof of recording any easements and restrictive covenants prior to the sale of any land or dwelling unit within the PUD and of the establishment and activation of any entity that is to be responsible for the management and maintenance of any public or common open space or service facility.
  - b. All certificates, seals and signatures required for the dedication of land and recording of documents.
  - c. Final architectural working drawings of all structures.
  - d. A final plat and final engineering plans and specifications for streets, utilities and other public improvements, together with a City/Applicant Agreement for the installation of such improvements and financial guarantees for the completion of such improvements.
  - e. Re-subdivision plan, if any, upon availability of sanitary sewer service.

- f. Any other plan, agreements, or specifications necessary for the City to review the proposed construction. All work must be in conformance with the Minnesota State Uniform Building Code. D. - Procedure for processing a Planned Unit Development.
1. *Application Conference.* Prior to filing of an application for PUD, the applicant of the proposed PUD is encouraged to arrange for and attend a conference with the Zoning Administrator. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of the proposal for the area for which it is proposed and its conformity to the provisions of this Section before incurring substantial expense in the preparation of plans, surveys and other data.
  2. *General Concept Plan.*
    - a. *Purpose.* The General Concept Plan provides an opportunity for the applicant to submit a plan to the City showing the basic intent and the general nature of the entire development without incurring substantial cost. The following elements of the proposed general concept plan represents the immediately significant elements for City review and comment.
      - 1) Overall maximum PUD density/intensity range.
      - 2) General location of major streets and pedestrian ways.
      - 3) General location and extent of public and common open space.
      - 4) General location of residential and non-residential land uses with approximate type and intensities of development.
      - 5) Staging and time schedule of development.
      - 6) Other special criteria for development.
    - b. *Schedule.*
      - 1) The applicant shall file the concept stage application, together with all supporting data and filing fee as established by City Council resolution.
      - 2) Within fifteen (15) working days after verification by the City that the application and required supportive material is completed and adequate, the request shall be processed in accordance with the applicable procedures and schedule as defined by Section 3 or Section 4 of this Ordinance.
    - c. *Optional Submission of Development Stage Plan.* In the case of single stage PUDs or where the first stage of a multiple stage PUD is to begin immediately, the applicant may initially submit development stage plans and supportive material. In such case, the City shall consider and act upon such plans according to the applicable provision of this Section.
    - d. *Effect of Concept Plan Approval.* Unless the applicant shall fail to meet time schedules for filing Development Stage and Final Plans or shall fail to proceed with development in accordance with the plans as approved or shall in any other manner fail to comply with any condition of this Chapter or of any approval granted pursuant to it, a General Concept Plan which has been approved shall not be modified, revoked or otherwise impaired pending the application of Development Stage and Final Plans by any action of the City without the consent of the applicant.
    - e. *Limitation on General Concept Plan Approval.* Unless a Development Stage Plan covering at least ten (10) dwelling units or the area designated in the General Concept Plan as the first stage of the PUD, whichever is greater, has been filed within six (6) months from the date City grants General Concept Plan approval, or in any case where the applicant fails to file Development Stage and Final Plans and to proceed with development in accordance



with the provisions of this Chapter and of an approved General Concept Plan, the approval shall be null and void and shall lapse. Upon request by the applicant, the Council at its discretion may extend for additional periods not in excess of six (6) months each the filing deadline for any Development Stage Plan, when, for good cause shown, such extension is necessary.

4. *Development Stage.*

- a. *Purpose.* The purpose of the Development Stage Plan is to provide a specific and particular plan upon which the Planning Commission will base its recommendation to the Council and with which substantial compliance is necessary for the preparation of the Final Plan.
- b. *Submission of Development Stage.* Upon approval of the General Concept Plan, and within the time established in this chapter, the applicant shall file with the City a Development Stage Plan consisting of the information and submissions required by this chapter for the entire PUD or for one or more stages thereof in accordance with a staging plan approved as part of the General Concept Plan. The Development Stage Plan shall refine, implement, and be in substantial conformity with the approved General Concept Plan.
- c. *Review and Action by City Staff and Planning Commission.* Immediately upon receipt of a completed Development Stage Plan, said plan shall be referred to the following City staff and/or official bodies for the indicated action.
  - 1) The City Attorney for legal review of all documents.
  - 2) The City Engineer for review of all engineering data and the City/Developer Agreement.
  - 3) The Building Official for review of all building plans.
  - 4) The Zoning Administrator or designated agent for review of all plans for compliance with the intent, purpose and requirements of this Chapter and conformity with the General Concept Plan and Comprehensive Plan.
  - 5) The Planning Commission for review and recommendation to the Council.
  - 6) When appropriate, as determined by the Zoning Administrator to other special review agencies and governmental jurisdictions.
- d. *PUD Enactment.* Final approval of a PUD conditional use permit or PUD zoning district map amendment shall be considered granted only at the time of Development Stage Plan approval by the City Council.
- e. *Limitation on Development Stage Plan Approval.* Unless a Final Plan covering the area designated in the Development Stage Plan as the first stage of the PUD has been filed within six (6) months from the date City Council grants Development Stage Plan approval, or in any case where the applicant fails to file Final Plans and to proceed with development in accordance with the provisions of this Chapter and/or an approved Development Stage Plan, the approval shall be null and void and shall expire. Upon application by the applicant, the City Council, at its discretion, may extend for not more than six (6) months, the filing deadline for any Final Plan when, for good cause shown, such extension is necessary.
- f. *Site Improvements.* At any time following the approval of a Development Stage Plan by the City Council, and completion and execution of a PUD agreement governing the project, the applicant may, pursuant to the applicable City Code provisions apply for, and the City may issue, grading permits for the area within the PUD for which Development Stage Plan approval has been given. Securities as appropriate may be required of the applicant.

5. *Final Plan:*

- a. *Purpose.* The Final Plan is to serve as a complete, thorough and permanent public record of the PUD and the manner in which it is to be developed. It shall incorporate all prior approved plans and all approved modifications thereof resulting from the PUD process. It shall serve in conjunction with other City Code provisions as the land use regulation application to the PUD. The Final Plan is intended only to add detail to, and to put in final form, the information contained in the Development Stage Plan and shall conform to the Development Stage Plan in all respects.
- b. *Schedule.*
  - 1) Upon approval of the Development Stage Plan, and within the time established in Section 10-10-4-D-5 of this Section, the applicant shall file with the City a Final Plan consisting of the information and submissions required in Subdivision D of this Section for the entire PUD or for one or more stages. This plan will be reviewed and approved or denied by City staff, subject to appeal.
  - 2) Within thirty (30) days of its approval, the applicant shall cause the Final Plan, or such portions thereof as are appropriate, to be recorded with the County Recorder. The applicant shall provide the City with a signed copy verifying County recording within forty (40) days of the date of approval or the approval shall be null and void.
- c. *Building and Other Permits.* Except as otherwise expressly provided herein, upon receiving notice from the City that the approved Final Plan has been recorded and upon application of the applicant pursuant to the applicable City Code provisions, the City may issue building and other permits to the applicant for development, construction and other work in the area encompassed by the approved Final Plan provided, however, that no such permit shall be issued unless the City is first satisfied that the requirements of all codes and City Code provisions in which are applicable to the permit sought, have been met.
- d. *Limitation of Final Plan Approval.* Within one year after the approval of a Final Plan for PUD, or such shorter time as may be established by the approved development schedule, construction shall commence in accordance with such approved plan. Failure to commence construction within such period shall, unless an extension shall have been granted as hereinafter provided, automatically render void the PUD and all approvals of the PUD plan and the area encompassed within the PUD shall thereafter be subject to those provisions of this Chapter, and other City Code provisions, applicable in the district in which it is located. In such cases, the Council shall forthwith adopt an ordinance repealing the PUD and all PUD approvals and re-establishing the zoning and other City Code provisions that would otherwise be applicable. The time limit established may, at the discretion of the Council, be extended for not more than one year.
- e. *Inspections During Development.*
  - 1) Compliance with Overall Plan. Following Final Plan approval of a PUD, or a stage thereof, the City shall, at least annually until the completion of the development, review all permits issued and construction undertaken and compare actual development with the approved development schedule.
  - 2) If the City finds that development is not proceeding in accordance with the approved schedule, or that it fails in any other respect to comply with the PUD plans as finally approved, the City shall either by ordinance revoke the PUD, and the land shall thereafter be governed by the regulations applicable in the district in which it is located; or shall take such steps as it shall deem necessary to compel compliance with the Final Plans as

approved; or shall require the landowner or applicant to seek an amendment to the Final Plan. E - PUD progress evaluation. If periodic review of a PUD project is included as a condition to the approval of a PUD, such a project shall be reviewed by the City Council. The Council may, at its discretion, call a public hearing as part of its review.

F. - Amendment of a PUD.

1. *Application Procedures.* Any deviation or modification from the terms or conditions of an approved PUD or any alteration in a project for which a PUD has been approved shall require an amendment of the original development stage plan. The same application and hearing procedure for an amendment of a PUD shall be followed as was followed with respect to the applicant's initial request, as outlined in Section \_\_\_\_\_ of this Ordinance.
2. *Action by the Planning Commission and City Council.* The same review procedure by the Planning Commission and City Council shall be followed for an amendment of a PUD permit as was followed with respect to the applicant's initial request. G. - General requirements.
  1. *Records.* The Zoning Administrator shall maintain a record of all PUDs including information on a project's permitted uses, all pertinent project plans, any conditions imposed on a project by the City Council, and such other information as the Zoning Administrator may deem appropriate.
  2. *Withdrawal of an Application.* Any application under this Section may be withdrawn by an applicant without prejudice at any time prior to final City Council action thereon.
  3. *Financial Security to Assure Compliance.* In order to insure that all improvements contained in a PUD are completed in accordance with said plan and to insure that an applicant fully complies with all conditions of a PUD permit, the applicant may be required to post a letter of credit guaranteeing the faithful performance of such work and compliance with such conditions. Such security shall be in a form satisfactory to the City, shall be in an amount established by the City Council, and shall cover each segment or each phase of a PUD project. The amount of said security may be reduced or a portion of said bond may be released as specific segments of each phase of development have been completed, upon approval by the City Council.
  4. *Conveyance of Property Within a PUD Project.* In the event that any real property within an approved PUD project is conveyed in total or in part, the buyer(s) thereof shall be bound by all provisions of the PUD permit and the plan of development for that project. However, nothing in this Chapter shall be construed as to make such conveyed property non-conforming with regard to normal zoning standards as long as the conveyed property conforms with the approved PUD permit and the plan of development for a project.

H. - PUD by conditional use. Commercial and Industrial Planned Unit Developments may be approved as a Conditional Use Permit in all Commercial and Industrial Zoning Districts provided the only flexibilities being granted are from performance standards applicable in the underlying zoning district or to allow for the placement of more than one principal structure on a lot.

## **Section 2 - General Development and Performance Standards**

- 153.040 Purpose
- 153.041 Dwelling Unit Restriction
- 153.042 Improvements and Improvement Procedure
- 153.043 Building Density
- 153.044 Yards & Yard Requirements
- 153.045 Exceptions to Height Regulations
- 153.046 Accessory Buildings & Uses
- 153.047 Storm Water Management
- 153.048 Soil Erosion & Sediment Control
- 153.049 Fences
- 153.050 Required Landscaping & Screening
- 153.051 Traffic Control & Sight Distance
- 153.052 Exterior Lighting & Glare
- 153.053 Smoke
- 153.054 Dust
- 153.055 Air Pollution
- 153.056 Noise
- 153.057 Refuse
- 153.058 Exterior Storage
- 153.059 Wood Storage
- 153.060 Communication Devices
- 153.061 Bulk Storage
- 153.062 Preservation of Natural Resources
- 153.063 Radiation Emission
- 153.064 Electrical Emission
- 153.065 Vacated Streets
- 153.066 Access & Access Drives

153.067	Parking
153.068	Off-Street Loading
153.069	Recreational Vehicles
153.070	Private Sanitary Sewer Systems
153.071	Premises Identification
153.072	Building Materials
153.073	Single Family Dwellings
153.074	Multi-Family Structures
153.075	Swimming Pools

## **GENERAL DEVELOPMENT & PERFORMANCE STANDARDS**

### **§ 153.040 PURPOSE.**

- (A) The performance standards established in this section are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are designed to prevent and eliminate those conditions that cause blight or are detrimental to the environment.
- (B) Before any building permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to these performance standards.
- (C) The performance standards in this section shall apply to all uses in all districts.  
Nonconformities shall comply with the terms of the nonconformities section of the zoning regulations.

### **§ 153.041 DWELLING UNIT RESTRICTION.**

- (A) No cellar, basement, garage, tent, accessory building, or temporary family health care dwelling shall at any time be used as an independent residence or dwelling unit, temporarily or permanently. Pursuant to authority granted by M.S. § 462.3593, Subd. 9 the City opts-out of the requirements of M.S. § 462.3593, which defines and regulates temporary family health care dwellings.
- (B) Basements may be used as living quarters or rooms as a portion of residential dwellings.
- (C) Earth-sheltered housing shall not be considered as a basement or cellar.
- (D) Tents, playhouses, or similar structures may be used for play or recreational purposes.
- (E) Recreational vehicles may not be occupied or used for living, sleeping or housekeeping purposes.

### **§ 153.042 IMPROVEMENTS AND IMPROVEMENT PROCEDURES.**

Any person desiring to improve property shall submit to the Zoning Administrator a site plan of the premises and information on the location and dimensions of existing and proposed buildings, the location of easements crossing the property, encroachments, and any other information which may be necessary to insure conformance to city ordinances and code provisions. If questions exist in regard to property line location, a registered land survey shall be submitted with monuments staked at all property corners.

### **§ 155.043 BUILDING DENSITY.**

Except in the case of planned unit development as provided for in \_\_\_\_\_ et seq., not more than one principal building shall be located on a lot.

### **§ 153.044 YARD & YARD REQUIREMENTS.**

- A. *Minimum lot size.* No lot, required yard, or other open space shall be reduced in area or dimension so as to make such lot, yard, or open space less than the minimum required by this chapter, and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced. No required open space provided about any building or structure shall be included as part of any open space required for another structure.
- B. *Exceptions:* The following shall not be considered as encroachments on yard setback requirements:
  - 1. Cantilevers up to ten (10) feet in width, chimneys, flues, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like, provided they do not project more than two (2) feet into a yard.

2. Terraces, steps, decks, uncovered porches, stoops or similar structures limited to not more than a height of three (3) feet above grade may extend to within five (5) feet of side yard and ten (10) feet of rear yard lot lines, but not more than five (5) feet into a required front yard or side yard adjacent to a public right-of-way.
3. Recreational and laundry drying equipment, arbors and trellises, gazebos, and air-conditioning or heating equipment shall be allowed only in a rear or side yard, provided they are at a distance of five (5) feet from any lot line.
4. In residential districts, a one (1) story entrance for a detached single-family or two-family dwelling may extend into the front yard setback not more than five (5) feet, and shall not exceed fifty (50) square feet in size.
5. No encroachment shall be permitted in existing or required drainage and utility easements.

C. *Front Yard Setback Exceptions:* In the case of lots platted prior to the effective date of this Ordinance, the principal building setback requirements for front and side yards adjacent to a public right-of-way, as established by the respective zoning districts, may be reduced to a distance equaling the average setback of principal buildings on adjacent lots. In no case shall this distance be less than half of the required setback.

D. *Triangular Lots:* In the case of triangular lots, where the rear lot line is a single vertex, the rear yard setback points of reference shall be determined by measuring the length of the setback distance from the vertex along the side lot lines. The rear setback line shall be determined by traversing the lot and connecting these points of reference.

#### **§ 153.045 EXCEPTIONS TO HEIGHT REQUIREMENTS.**

(A) *Purpose.* This section identifies exceptions to general height requirements in each zoning district.

(B) *Height.*

(1) The building height limits established herein for zoning districts shall not apply to the following:

- (a) Belfries;
- (b) Chimneys;
- (c) Church spires;
- (d) Conveyors, agricultural;
- (e) Flag poles;
- (f) Silos, agricultural;
- (g) Smokestacks;
- (h) Water towers;
- (i) Poles and towers for essential services.

(2) No excluded roof equipment or structural element exceeding beyond the limited height of a building may occupy more than 25% of the area of such roof nor exceed ten feet in height above the district height limits.

#### **§ 153.046 ACCESSORY BUILDINGS & USES.**

(A) *Purpose.* This section specifies requirements for permitting accessory structures in residential districts and sets forth minimum setback, height and other regulations that shall apply to all residential zoning districts.

(B) *General regulations.*

(1) No accessory use shall be constructed prior to the construction of the principal use on the same lot of record.

(2) An accessory use shall be located on the same lot of record as the principal use.

(3) No accessory use shall be located in any yard nearer to any public right of way than the closest wall of the principal building.

(4) All accessory uses combined shall not occupy more than 25% of the rear yard.

- (5) A zoning permit shall be required for any accessory use over 100 square feet and under 200 square feet.
- (6) A building permit shall be required for any accessory use in excess of 200 square feet.
- (7) Privately owned accessory uses shall not be located within any public utility easements, drainage easements or in any public right-of-way.
- (8) No accessory use shall be located closer than six feet to the principal use or any other accessory use on the same lot of record.
- (9) Accessory uses or any part thereof shall not be utilized as a dwelling.
- (10) No commercial business of any nature shall be conducted within an accessory use or any part thereof.
- (11) The same or similar quality exterior building materials used in the principal use shall also be used in the construction of the accessory use so as to be compatible with the principal use. Compatible meaning that the exterior of the accessory use is not at variance with the principal building from an aesthetic and architectural standpoint as to cause:
- (a) A difference to a degree to cause incongruity as determined by the City Council; or
  - (b) A depreciation of neighborhood or adjacent property values as determined by the city Council.
- (12) No garage, attached or detached, or the total area of all accessory structures shall exceed 1000 square feet in area or the size of the footprint of the principal residential structure, whichever is greater.
- (13) In addition to the size limitations in (12) above, each residential lot may have one detached accessory structure up to 200 square feet in size that does not count towards said limitations.
- (14) The height of any accessory structure shall not exceed the height of the principal structure or be greater than 15 feet in height, whichever is less.
- (15) No accessory structure shall be closer than 7.5 feet to a side lot line of an internal lot, 20 feet to a side lot line of a corner, and 10 feet to a rear lot line.
- (16) The minimum rear yard setback for a garage that derives access to an alley shall be 20 feet.
- (17) Accessory uses in the \_\_\_\_\_ UR Districts may receive an interim use permit to exceed the 1,500 square foot maximum gross area. However, no structure shall exceed the gross area of the principal building, and shall adhere to all height, setback and aesthetic requirements. In order to grant the conditional use permit in the \_\_\_\_ District, exceeding 1,500 square feet of gross floor area the City Council must find:
- (a) There is a demonstrated need and potential for continued use of the structure for the purpose stated;
  - (b) The proposed structure has an evident function related to a one-family, low-density residential district;
  - (c) The proposed structure shall be designed and maintained in a manner that is compatible with the adjacent residential uses and does not present a hazard to public health, safety and general welfare; and
  - (d) No commercial or home occupations shall be conducted within the proposed structure.

**§ 153.047 STORM WATER MANAGEMENT.**

(A) *Findings.* The city hereby finds that uncontrolled and inadequately planned use of wetlands, woodlands, natural habitat areas, areas subject to soil erosion and areas containing restrictive soils



adversely affects the public health, safety and general welfare by impacting water quality and contributing to other environmental problems, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the city to provide adequate water, sewage, flood control and other community services. In addition, extraordinary public expenditures may be required for the protection of persons and property in the area and in areas which may be affected by unplanned land usage.

(B) *Purpose.* The purpose of this section is to promote, preserve and enhance the natural resources within the city and protect them from adverse affects occasioned by poorly sited development or incompatible activities by regulating land disturbing or development activities that would have an adverse and potentially irreversible impact on water quality and unique and fragile environmentally sensitive land; by minimizing conflicts and encouraging compatibility between land disturbing and development activities and water quality and environmentally sensitive lands; and by requiring detailed review standards and procedures for land disturbing or development activities proposed for those areas, thereby achieving a balance between urban growth and development and protection of water quality and natural areas.

(C) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**APPLICANT.** Any person who wishes to obtain a building permit or zoning or subdivision approval.

**CONTROL MEASURE.** A practice or combination of practices to control erosion and attendant pollution.

**DETENTION FACILITY.** A permanent natural or human-made structure, including wetlands, for the temporary storage of runoff which contains a permanent pool of water,

**FLOOD FRINGE.** The portion of the flood plain outside of the floodway.

**FLOOD PLAIN.** The areas adjoining a watercourse or water basin that have been or may be covered by a regional flood.

**FLOODWAY.** The channel of the watercourse, the bed of water basins and those portions of the adjoining flood plains that are reasonably required to carry and discharge floodwater and provide water storage during a regional flood.

**HYDRIC SOILS.** Soils that are saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

**HYDROPHYTIC VEGETATION.** Macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

**LAND DISTURBING OR DEVELOPMENT ACTIVITIES.** Any change of the land surface including removing vegetative cover, excavating, filling, grading and the construction of any structure.

**PUBLIC WATERS.** Waters of the state as defined in M.S. § 103G.005, Subdivision 15, as it may be amended from time to time.

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

**RETENTION FACILITY.** A permanent natural or human made structure that provides for the storage of storm water runoff by means of a permanent pool of water.

**SEDIMENT.** Solid matter carried by water, sewage or other liquids.

**STRUCTURE.** Anything manufactured, constructed or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots and paved storage areas.

**WETLANDS.** Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, **WETLANDS** must have the following three attributes:

- (a) Have a predominance of hydric soils;
- (b) Are inundated or saturated by surface or ground water at a frequency and duration sufficient to

support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and  
(c) Under normal circumstances support a prevalence of the vegetation.

(D) *Scope and effect.*

(1) *Applicability.* Every applicant for subdivision approval or a permit to allow land disturbing activities of two acres or greater must submit a storm water management plan to the Zoning Administrator. No subdivision approval or permit to allow land disturbing activities of two acres or greater shall be issued until approval of the storm water management plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of this section. The provisions of this section apply to all land, public or private, located within the city.

(2) *Exemptions.* The provisions of this section do not apply to:

(a) Any part of a subdivision if a plat of the subdivision has been approved by the City Council on or before the effective date of this section;

(b) A lot for which a building permit has been approved on or before the effective date of this section;

(c) Installation of fence, sign, telephone and electric poles and other kinds of posts or poles; or

(d) Emergency work to protect life, limb or property.

(3) *Waiver.* The City Council may waive any requirement of this section upon making a finding that compliance with the requirement of this section will involve an unnecessary hardship and the waiver of the requirement will not adversely affect the standards and requirements set forth in division (F). The City Council may require as a condition of the waiver, the dedication of land or construction of improvement, or agreement to dedicate or construct as may be necessary to adequately meet the standards and requirements.

(E) *Storm water management plan approval procedures.*

(1) *Application.*

(a) A written application for storm water management plan

approval, along with the proposed storm water management plan, shall be filed with the Zoning Administrator and shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this section. Prior to applying for approval of a storm water management plan, an applicant may have the storm water management plan reviewed by the appropriate departments of the city.

(b) Five sets of clearly legible blue or black lined copies of drawings and required information shall be submitted to the Zoning Administrator and shall be accompanied by a receipt from the City Clerk's office evidencing the payment of all required fees for processing and approval as set forth in division (F)(5) of this section, and a bond when required by division (F)(4) of this section in the amount to be calculated in accordance with that division. Drawings shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed. At a minimum, the scale shall be one inch equals 100 feet.

(2) *Storm water management plan.* At a minimum, the storm water management plan shall contain the following information.

(a) *Existing site map.* A map of existing site conditions showing the site and immediately adjacent areas, including:

1. The name and address of the applicant, the section, township and range, north point, date and scale of drawing and number of sheets;

2. Location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving the information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns and districts or other landmarks;

3. Existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than two feet;

4. A delineation of all streams, public waters and wetlands located on and immediately adjacent to the site, including any classification given to the water body or wetland by the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency and/or the United States Army Corps of Engineers;

5. Location and dimensions of existing storm water drainage systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate storm water is conveyed from the site, identifying the receiving stream, river, public water or wetland, and setting forth those areas of unaltered site where storm water collects; and

6. One hundred-year flood plains, flood fringes and floodways.

(b) *Site construction plan.* A site construction plan including:

1. Locations and dimensions of all proposed land disturbing activities and any phasing of those activities;

2. Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this section; and

3. Provisions for maintenance of the construction site erosion control measures during construction.

(c) *Plan of final site conditions.* A plan of final site conditions on the same scale as the existing site map showing the site changes including:

1. Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features;

2. A drainage plan of the developed site delineating in which direction and at what rate storm water will be conveyed from the site and setting forth the areas of the site where storm water will be allowed to collect;

3. The proposed size, alignment and intended use of any structures to be erected on the site;

4. A clear delineation and tabulation of all areas which shall be paved or surfaced, including a description of the surfacing material to be used; and

5. Any other information pertinent to the particular project which in the opinion of the applicant is necessary for the review of the project.

(F) *Plan review procedure.*

(1) *Process.*

(a) Storm water management plans meeting the requirements of division (E) above shall be submitted to the Zoning Administrator for review in accordance with the standards of division (G) below. The Zoning Administrator shall within 20 days of receipt of the storm water management plan approve, deny or request additional information with reference to the plan submitted. In the event the storm water management plan is denied, the Zoning Administrator shall state in writing the reasons for the denial at the time that the denial becomes final. In the event the Zoning Administrator requests additional information, in order to make a decision to approve or deny the storm water management plan, he or she must within ten business days of receipt of the storm water management plan, send notice to the applicant in writing the information that is missing from the storm water management plan. The time limits stated in this division shall be extended if a state statute, federal law or court order make it impossible to act on the application within the time parameters set forth in this division. In cases described in this division, the deadlines are extended to 60 days after completion of the last process required in the applicable federal or state statute, law or court order. In addition, the time limits are extended if the application submitted requires prior approval of a state or federal agency. In this case, the deadline is extended to 60 days after the required approval is granted by the state or federal agency. In addition, the applicant may waive the time limits set forth in this division by doing so in writing and filing the waiver with the Zoning Administrator.

(b) In the event that the applicant receives a decision from the Zoning Administrator denying the application for approval of the storm water management plan, the applicant, if he or she so desires, may

appeal the decision to the Board of Zoning Adjustments as more specifically set forth in § 153.061. If the Board of Zoning Adjustments affirms the Zoning Administrator's decision to deny the application for the applicant's storm water management plan, the applicant may further appeal the decision of the Board of Zoning Adjustments to the District Court, subject to the provisions of M.S. § 462.361, as it may be amended from time to time.

(2) *Duration.* Approval of a plan submitted under the provisions of this section shall expire one year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of the approval, the applicant makes a written request to the Zoning Administrator for an extension of time to commence construction setting forth the reasons for the requested extension, the Zoning Administrator may grant one extension of not greater than one single year. Receipt of any request for an extension shall be acknowledged by the Zoning Administrator within 15 days. The Zoning Administrator shall make a decision on the extension within 30 days of receipt. Any plan may be revised in the same manner as originally approved.

(3) *Conditions.* A storm water management plan may be approved subject to compliance with conditions that are reasonable and necessary to ensure that the requirements contained in this section are met. The conditions may, among other things, limit the size, kind or character of the proposed development, require the construction of structures, fences, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to ensure buffering and require the conveyance to the city or other public entity of certain lands or interests therein.

(4) *Performance bond.*

(a) Prior to approval of any storm water management plan, the applicant shall submit an agreement to construct the required physical improvements, to dedicate property or easements, or to comply with the conditions as may have been agreed to. The agreement shall be accompanied by a bond to cover the amount of the established cost of complying with the agreement. The agreement and bond shall guarantee completion and compliance with conditions within a specific time, which time may be extended in accordance with division (F)(2) of this section.

(b) The adequacy, condition and acceptability of any agreement and bond shall be determined by the City Attorney.

(5) *Fees.* All applications for storm water management plan approval shall be accompanied by a processing and approval fee in an amount determined from time to time by resolution of the City Council.

(G) *Approval standards.*

(1) *Generally.* No storm water management plan which fails to meet the standards contained in this section shall be approved by the Zoning Administrator.

(2) *Tracking.* Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.

(3) *Drain inlet protection.* All storm drain inlets shall be protected during construction until control measures are in place with a straw bale, silt fence or equivalent barrier meeting accepted design criteria, standards and specifications contained in the MPCA publication *Protecting Water Quality in Urban Areas*.

(4) *Storm water management criteria for permanent facilities.*

(a) An applicant shall install or construct, on or for the proposed land disturbing or development activity, all storm water management facilities necessary to manage increased runoff so that the two-year, ten-year and 100-year storm peak discharge rates existing before the proposed development shall not be increased and accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity.

(b) The applicant shall give consideration to reducing the need for storm water management

facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.

(H) *Other controls.* In the event of any conflict between the provisions of this section and the provisions of an erosion control or shoreland protection ordinance adopted by the City Council, the more restrictive standard prevails.

#### **§ 153.048 SOIL EROSION AND SEDIMENTATION CONTROL.**

(A) *General regulations.*

(1) All development shall conform to the natural limitations presented by the topography and soil in order to create the best potential for preventing soil erosion.

(2) Erosion and siltation control measures shall be coordinated during the different stages of development.

(1) Land shall be developed in increments or workable size so

that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time and no exposure shall exceed 60 days unless extended by the City Council.

(4) Where the topsoil is removed, sufficient top soil shall be set aside for respreading over the developed area. The topsoil shall be restored to a depth of four inches and shall be of a quality at least equal to the soil quality prior to development.

(5) Public and private properties adjacent to the development site shall be protected from the affects of sedimentation. Any violation of this provision must be corrected by the owner to the satisfaction of the city within five days of receiving written notification from the city. If the violation is not remedied within the time period specified, the city may correct the problem and assess the costs incurred to the property owner.

(B) *Exposed slopes.* The following control measures shall be taken to control erosion during construction.

(1) Exposed slopes steeper in grade than five feet horizontal to one foot vertical shall be contour plowed to direct runoff of water.

(2) At the foot of each exposed slope, a channel and berm shall be constructed to control runoff. The channeled water shall be diverted to a sedimentation basin (debris basin, silt basin or silt trap) before being allowed to enter the natural drainage system.

(3) Along the top of each exposed slope, a berm shall be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collected behind the berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. The measures shall consist of either an asphalt paved flow apron and drop chute laid down the slope or a flexible slope drain. At the base of the slope drain or flow apron, a gravel energy dispatcher shall be installed to prevent erosion at the discharge end.

(2) Exposed slopes shall be protected by whatever means will effectively prevent erosion, considering the degree of slope, soil material and expected length of exposure. Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting and blankets, fast-growing grasses or temporary seedings of annual grasses. Mulch consists of hay, straw,

wood chips, corn stalks, bark or other protective material. Mulch shall be anchored to slopes with liquid asphalt, stakes and netting, or shall be worked into the soil to provide additional slope stability.

(5) Control measures other than those specifically stated above may be used in place of the above measures if it can be demonstrated that they will be as effective in protecting exposed slopes.

**§ 153.049 FENCES.**

(1) *General regulations.*

- a) All fences shall be located entirely upon the property of the person, firm or corporation constructing, or causing the construction of the fence.
- b) The applicant for the fence is responsible for establishing property lines by locating property pins by their own means or by hiring a registered land surveyor.
- c) Property pins adjacent to location of proposed fencing shall be clearly marked for the purpose of identification and inspection.
- d) All fences shall be located entirely upon the property of the person causing the fence to be constructed. A fence may be located on the property line of adjoining properties when the owners of said properties agree in writing to such location.
- e) Fences in excess of three feet in the front yard are not permitted. Fences may be greater than three feet behind the front building line of the principal structure.
- f) No residential fence shall be greater than 6 feet in height.
- g) Commercial and industrial fences may exceed six feet in height but may not be greater than 12 feet in height. Fences between 8 and 12 feet in height shall require a conditional use permit. The CUP request shall be considered in relation to traffic visibility, potential interference with street or pedestrian/bicycle traffic, common conditions in the immediate neighborhood, maintenance, materials, and any other factors considered relevant by the City Council to the construction of said fence.
- h) That side of the fence considered to be the evident finished side or face (such as, the finished side having no structural supports) shall face outward toward abutting property or public spaces or uses. Vegetation or landscaping located between the abutting property lines and finished side of fence shall be entirely maintained by the owner of the fence.
- i) Fences shall not obstruct any natural or constructed drainage patterns or in any way adversely impact any neighboring properties.
- j) All fencing shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger or constitute a nuisance. Any fence which is, or has become dangerous to the public safety, health or welfare, is a public nuisance, and the Zoning Administrator shall commence proper proceedings to abate the nuisance condition.
- k) Retaining wall structures may be subject to review by the City Engineer. Retaining walls shall be

subject to the same height requirements as fences.

- l) Fencing located within any public right-of-way, drainage or utility easements may be removed by the city without notice or liability for damages caused by the removal.
- m) Fence height shall be measured from the natural grade to the top of the fence at any point, with the exception that a fence may include an additional six (6) inches of height for post-top finials or similar decorative features on posts only.
- n) Except as specified in this subsection, all wire fences, including barbed wire fences, electrical fences, and chicken and hog wire fences, shall only be permitted in the UR District when related to a farm use.

(2) *Residential, commercial district regulations.*

(a) All fences shall be constructed of stone, brick, finished wood, chain link, PVC, composite material, wrought iron or similar material, or other approved materials as determined by the Zoning Administrator. Chain link fences in yards facing a street of any district shall be painted or vinyl-coated with a dark green or black finish.

(b) Fences located in the rear yard with a proposed height in excess of six feet shall require a conditional use permit.

(3) *Industrial regulations.*

(a) All fences shall be constructed of stone, brick, finished wood, chain link, PVC or composite materials.

(b) Barbed wire security fencing may be used in heights above six and one-half feet.

**§ 153.050 REQUIRED LANDSCAPING AND SCREENING.**

(A) Purpose and objectives. The planting of new trees and vegetation can significantly add to the quality of the physical environment of the community. This section provides for the health, safety and welfare of the residents of the city and is intended to:

- (1) Promote the reestablishment of vegetation in urban areas for aesthetic, health and urban wildlife reasons;
- (2) Establish and enhance a pleasant visual character which recognizes aesthetics and safety issues;
- (3) Promote compatibility between land uses by reducing the visual, noise and lighting impacts of specific development on users of the site and abutting uses;
- (4) Unify development, and enhance and define public and private spaces;
- (5) Promote the retention and use of existing vegetation;
- (6) Aid in energy conservation by providing shade from the sun and shelter from the wind; and
- (7) Reduce flooding and erosion by stabilizing soils with trees and vegetation.

(B) *Landscaping plan.* A landscaping plan shall be submitted at the time of site plan / preliminary plat review for any:

(1) New development or new building construction for any commercial, industrial, single-family residential, multiple-family residential, public/ institutional or planned unit development.

(2) Modification or expansion of a building or improvements to a site, and/or when there is a change in land use. Landscaping requirements shall be applied to those portions of the site that are directly affected by the proposed improvements, or change in land use, as determined by the Zoning Administrator. In all cases appropriate screening and buffering shall be provided for the entire site.

(3) No building permit for any construction shall be issued until a landscape plan is approved and a security is obtained by the city. Guidelines for the security are found in division (G) of this section.

(4) The landscaping plan is required to be placed into effect with the site development as may be stated by this chapter.

(C) *General plan requirements.* Landscape plans shall be prepared by a landscape architect or other qualified person acceptable to the Zoning Administrator at a legible scale and shall include the following:

- (1) Boundary lines of the property with accurate dimensions;
- (2) Locations of existing and proposed buildings, parking lots, roads and other improvements;
- (3) Proposed grading plan with two-foot contour intervals;
- (4) Location, size and common name of all existing 'significant' trees at least eight inches in diameter or greater as measured 54 inches above the ground. (For changes to developed sites, the location, size and common name of all trees and shrubs on the site must be identified.);
- (5) A planting schedule containing symbols, quantities, common and botanical names, size of plant materials, root condition and special planting instructions;
- (6) Planting details illustrating proposed locations of all new plant materials;
- (7) Locations and details of other landscape features including berms, fences and planter boxes;
- (8) Details of restoration of disturbed areas including areas to be sodded or seeded;
- (9) Location and details of irrigation systems; and
- (10) Details and cross-sections of all required screening.

(D) *Design standards and guidelines.* All landscape plans shall adhere to the following:

(1) *Landscaped areas.*

(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 over-story trees, under-story trees, coniferous trees, shrubs, flowers and ground cover materials.

(b) Single-family residential lots must maintain vegetation in the city's right-of-way and along the five-foot perimeter of the property, except in areas where the required driveway access is located (see § 91.38). An exception to this restriction would be landscaping materials (two to three feet in width) adjacent to a residential driveway.

(2) *Number of trees.* The minimum number of major or over-story trees on any given site shall be as indicated below. These are the minimum substantial plantings, in addition to other under-story trees, shrubs, flowers, and ground cover, deemed appropriate for a complete quality landscape treatment of the site.

(a) Each one- and two-family residential dwelling unit shall contain two or more trees with four inches of combined diameter in the front yard. Each tree must be at least one inch in diameter and at least one of the trees must be an over-story (shade) tree. An evergreen tree at least four feet in height is equivalent to two inches of tree diameter for purposes of this requirement.

Trees must be planted within the front yard within 120 days after the city has issued a Certificate of Occupancy or within 15 months of the issuance of the building permit, whichever comes first. The counting of the 120 days shall be tolled during the time between October 1 and May 1, but said count shall be resumed after May 1. Buffering and screening for double fronting lots and lots abutting collector roads shall be provided as set forth in \_\_\_\_\_ of the city code. The Zoning Administrator may authorize the placement of some of the required trees within the side or rear yard if, due to the shape of the lot, there are unique circumstances.

(b) All other development shall contain, at a minimum, the greater of: one tree per 1,000 square feet of gross building floor area; or one tree per 800 square feet of landscaped area; or one tree per 40 lineal feet of site perimeter; or two trees per multi-residential dwelling unit.

(3) *Sodding and seeding.* All front (including boulevards), side or rear yards facing a right-of-way shall be sodded with the following exceptions:

(a) Single-family residential lots are not required to sod, but turf must be established within 120 days after the city has issued a Certificate of Occupancy or within 15 months of the issuance of the



building permit, whichever comes first. The counting of the 120 days shall be tolled during the time between October 1 and May 1, but said count shall be resumed after May 1. All silt fence or hay bale erosion controls must be maintained until turf is established. A financial security in an amount determined by the city will be required if turf is not established within the front yard (including to the rear of the structure abutting the street on a corner lot) prior to occupancy.

(b) All other zoning districts may seed their lots when the city determines sod is not practical or desirable such as, but not limited to, campus areas of schools, recreational playfields, open space, sites that are rough graded and areas that cannot be developed (such as those in a power line easement).

(c) Seeding of future expansion areas as shown on approved plans.

(d) Undisturbed areas containing existing viable natural vegetation which can be maintained free of foreign and noxious plant materials.

(e) Areas designated as open space or future expansion areas properly planted and maintained with prairie grass.

(4) *Building ground cover.* A minimum five-foot strip from the building edge must be treated with decorative ground cover and/or foundation plantings, except for garage/loading and pedestrian access areas.

(5) *Softening of walls and fences.* Plants shall be placed intermittently against long expanses of building walls, fences, and other barriers to create a softening effect. Plantings shall also be proportionate to the height of the building. Additional depth along buildings may be required to accommodate this landscaping.

(6) *Existing trees.*

(a) A reasonable attempt shall be made to preserve as many existing trees as practical and to incorporate them into the site plan. Significant trees are any over-story or coniferous tree over eight inches in diameter, as measured 54 inches from the ground. Sites containing significant existing trees which will be retained may be given credit against the required number of trees.

(b) As a condition of subdivision approval or the issuance of grading or building permit, the city may require the applicant to replace any significant trees which are damaged or destroyed as a result of development or construction activities. Significant trees that are damaged or destroyed shall be replaced by at least two trees meeting the minimum planting requirements.

(7) *Minimum planting size.*

(a) All multi-family residential, commercial, industrial, public/institutional and association-maintained residential landscaping materials shall conform to the following minimum size requirements:

1. Over-story trees: 2 inch diameter, as measured six inches above the ground.
2. Under-story trees: 1½ inch diameter, as measured six inches above the ground.
3. Coniferous trees: 4 feet.
4. Tall shrubs or hedge: 3 feet.
5. Low shrubs: 5 gallon.

(b) All single-family residential units shall provide landscaping according to § 153.xxx of the city code.

(8) *Species.*

(a) All trees and plantings used in site developments shall be indigenous to the appropriate hardiness zone and physical characteristics of the site.

(b) All deciduous trees proposed to satisfy the minimum requirements of this policy shall be long-lived hardwood species.

(c) The complement of trees fulfilling the requirements of this section shall be not less than 25% deciduous and not less than 25% coniferous. Single-family residential development is exempt from this requirement.

(d) No required tree shall be any of the following:

1. A species of the genus *Ulmus* (elm), except those elms bred to be immune to Dutch Elm

disease;

2. Box Elder;
3. A species of the genus *Populus* (poplar) except when counted as an under-story tree; or
4. Female ginko;

(9) *Parking lots/planting islands.* All parking lots designed for 45 or more parking spaces shall provide landscaping areas dispersed throughout the parking lot, in order to avoid the undesirable monotony, heat and wind associated with large parking areas. Parking lots with less than 45 spaces shall not be required to provide landscaping other than yard area and buffer landscaping requirements as specified in other sections of this chapter.

(a) Plant materials: at least one over-story/shade tree must be provided for each 24 parking spaces. Ornamental trees, shrubs, hedges and other plant materials may be used to supplement the shade trees, but shall not be the sole contribution to such landscaping.

(b) Additional perimeter plantings may be used to satisfy this requirement in parking facilities less than 42 feet in width.

(10) *Detention/retention ponds.* Storm water ponds shall be landscaped with an average of a ten-foot buffer strip of shade and ornamental trees, evergreens, shrubbery, natural grasses, groundcover and/or other plant materials to provide an aesthetically appealing setting. This landscaping shall be in addition to the required landscaping.

(11) *Slopes and berms.* Final slopes of greater than 3:1 will not be permitted without special treatment such as terracing or retaining walls. All berms must incorporate trees and plantings into the design. In no situation shall berms be used as the sole means of screening.

(12) *Landscape guarantee.* All trees and plant materials that do not survive for at least two full growing seasons must be replaced by the landowner.

(F) *Screening and buffering.* Where any business or industrial use abuts property zoned or guided for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, except on the side of a business or industry considered to be the front (as determined by the Zoning Administrator). A green planting strip shall consist of over-story trees, evergreen trees, shrubs, berms and fencing of sufficient width and density to provide an effective visual year-round screen to a minimum height of six feet.

(1) Size of buffer: a minimum 10 feet wide along entire property line abutting the residential property;

(2) Height of buffer: the buffer shall fully screen the bottom six feet;

(3) Berms may be used but shall not be used to achieve more than three feet of the required screen.

(4) The landscaping, berming and fencing materials shall be subject to the approval of the City Council. The landowner must demonstrate how the proposed plan will provide the desired screening effect.

(G) *Security.*

(1) When screening, landscaping or other similar improvements to property are required by this chapter, a security shall be supplied by the owner in an amount equal to 125% of the City Engineer's estimate of the value of such screening and landscaping. The security shall be provided prior to the issuance of a Certificate of Occupancy and shall be valid for a period of time equal to two full growing seasons after the actual date of installation of the landscaping. In the event construction of the project is not completed within the time prescribed by building permits and other approvals, or if the plant materials have died within two full growing seasons, the city may, at its option, complete the work required or replace the landscaping at the expense of the owner and the security.

(2) The city may allow an extended period of time for completion of all landscaping if the delay is due to conditions which are reasonably beyond the control of the developer. Extensions may be granted by the Zoning Administrator for a period not to exceed nine months, due to seasonal or weather conditions. When an extension is granted, the city shall require such additional security as it deems appropriate.

**§ 153.051 TRAFFIC CONTROL AND SIGHT DISTANCE.**

(A) *Intersection with traffic controls.* On any corner lot at a street intersection which has some form of traffic control, there shall be no obstruction to traffic visibility within the clear sight triangle which is formed by the intersecting streets and a straight line joining the two centerlines at points 35 feet in distance from their point of intersection.

(B) *Intersection without traffic controls.* On any corner lot, in all districts at a street intersection which does not have any form of traffic control, there shall be no obstruction to the traffic visibility within the clear sight triangle which is formed by the intersection of the centerline of the two intersecting streets and a straight line joining the two centerlines at points a given number of feet in distance from their points of intersection. The distance from the points of intersection are specified in the following table for various speeds in miles per hour of enforced speed limit.

<i>Distance Measurement for Clear Sight Triangle</i>	
<i>Miles Per Hour</i>	<i>Distance Measurement (Feet)</i>
20	44
30	88
40	120
50	156
60	174

**§ 153.052 LIGHTING & GLARE.**

In all districts, any lighting used to illuminate an off-street parking area, sign or other structure shall be placed in a manner as to deflect light away from any adjoining residential zone or away from public streets. Direct or reflected glare, whether from artificial lighting or from combustion or welding shall be hooded or controlled so as not to adversely affect adjacent property. Exposed light bulbs shall not be permitted in view of adjacent property or public rights-of-way. Any light or combination of lights which shine on a street shall not exceed one footcandle (meter reading) as measured from the centerline of the street. Any light or combination of lights which have the potential to cast light on residential property shall be hooded or screened, and shall not exceed 0.4 footcandles (meter reading) as measured at the property line. The foot candle level of a light source shall be taken after dark with the light meter held six (6) inches above the ground with the meter facing the light source. A reading shall be taken with the light source on, then with the light source off. The difference between the two readings will be identified as the light intensity.

**§ 153.053 SMOKE.** The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations APC 7017, as may be amended.

**§ 153.054 DUST AND OTHER PARTICULATE MATTER.** The emission of dust, fly ash or other particulate matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations APC 7011, as may be amended.

**§ 153.055 AIR POLLUTION.** The emission of air pollution, including potentially hazardous emissions, by any use shall be in compliance with and regulated by Minnesota Statutes 116, as may be amended.

**§ 153.056 NOISE.** Noises emanating from any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations NCP 7010, as may be amended. In no case shall noise emanations constitute a nuisance as defined and regulated by this Code.

**§ 153.057 REFUSE.**

- A. In all districts, all waste materials, debris, refuse or garbage shall be kept in an enclosed building or screened fenced in area or closed container that is screened and designed for that purposes. The owner of any parcel in the City shall be responsible for maintaining the land and keeping it free of refuse.
- B. All material stored outside and not included as a permitted use, accessory use, conditional use or otherwise permitted by provisions of this chapter shall be considered refuse.
- C. Containers for the keeping of refuse awaiting removal shall be stored within a building, or only in side or rear yards within an enclosure which screens the containers from view of the street and neighboring property. Such enclosures shall be required for all uses except single family and two-family residential buildings. Enclosures shall be constructed of materials that match the materials used in the principal building.

**§ 153.058 EXTERIOR STORAGE.** Except when permitted by zoning district, all materials and equipment, except as may be specifically provided for in this Ordinance, shall be stored within a building or fully screened rear yard so as not to be visible from adjoining properties, except for the following:

- A. Clothesline poles and wires (except in front yards and the setback portion of the side yard abutting a public street);
- B. Recreational vehicles and trailers less than 25 feet in length according to Figure 153A. (Create Exhibit)
- C. One fish house stored in a yard other than a yard adjacent to a public street.
- D. Construction and landscaping materials currently being used on the premises;
- E. Rear or side yard storage of firewood for the purpose of consumption only by the occupant of the property on which it is stored, when meeting the requirements of Section 153.128;
- F. Off-street parking of currently registered and operable passenger vehicles and trucks not exceeding a gross capacity of 12,000 pounds in residential areas;
- G. Landscaping elements and lawn furniture or furniture used and constructed primarily for outdoor use
- H. Motor vehicles which are inoperable or not currently licensed shall be considered a nuisance, and shall be removed from the property for property; except that operable unlicensed motor vehicles held for sale by a licensed motor vehicle dealer may be stored on the licensed property in accordance with all applicable zoning regulations.

**§ 153.059 WOOD STORAGE.**

A. Accessory exterior wood storage for wood stoves, fireplaces or wood furnaces shall be permitted only in side yards and rear yards not abutting a public street. The minimum setback from the property lines

shall be five feet. The maximum height of a wood pile shall be six feet. The wood shall be properly stacked to minimize unsightliness and rodent infestation and shall not block doors or windows.

B. Accumulations of such materials constituting “Refuse” shall be disposed of immediately. The City may declare such accumulations a “Nuisance” and enforce the regulations in accordance with remedies as specified in that Section. Violations of this Section shall constitute “Refuse” and shall be disposed of.

#### **§ 155.060 COMMUNICATION DEVICES.**

Exterior communication devices may be located in a residential district when it complies with the following conditions:

- (A) In all residential districts, only one type of the following are permitted per lot:
  - (1) Satellite dish;
  - (2) Amateur radio tower; or
  - (3) Ground-mounted satellite vertical antenna.
- (B) It is ground mounted or mounted to a principal or accessory structure.
- (C) It is not located closer than ten feet from a side or rear property line, shall not be located within the front yard setback, and may not be located within a drainage and utility easement.
- (D) It complies with the setback requirements for accessory structures.
- (E) It does not exceed 12 feet in height above grade, unless mounted to the principal structure.
- (F) It shall be adequately screened, with landscaping or fencing, from any adjacent residential district, right-of-way, or private street easement at a horizontal grade level satisfactory to the Zoning Administrator. Any communication device with a diameter measuring less than three feet is not required to be screened if it is attached to the principal structure.
- (G) No more than two satellite dish antennas, no greater than three feet in diameter, shall be permitted per lot and no more than one amateur radio tower or ground-mounted satellite vertical antenna shall be permitted per lot.
- (H) Satellite dish antennas shall be used for private, noncommercial purposes.
- (I) A building permit shall be required for any ground mount antenna larger than three feet in diameter.

#### **§ 153.061 BULK STORAGE.**

- A. All uses associated with the bulk storage of all gasoline, liquid fertilizer, chemical, flammable and similar liquids shall comply with County, State, and Federal agency requirements, and have documents from those respective agencies stating the use is in compliance.
- B. Above ground tanks associated with bulk storage shall be considered permitted accessory exterior storage and shall require requisite screening to residential uses.
- C. No bulk liquid tanks of a size greater than 1,100 gallons shall be allowed in residential districts. If natural gas is available in any district, the property owner will connect to natural gas, in which case, bulk fuel tanks shall not be permitted in residential districts.
- D. All uses associated with the bulk storage of over two thousand (2,000) gallons of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall require a conditional use permit, provided such tanks are compliant with all relevant Fire, Building, and Zoning ordinances.

#### **§ 153.062 PRESERVATION OF NATURAL RESOURCES.**

- (A) *Waterways.*
  - (1) Natural drainage systems shall be used if feasible for storage and flow of runoff. Stormwater drainage may be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of stormwater to marshlands or swamps shall be considered for existing or planned surface drainage. Marshlands and swamps used for stormwater shall provide for natural or artificial water level control. Temporary storage areas or retention basins scattered throughout developed areas

shall be encouraged in order to reduce peak flow, erosion damage and construction cost.

(2) The widths of a constructed waterway shall be sufficiently large to channel runoff from a ten-year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.

(3) No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.

(4) The banks of the waterway shall be protected with permanent vegetation.

(5) The banks of the waterway shall not exceed five feet horizontal to one-foot vertical.

(6) The gradient of the waterway bed shall not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.

(7) The bed of the waterway shall be protected with turf, sod or concrete. If turf or sod will not function properly, rip-rap may be used. Rip-rap shall consist of quarried limestone, field stone (if random rip-rap is used) or construction materials and concrete. The rip-rap shall be no smaller than two inches square nor larger than two feet square. Construction materials shall be used only in those areas where the waterway is not used as part of a recreational trail system.

(8) If the flow velocity in the waterway is such that erosion of the turf sidewall will occur and the velocity cannot be decreased via velocity control structures, then other materials may replace turf on the sidewalls. Either gravel or rip-rap would be allowed to prevent erosion at these points.

(9) Development of housing and other structures shall be restricted from the area on either side of the waterway.

(B) *Sediment control of waterways.*

(1) To prevent sedimentation of waterways, pervious and impervious sediment traps, and other sediment control structures shall be incorporated throughout the watershed.

(2) Temporary pervious sediment traps may consist of bales of hay with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. The structures would serve as temporary sediment control features during the construction phase of development.

(3) Permanent impervious sediment control structures shall consist of sediment basins (debris, desilting basins or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.

### **§ 155.063 RADIATION EMISSION.**

All activities that emit radioactivity shall comply with the minimum requirements of the Minnesota Pollution Control Agency.

### **§ 155.064 ELECTRICAL EMISSION.**

All activities which create electrical emissions shall comply with the minimum requirements of the Federal Communications Commission.

### **§ 153.065 VACATED STREETS; AFFECT ON ZONING DISTRICT.**

Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the vacated area shall not be affected by the proceeding.

### **§ 153.066 ACCESS AND ACCESS DRIVES.**

(A) New access drives may be placed no closer than five feet to any side yard property line and no closer than ten feet from any rear lot line.

(B) Access drives shall consist of bituminous, concrete or other paving materials. Crushed rock or gravel shall be prohibited in the design of new access drives or the improvement of existing drives.

(C) Existing access and access drives may be improved without a permit so long as the improved surface is not increased along the adjoining side yard property line and the improved surfacing shall be no closer than one foot from the adjoining side yard property line.

(D) Access onto any public road or street shall be no less than ten feet in width and no greater than 30

feet in width.

(E) Following the adoption of this section, property owners with existing access onto public roads or streets shall not be granted additional access, unless the access is from an public alley.

(F) Proposed access drives to principal structures which traverse wooded, steep or open fields shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. In these cases, further review may be required by the City Engineer.

(G) The number and type of access drives onto major streets may be controlled and limited by the city in the interests of public safety and efficient traffic flow.

(H) Access onto any county or state aid roadways shall require initial review by the Engineer of the respective agencies. In this case, the appropriate location, size and design of the proposed access shall be taken into consideration.

(I) New principal use structures shall not be granted a certificate of occupancy until all the requirements of this section are met.

## § 153.067 PARKING

### 1. LOCATION, OFF-STREET PARKING.

All accessory off-street parking facilities required in this subchapter shall be located as follows:

(A) Spaces accessory to one and two-family dwellings on the same lot as the principal use served; and

(B) Spaces accessory to multiple-family dwellings on the same lot as the principal use or within 200 feet of the main entrance to the principal building served.

### 2. GENERAL PROVISIONS, OFF-STREET PARKING.

(A) Access drives shall be no closer than five feet from any side or rear lot line.

(B) When accessory off-street parking facilities are permitted to be located outside of the lot in which the principal use served is located, they shall be owned or controlled, either by deed or long-term lease by the owner of the principal use and the owner of the principal use shall file a recordable document with the City Council requiring the owner and his or her heirs and assigns to maintain the required number of off-street parking spaces during the existence of the principal use.

(C) Required off-street parking spaces in any district shall not be utilized for open storage of goods or for the storage of vehicles for sale or rent.

(D) Parking of vehicles shall not be allowed on lot areas that are not designed for off-street parking.

(E) In residential areas, off-street parking areas shall not be located on that portion of the lot directly in front of the primary structure, except a driveway leading directly into a garage.

<i>Parking Type</i>	<i>Stall Width (ft.)</i>	<i>Stall Depth (ft.)</i>	<i>Aisle Width (ft.)</i>
<i>Standard Parking*</i>	9	20	—
<i>Parallel Parking</i>	9	18	12
<i>Diagonal Parking</i>	10	20	22
<i>Handicap Parking</i>			
<i>Parallel</i>	12	18	12
<i>Diagonal</i>	12	20	22
* Stall depth may be reduced down to 18 feet where parking is adjacent to the curb and a vehicle can overhang as approved by the City Engineer.			

**3. DESIGN AND MAINTENANCE OF OFF-STREET PARKING AREAS.**

(A) Parking areas shall be designed so as to provide adequate access to a public alley or street. The driveway access shall not exceed 30 feet in width and shall be located so as to cause the least interference with traffic movement.

(1) Parking space size. Each parking space shall not be less than the following:

(2) *Residential parking use.*

(a) *Passenger vehicles and commercial vehicles of a gross capacity of 15,000 pounds or less.* Off-street parking of licensed passenger automobiles/trucks and no more than one commercial vehicle or trailer not exceeding 15,000 pounds gross vehicle weight rating (GVWR), a length of 24 feet from front to back, and a height of nine feet from top to bottom may be permitted on an established driveway or parking area that is surfaced in compliance with § 153.xxx These restrictions shall not apply to recreational vehicles. For the purposes of the measurement of vehicle dimensions, the “height” of a vehicle shall be the vertical distance between the lowest part of the tires of the measured vehicle to the top of the highest part of the vehicle

(B) No parking area shall be designed with head-in parking from the public street.

(C) When a required off-street parking space for four cars or more is located adjacent to a residential district, a fence not less than four feet nor greater than six feet having at no more than 30% light transfer shall be erected along the residential district property line.

(D) It shall be the sole responsibility of the operator and owner of the principal use, uses and/or building to remove accumulations of ice and snow and to maintain in a neat and adequate manner the parking space and access ways.

(E) A parking space shall be not less than 300 square feet per vehicle, including access aisle space.

(F) Off-street parking areas shall be improved with a concrete, bituminous, paving stone or equally durable and dustless surface. The areas shall be so graded and drained as to dispose of all surface water accumulation within the area. These requirements shall also apply to open sales lots for cars, trucks and other equipment.

**4. TRUCK PARKING IN RESIDENTIAL AREAS.**

No motor vehicle bearing a commercial license and no commercially licensed trailer shall be parked or stored in a residential district or on a public street except when loading, unloading or rendering a service. Recreation vehicles and pickup trucks are not restricted by the terms of this provision, provided that they do not carry any hazardous materials.

**5. OTHER PARKING IN RESIDENTIAL AREAS.**

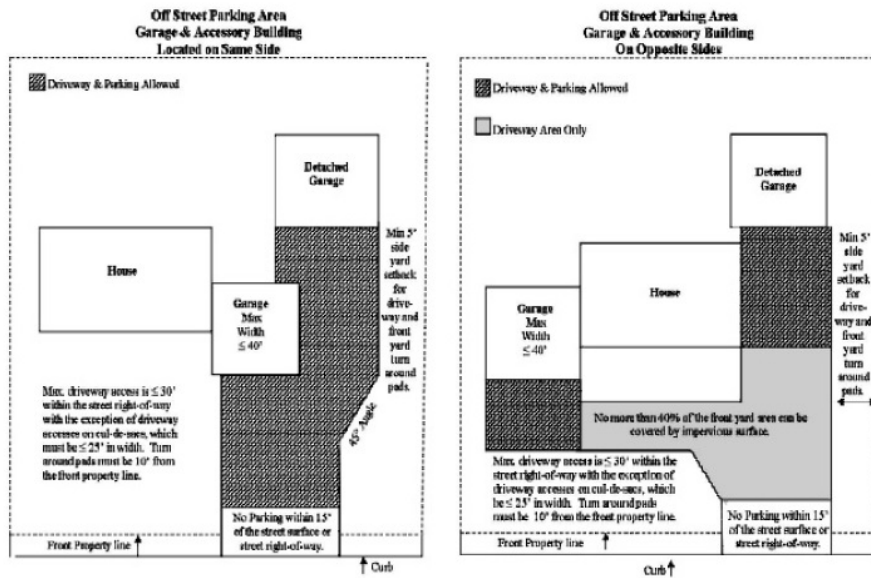
Parking in residential areas (off-street and on-street) shall be limited to the use of the residents of those homes, except for short-term parking (eight hours or less) and guest parking. The number of passenger vehicles parked outdoors on single or two-family residential private property shall not exceed 4 vehicles.

<i>Parking Spaces Required</i>	
<i>Use</i>	<i>Number</i>
Single-family and two-family units	Two enclosed parking spaces per unit.
Multiple-family dwellings	At least 2½ parking spaces per unit with two covered except for efficiency and one bedroom units which shall have 1½ parking spaces per



unit. The ½ parking space may not be located within the driveway.

Figure 153.199-x



6. **MINIMUM REQUIRED OFF-STREET PARKING SPACES.**

<i>Parking Spaces Required</i>	
<i>Use</i>	<i>Number</i>
Auditorium, Banquet/Conference/ Meeting/Party Room, Commercial Recreation - Indoor, Community Center, Funeral Home, Gymnasium, Movie Theater, Place of Worship, Sports Training, and the like	At least one parking space for each three people in the assembly area(s) - which shall be calculated based on fixed seats (one seat equals 22 inches of bench space) or if there are no fixed seats, then the capacity of the assembly area(s) shall be calculated according to the Building Code as adopted by the city, plus parking calculated separately for additional uses such as offices, classrooms, daycares, meeting rooms and others that are used simultaneously with the main assembly area(s).
Automobile sales and garages	At least one parking space for each 400 square feet of floor area.
Automobile wash	At least five parking spaces for each wash stand.
Bowling alleys	At least five parking spaces for each alley, in addition to other uses which shall be calculated separately.
Convalescent home, rest home, nursing home, or day nurseries	Four parking spaces plus one parking space for each three beds for which accommodations are offered.
Convenience food establishment	At least one parking space for each 15 square feet of counter area, and at least one parking space for each 40 square feet of sit-down dining area and at least one parking space for each 80 square feet of kitchen area.

Drive through window service	At least four stacking spaces per aisle for financial institutions; at least 7 spaces per aisle for fast-service restaurants; at least 12 spaces for coffee shops; Others to be determined by the Zoning Administrator. These spaces are in addition to those required by building use.
Day care center, except in-home residential	One space per employee plus one space per seven persons of licensed capacity of the facility.
Elderly (senior citizen) housing	Reservation of area equal to one parking space per unit. Initial development is, however, required of only ½ parking space per unit and the number of parking spaces can continue until such time as the City Council finds that a need for additional parking spaces has been demonstrated.
Fitness centers, libraries, museums, art galleries	At least one parking space for each 300 square feet of floor area, plus one space per employee on the largest work shift.
Hotels, motels	One parking space for each living or sleeping unit, plus one parking space per employee on the major shift. Facilities other than guest rooms, including restaurants, bars, conference rooms and the like shall provide parking spaces as specified in other sections of this chapter.
Manufacturing, fabricating, or processing of a product or material	One parking space for each 500 square feet of floor area, plus one parking space for each company-owned truck (if not stored inside the principal building).
Medical and dental facilities	Six parking spaces per doctor/dentist/therapist, plus one space per employee or one space per 200 square feet of floor area, whichever is greater.
Motor fuel station	At least four off-street parking spaces plus two off-street parking spaces for each service stall. Those facilities designed for sale of items other than strictly automotive products, parts or service shall be required to provide additional parking in compliance with other applicable sections of this chapter.
Office buildings, medical and dental clinics, animal hospitals, and professional offices	Three parking spaces plus at least one parking space for each 200 square feet of floor area.
Personal business services (beauty/barber/tanning salons, chiropractic and massage clinics, counseling services)	One parking space per employee, plus 1 ½ spaces per employee station or one space per 200 square feet of floor area, whichever is greater.

Pre-school	One space per three children of licensed capacity of the facility.
Retail store and service establishment	At least one off-street parking space for each 200 square feet of floor area.
Retail sales and service business with 50% or more of gross floor area devoted to storage and/or warehouses	At least eight parking spaces or one parking space for each 200 square feet devoted to public sales or service plus one parking space for each 500 square feet of storage.
Restaurants, cafes, private clubs serving food and/or drinks, bars, taverns, nightclubs	At least one parking space for each 40 square feet of gross floor area of dining and bar area and one parking space for each 80 square feet of kitchen area.
School (kindergarten through 8 <sup>th</sup> grade)	At least one parking space for each classroom plus one additional parking space for each 50 student capacity, in addition to other uses which shall be calculated separately.
School (9 <sup>th</sup> grade through college) and private schools where busing is not provided to students	At least one parking space for each five students based on design capacity plus one parking space for each classroom, in addition to other uses which shall be calculated separately.
Warehousing, storage or handling of bulk goods	One parking space for each employee on the maximum working shift, plus one parking space for each company-owned truck stored outside the principal building, or a minimum of one parking space for each 2,000 square feet, whichever is greater.
Other uses	Other uses not specifically mentioned herein shall be determined on an individual basis by the City Council. Factors to be considered in such determinations shall include (without limitation) the size of the building, the type of use, the number of employees, the expected volume and turnover of customer traffic, and the expected frequency and number of delivery or service vehicles.

- (A) The Zoning Administrator may require additional off-street parking spaces for any proposed use.
- (B) For the purposes of assessing the appropriate number of parking spaces to be provided, the Zoning Administrator and applicant shall consider the following:
- (1) The average traffic demand generated by other similar uses;
  - (2) The availability of public parking in the area;
  - (3) The anticipated ability of the site and/or building to accept intensive land use in the future;
  - (4) The availability of on-site expansion areas which could accommodate additional future parking spaces without adversely affecting the compatibility of the use in the neighborhood;
  - (5) The minimum parking standards as established by this chapter; and
  - (6) The applicant may apply for a conditional use permit to reduce the minimum number of off-street parking spaces provided for in this section or as may be required by the Zoning Administrator.

#### **§ 153.068 OFF-STREET LOADING AND UNLOADING.**

(A) *Location.* All required loading berths shall be off-street and shall be located on the same lot as the building use to be served. A loading berth shall be located in a manner as to comply with § 153.140 of this chapter and at least 50 feet from a residential district unless within a building. Loading berths shall not occupy the required front yard space.

(B) *Size.* Unless otherwise specified in this chapter, a required loading berth shall be not less than 12 feet in width and 50 feet in length exclusive of aisle and maneuvering space.

(C) *Required loading space.* As may be reasonably determined by the Zoning Administrator.

(D) *Access.* Each required loading berth shall be located with access to a street or public alley in a manner which will least interfere with traffic.

(E) *Surfacing.* All loading berths and access ways shall be improved with concrete or asphalt material to control dust and drainage.

(F) *Accessory use.* Any space allocated as a loading berth or maneuvering area so as to comply with the terms of this chapter shall not be used for the storage of goods or inoperable vehicles, or be included as a part of the space requirements necessary to meet the off-street parking area.

#### **§ 153.069 RECREATION VEHICLES.**

(A) *Location.* Recreation vehicles exceeding 16 feet in length shall only be parked or stored in the residential district as follows.

- (1) The recreation vehicle must be owned or leased by the property owner or tenant.
- (2) The recreation vehicle must be currently registered and licensed.
- (3) The recreation vehicle shall be parked or stored on a hard surfaced area.
- (4) The recreation vehicle shall be parked or stored entirely on the owners or tenants property.
- (5) The recreation vehicle shall be parked or stored so not to extend beyond property lines.
- (6) The recreation vehicle shall be parked so not to obstruct visibility.
- (7) The recreation vehicle and hard surfaced parking shall not be within five feet of side property line. In case of a corner lot, there shall be one side and one rear yard.
- (8) The recreation vehicle shall be stored in the rear yard except if not assessable, the recreation vehicle shall be allowed to be parked or stored in the front driveway or adjacent to the front driveway in the side yard.
- (9) No recreation vehicle shall be permitted to be parked in any area of the lot in front of the primary structure.
- (10) The recreation vehicle shall not be permitted to block any egress exits.
- (11) Recreation vehicles shall not be permanently connected to any utility service.
- (12) Recreation vehicles may not be used as a dwelling, except for occasional use by the owner, tenants, friends, relatives or guests not to exceed 14 days.

(B) *Public property.* Recreation vehicles, boats or associated equipment shall not be parked on any public street, right-of-way easement or other public property overnight except in those public areas

specifically designed for overnight storage or enroute stops. Parking of vehicles in authorized areas shall not exceed ten consecutive days or nights.

(C) *Construction use.* A recreation vehicle or mobile home may be allowed in any district where the vehicle is used as an office connected with construction where a building permit has been granted for the construction work.

(D) *Existing uses.* Existing uses shall comply with this section within 12 months after the adoption of this chapter

#### **§ 153.070 PRIVATE SANITARY SEWER SYSTEMS.**

The standards set forth in the Minnesota Pollution Control Agency's *Standards for Sewage Treatment* are hereby adopted by reference. Any such system shall comply with all applicable regulations, including Minn. Rules 7080. If there are any inconsistencies between the standards found in this chapter and the state standards or if the state standards are amended, the state standards as amended shall govern. No use shall be permitted to install or utilize on-site sanitary sewage treatment when public sanitary sewer collection systems are available to within 300 feet of the subject property.

#### **§ 153.071 RELOCATING BUILDINGS.**

(A) *Permit required.* Every person shall before razing, holding up or moving any building, obtain a building permit and a zoning permit. Applications for the permits shall indicate the origin and destination of the building, and the route over which the moving of the building shall occur. The application shall also indicate the location of the lot on which the building is to be placed, the dimensions of the lot and the proposed location of the building on the lot along with setback distances. No permit allowing a structure to be moved shall be issued unless and until the following conditions are complied with and approved by the Zoning Administrator and Building Inspector.

(1) The applicant shall fill out the building permit and zoning permit applications.

(2) An inspection and review of the proposed building shall be conducted and approved by the Building Inspector or his or her representatives.

(3) The building after being moved shall be made to comply with all aspects of the State Building, Plumbing, Mechanical and Electrical Codes and other pertinent state and local rules, regulations and ordinances.

(4) The Zoning Administrator shall review the zoning permit application to determine compliance with all the minimum requirements of the zoning district in which it is to be located.

(C) *Application procedure.* The Zoning Administrator and Building Inspector shall review the applications and may approve the applications if all zoning and building regulations have been met. If the applicant objects to the findings of the Zoning Administrator or Building Inspector, he or she may request that the Planning Commission review the application. The Planning Commission shall review the applications and make its recommendations to the City Council within 60 days of receipt of the applications. The City Council shall take action to approve or disapprove the applications within 30 days after receiving the recommendations of the Planning Commission. The City Council may take up any application for such permit if necessary to comply with the terms of Mn. Stat. Section 15.99.

(D) *City Forester.* The City Forester shall be advised of the route to be taken in moving any relocated building. All moving or trimming of trees or shrubs within the street rights-of-way or on public property made necessary by the move shall be done by the City Forester at the expense of the applicant. Should the moving, trimming or replanting of trees or shrubs cause the death of the trees or shrubs, the applicant shall replace them at his or her expense. Prior to moving the building, the city may in its sole discretion require the applicant to deposit with the city a reasonable amount of money to cover the expenses for which the applicant is responsible under this division. Any sum not expended shall be refunded to the applicant.

(E) *Responsibility for payment.* The applicant shall be responsible for the payment of all expenses associated with the application process, the moving of the structure and all other related expenses.

(F) The City may deny a permit to move a structure if it determines that damage to public property may occur as a result of the moving.

### **§ 153.072 PREMISES IDENTIFICATION; HOUSE NUMBERS.**

Approved address numbers shall be placed on all new and existing buildings in a manner as to be plainly visible and legible from the road or street fronting the property. The numbers shall contrast with their background and be a minimum of four inches in height. The numbers shall also conform with requirements of the United States postal service and requirements of the State Fire Code.

### **§ 153.073 BUILDING TYPE AND CONSTRUCTION.**

(A) *Prohibited construction.* No building shall be constructed of steel (except horizontal steel lap siding), iron, sheet aluminum, corrugated aluminum or plain, flat, unpainted concrete block (walls or roofs), except in association with farming activities and as allowed by § 153.xxx below.

(B) *Compatibility with surrounding property.* Buildings in all zoning districts shall maintain a high standard of architectural and aesthetic compatibility with surrounding properties to insure that they will not adversely impact the property values of the abutting properties or adversely impact the community's public health, safety and general welfare.

(C) *Commercial and industrial areas.*

(1) In commercial and industrial areas, exterior building finishes shall consist of materials comparable in grade and quality to the following:

- (a) Brick;
- (b) Natural stone;
- (c) Decorative concrete block;
- (d) Professionally designed pre-cast concrete units if the surfaces have been integrally treated with an applied decorative material or texture, or decorative block and if incorporated in a building design which is compatible with other development throughout the district;
- (e) Wood, vinyl, steel or aluminum lap siding, provided the surfaces are finished for exterior use and proven to have exterior durability, such as cedar, redwood or cypress;
- (f) Glass curtain wall panels;
- (g) Stucco, cementitious coating; and
- (h) Architectural standing-seam metal panels for accents and roofs only.

(2) If any of the following materials are used, they may constitute no more than 80% of the building elevation facing a roadway or other planned roads. The remaining 20% must be of a different color, material, or architectural relief provided that the visual effect of this relief is deemed substantially similar to a change in color or material.

- (a) Decorative concrete block whose color and texture is integral to the material; and
- (b) Textured or architecturally treated concrete masonry units, or panels, if either sealed or painted in a manner guaranteed by the manufacturer against blistering, peeling, cracking, flaking, checking or chipping for a minimum of five years.

(E) *Prohibited materials.* Plain, flat, unpainted concrete block.

(F) *Business districts.*

(1) Evaluation of the appearance of a project shall be based on the quality of its design and the relationship to its surroundings.

(2) Buildings shall have good scale and be in harmonious conformance with permanent neighboring development.

(3) Materials shall have good architectural character and shall be selected for harmony with adjoining buildings. Materials shall also be of durable quality.

(4) Building components, such as windows, doors, eaves and parapets shall have good proportions and relationships to one another.

(5) Colors shall be harmonious and shall only use compatible accents.

(6) Exterior lighting shall be part of the architectural concept. Fixtures, standards, and all exposed

accessories shall be harmonious with building design.

(7) Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting or individual buildings may be used to prevent monotonous appearance.

(8) Subsequent minor additions shall be constructed of materials comparable in quality and appearance to those used in the original construction and shall be designed in a manner conforming with the original architectural design and general appearance, except when facing a public right-of-way. When a subsequent addition faces a public right-of-way, the sides facing public right-of-way shall be constructed of materials listed in division (C) of this section, or a combination of these materials and existing building materials as determined satisfactory by the Planning Commission.

#### **153.074 SINGLE FAMILY DWELLINGS.**

All single-family detached homes, except as part of approved manufactured home parks, shall conform to the following requirements:

- A. Perimeter Foundation. Be constructed upon a continuous perimeter foundation that meets the requirements of the State Building Code.
- B. Dimensional Requirements. No residential structure shall have a width of less than twenty-two (22) feet on not less than seventy (70) percent of the structure. Width measurements shall not be inclusive of overhangs or other projections beyond the principal exterior walls.
- C. Roof. Have an earth covered, composition, metal, shingled or tiled roof. All single family dwellings other than approved earth sheltered homes shall have at least three/twelve (3/12) roof pitch with a one (1) foot overhang.
- D. Architecture. The exterior architectural design of a proposed dwelling may not be so at variance with, nor so similar to, the exterior architectural design of any structure or structures already constructed or in the course of construction in the immediate neighborhood, nor so at variance with the character of the surrounding neighborhood as to adversely affect the public health, safety or general welfare.
- E. Orientation. Every single family house shall be oriented to face the street from which the house derives its frontage.
- F. Minimum Floor Area. Single family dwellings shall have a minimum foundation footprint of 800 square feet.

#### **§ 153.075 MULTI-FAMILY STRUCTURES GENERALLY.**

All multi-family structures located in the R-3 and R-4 Districts shall be subject to the following standards in this subchapter. All requests for zoning permits, building permits or conditional use permits shall be accompanied by the following information as may be reasonably required by the Zoning Administrator and Building Inspector.

- (A) Proposed and existing building locations, adjoining property locations, dimensions and elevations, all signs, structures, entry areas, storage sites, streets, sidewalks, alleys, parking lots and other structural improvements to the site;
- (B) Circulation plans for both pedestrian and vehicular traffic;
- (C) Fences and screening devices;
- (D) Solid waste disposal provisions and facilities;

- (E) Utilities such as gas, telephone, sewer and water;
- (F) Storm drainage plans;
- (G) Firefighting and other public safety facilities and provisions such as hydrant locations and fire lanes;
- (H) Data pertaining to numbers of dwelling units, size, lot area and ratios;
- (I) Exterior wall materials and design information;
- (J) A one foot contour topographical map of the existing site;
- (K) A grading plan illustrating the proposed grade changes from the original topographical map. All site areas, when fully developed, shall be completely graded so as to adequately drain and dispose of all surface water, storm and groundwater in a manner as to preclude large scale erosion, unwanted ponding and surface chemical runoff;
- (L) A recreation plan illustrating in detail all recreational facilities and structures; and
- (M) A soil erosion control plan for the construction period. Areas within the construction zone shall be fenced with construction fencing to prohibit heavy machinery and/or materials from being placed on areas not to be disturbed during construction. This shall, at a minimum, include all slopes in excess of 18%.
- (N) Sidewalks shall be provided from parking, loading, and recreation areas to the entrances of the building.
- (O) Screening to a height of at least six feet shall be required where any off-street parking area is within 30 feet of an adjoining residential zone; or where the driveway to a parking area is within 15 feet of an adjoining residential zone.
- (P) Parking spaces shall not be located within ten feet of the side or rear lot line.
- (Q) The design shall make use of all land contained in the site. All of the sites shall be related to the circulation, recreation, screening, building, storage and landscaping, so that no portion of the site remains undeveloped.

R. Multiple Dwelling Units. Except for elderly housing, living units classified as multiple dwelling shall have the following minimum floor areas per unit:

Efficiency Units	500 square feet
One Bedroom Units	700 square feet
Two Bedroom Units	800 square feet
More than two bedroom units	An additional 80 square feet for each additional bedroom.

S. Elderly (Senior Citizen) Housing. Living units classified as elderly (senior citizen) housing units shall have the following minimum floor areas per unit:

Efficiency Units	440 square feet
One Bedroom	520 square feet

T. Two-Family Houses and Townhouses. Except as otherwise specified in the zoning district provisions, double bungalows, quadraminiums and townhouses, as classified below, shall have the minimum floor area per one bedroom unit:

Two Family Unit	- 650 square feet first floor above grade, plus 100 additional square feet for each additional bedroom.
Townhouses-	600 square feet first floor above grade, plus 100 additional square feet for each additional bedroom.

**§ 153.076 SWIMMING POOLS.** Swimming pools shall be a permitted accessory use in each district subject to the following standards and requirements.

- (A) The pool shall be constructed at least ten feet from all property lines in all districts. In no case, shall a pool be allowed in any portion of the required yard abutting a public right of way.



- (B) A six-foot high perimeter security fence shall be installed and maintained around the pool at all times.
- (C) The fence shall have a maximum three-inch spacing between intermediate rails and the fence shall not be more than three inches off the ground.
- (D) A permanent fence shall be in place a minimum of 30 days after the pool is completed.
- (E) No construction of fences or accessory buildings shall be placed on or over any public utilities, or on any easements.
- (F) A self-latching and lockable gate shall be installed.
- (G) Failure to complete the swimming pool construction project within 12 months from approval of the zoning and building permits shall be a violation of this chapter.

### Section 3 - Use Standards

153.100	Home Occupations
153.101	Antennas & Towers
153.102	Adult Uses
153.103	Kennels
153.104	Mining Permits
153.105	Grading Permits/Land Alteration
153.106	Manufactured Home Parks
153.107	Singe Family Houses
153.108	Multi-Family Housing
153.109	Motor Vehicle Service Stations
153.110	Solar Energy Systems
153.111	Wind Energy Conversion Systems
153.112	Signs
153.113	Animals
153.114	Model Homes
153.115	Senior Housing
153.116	Airports
153.117	Essential Services

#### **§ 153.100 HOME OCCUPATIONS - GENERAL REGULATIONS.**

(A) *Purpose.* The purpose of this section is to prevent competition with business districts and to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety, and general welfare of the surrounding neighborhood. Home occupations may provide for commercial activities in residential neighborhoods under this section, but only on the expectation that the home occupation shall not create impacts that negatively impact the residential character of the neighborhood. In addition, this section is intended to provide a mechanism enabling the distinction between permitted home occupations and special or customarily “more sensitive” home occupations, so that permitted home occupations may be allowed through an administrative process rather than a legislative hearing process.

(B) *Applicability of provisions.* Subject to the nonconforming use provision of this section, all occupations conducted in the home shall comply with the provisions of this section. This

section shall not be construed, however, to apply to home occupations accessory to farming.

(C) *Procedures and permits; fee.*

(1) *Permitted home occupations.* Any home occupation as defined in this chapter shall require a “limited home occupation permit.” The permit shall be issued subject to the conditions of this section, other applicable city ordinances and code provisions, and state law. This permit may be issued by the Zoning Administrator or the Administrator’s agent based upon proof of compliance with the provisions of this section. Application for the “limited home occupation permit” shall be accompanied by a fee as established by City Council ordinance. If the Zoning Administrator denies a permitted home occupation permit to an applicant, the applicant may appeal the decision to the Planning Commission. The Planning Commission shall make a recommendation to the City Council, which shall make the final decision. Any permit issued shall remain in force and effect until such time as there has been a change in conditions or until such time as the provisions of this section have been breached. At such time as the city has reason to believe that either event has taken place, a public hearing shall be held before the Planning Commission. The City Council shall make a final decision on whether or not the permit holder is entitled to the permit.

(2) *Special home occupation.*

(a) *Generally; permit required.* Any home occupation which does not meet the specific requirements for a permitted home occupation as defined in this section shall require a “special home occupation permit” which shall be applied for, reviewed, and issued in accordance with the procedural provisions of §153.100(D).

(b) *Declaration of conditions.* The Planning Commission and City Council may impose such conditions on the granting of a special home occupation permit as may be necessary to carry out the purpose and provisions of this section.

(c) *Term of permit.*

1. *Initial permit.* An initial special home occupation permit may be issued by the City Council for a period of one year.

2. *Renewal permit.* After the initial one year permit in subdivision (C)(2)(c)1. above, the Zoning Administrator may administratively reissue a special home occupation permit without following procedural provisions of this section. The Zoning Administrator’s decision may be appealed to the Planning Commission in accordance with the procedure and requirements set forth in §153.100 (C)(1) of this chapter. Renewal considerations shall include evidence that the home occupation has, or has not, created negative non-residential impacts on the neighborhood in which it is located, and whether the permittee has been in full compliance with all of the terms of this Chapter and of the original permit as granted by the City Council.

(d) *Transferability.* Permits shall not run with the land and shall not be transferable.

(e) *Lapse of permit by nonuse.* If, within one year after granting a permit, the use as permitted by the permit shall not have been initiated, then such permit shall become null and void unless a petition for extension of time in which to complete the work has been granted by the City Council. Such petition shall be required in writing and filed with the Zoning Administrator at least 30 days before the expiration of the original permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to initiate the use. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

(f) *Reconsideration of application denial.* Whenever an application for a permit has been

considered and denied by the City Council, a similar application for a permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six months from the date of its denial unless a decision to reconsider such matter is made by not less than a four-fifths vote of the full City Council.

(g) *Renewal of permits.* An applicant shall not have a vested right to a permit renewal by reason of having obtained a previous permit. In applying for and accepting a permit, the permit holder agrees that his or her monetary investment in the home occupation will be fully amortized over the life of the permit and that a permit renewal will not be needed to amortize the investment. The previous granting or renewal of a permit shall not constitute a binding precedent or basis for the renewal of a permit.

(D) *Requirements—general provisions.* All home occupations shall comply with the following general provisions and, according to definition, the applicable requirement provisions.

(1) *General provisions.*

(a) No home occupation shall produce light, glare, noise, odor, or vibration that will in any way have an objectionable effect upon adjacent or nearby property.

(b) No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.

(c) Any home occupation shall be clearly incidental and secondary to the residential use of the premises shall not change the residential character thereof, and shall result in no incompatibility or disturbance to the surrounding residential uses.

(d) No home occupation shall require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and state fire and police recommendations.

(e) There shall be no exterior storage of equipment or materials used in the home occupation, except personal automobiles used in the home occupation may be parked on the site.

(f) The home occupation shall meet all applicable fire and building codes.

(g) There shall be no exterior display or exterior signs or interior display or interior signs which are visible from outside the dwelling.

(h) All home occupations shall comply with the provisions of the City Nuisance Ordinance.

(i) No home occupation shall be conducted between the hours of 10:00 p.m. and 7:00 a.m. unless the occupation is contained entirely within the principal building and will not require any on-street parking facilities.

(2) *Requirements—permitted home occupations.* The following restrictions shall apply to permitted home occupations:

(a) The home occupation shall only employ persons who constantly reside on the premises.

(b) All permitted home occupations shall be conducted entirely within the principal dwelling and may not be conducted in attached or detached accessory buildings.

(c) Permitted home occupations shall not create a parking demand in excess of that which can be accommodated in an existing driveway.

(d) Examples of permitted home occupations include: art studios, dressmaking, secretarial services, professional offices, teaching with musical, dancing, and other instructions which consist of no more than one pupil at a time, and a day care facility, not serving more than 12 children in single family detached residential units, or 16 children in multiple family

residential units, as licensed by state statutes.

(e) The permitted home occupation shall not involve any manufacturing which requires equipment other than found in a dwelling; teaching which customarily consists of more than one pupil at a time; or over-the-counter sale of merchandise produced off the premises, except for those brand name products that are not marketed and sold in a wholesale or retail outlet.

(3) *Requirements—special home occupations.* The following restrictions shall apply to special home occupations:

(a) No person other than a resident shall conduct the home occupation, except where the applicant can satisfactorily prove unusual or unique conditions or need for non-residential assistance and that this exception would not compromise the intent of this chapter.

(b) All special home occupations shall be conducted entirely within the principal dwelling and may not be conducted in accessory buildings.

(c) Examples of special home occupations include: barber and beauty services, photography studios, group lessons, saw sharpening, small appliance, small engine repair, and the like.

(d) The home occupation may involve any of the following: stock-in-trade incidental to the performance of the service, repair or manufacturing which requires equipment other than customarily found in a home, the teaching with musical, dancing, and other instruction of more than one pupil at a time.

(e) Special home occupations may be allowed to accommodate their parking demand through utilization of on-street parking. In such cases where on-street parking facilities are necessary, however, the City Council shall maintain the right to establish the maximum number of on-street spaces permitted and increase or decrease that maximum number when and where changing conditions require additional review.

(E) *Nonconforming uses.* Existing home occupations lawfully existing on the date of this chapter may continue as nonconforming uses. They shall, however, be required to obtain permits for their continued operation. Any existing home occupation that is discontinued for a period of more than 30 days, or is in violation of the ordinance provisions under which it was initially established, shall be brought into conformity with the provisions of this section.

(F) *Inspection.* As a condition of any home occupation application and approval, the property owner shall grant license to the city to enter the property for periodic inspection. The city hereby reserves the right upon issuing any home occupation permit to inspect the premises in which the occupation is being conducted to ensure compliance with the provisions of this section or any conditions additionally imposed.

## **§ 153.101 WIRELESS COMMUNICATIONS TOWERS**

(A) This chapter shall officially be known, cited and referred to as the City of Le Sueur Tower and Wireless Facility Ordinance.

(B) In order to accommodate the communication needs of residents and business while protecting the public health, safety, and general welfare of the community, the Council finds that these regulations are necessary in order to:

(1) Facilitate the provision of wireless telecommunication services to the residents and businesses of the city;

(2) Minimize adverse visual effects of towers through careful design and siting standards;

(3) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and,

(4) Maximize and encourage the use of buildings and existing or approved towers to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community and minimize their visual impact.

(C) ENFORCEMENT.

The enforcement of these regulations shall be the responsibility of the Zoning Administrator.

(D) DEFINITIONS.

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

**ANTENNA.** Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

**ANTENNA HEIGHT.** The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

**CO-LOCATION.** Locating wireless communications equipment from more than one provider on a single site.

**COMMERCIAL WIRELESS TELECOMMUNICATION SERVICES.** Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

**COMMUNICATION TOWER.** A guyed, monopole, or self-supporting tower, constructed as a free standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

**GUYED TOWER.** A communication tower that is supported, in whole or in part, by guy wires and ground anchors.

**LATTICE TOWER.** A guyed or self-supporting three or four sided, open, steel frame structure used to support telecommunications equipment.

**MICROWAVE.** Electromagnetic radiation with frequencies higher than 1,000 MHz; highly directional signal used to transmit radio frequencies from point-to-point at a relatively low power level.

**MONOPOLE TOWER.** A communication tower consisting of a single pole, constructed without guy wires and ground anchors.

**PREEXISTING TOWERS AND ANTENNAS.** Any tower or antenna previously approved prior to the effective date of these regulations and is exempt from the requirements of these regulations so long as the tower or antennas are not modified or changed.

**PROTECTED RESIDENTIAL PROPERTY.** Any property within the city that meets all of the following requirements: The property is zoned Residential (R) and the property may or may not also have a Planned Unit Development (PUD) classification; the property is designated on the Comprehensive Plan as Residential or "Live"; and the property is used or subdivided for use as residential.

**PUBLIC UTILITY.** Persons, corporations, or governments supplying gas, electric, transportation, water, sewer, or land line telephone service to the general public. For the purpose

of this chapter, commercial wireless telecommunication service facilities shall not be considered public utility uses, and are defined separately.

**SELF-SUPPORT TOWER.** A communication tower that is constructed without guy wires and ground anchors.

**TEMPORARY WIRELESS COMMUNICATION FACILITY.** Any tower, pole, antenna, etc. designed for use while a permanent wireless facility is under construction, for an emergency or for a special event.

**TOWER.** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

**TOWER, MULTI-USER.** A tower to which is attached the antennas of more than one commercial wireless telecommunication service provider or governmental entity.

**TOWER, SINGLE-USER.** A tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate the antennas of multiple users as required in this code.

**WHIP ANTENNA.** An antenna that transmits signals in 360 degrees. Whip antennas are typically cylindrical in shape and are less than six inches in diameter and measure up to 18 inches in height. Also called omnidirectional, stick or pipe antennas.

**(E) APPLICATION PROCEDURES AND APPROVAL PROCESS.**

(1) All towers in excess of 35 feet may be allowed following the issuance of a conditional use permit if the conditions of this code are met. The process for a conditional use permit is detailed in § 155.440 of the Zoning Ordinance. The addition of a new antenna on an existing tower or building may be allowed by permit by the Zoning Administrator if the conditions of this code are met.

(2) In addition to the information required above, development applications for wireless communications facilities shall include the following supplemental information:

(a) A report from a qualified and licensed professional engineer which describes the tower height and design including a cross section and elevation, documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas; describes the tower's capacity, including the number and type of antennas that it can accommodate; documents what steps the applicant will take to avoid interference with established public safety telecommunications; includes an engineer's stamp and registration number; and, includes other information necessary to evaluate the request.

(b) For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

(c) Before the issuance of a building permit, the following supplemental information shall be submitted: proof that the proposed tower complies with regulations administered by Federal Aviation Administration; and, a report from a qualified and licensed professional engineer which demonstrates the tower's compliance with the city's structural and electrical standards.

(3) In addition to the site plan requirements found elsewhere in the Zoning Ordinance, site plans for wireless communications facilities shall include the following supplemental information:

(a) Location and approximate size and height of all buildings and structures within 500 feet adjacent to the proposed wireless communication facility.

(b) Site plan of entire development, indicating all improvements including landscaping and screening.

(c) Elevations showing all facades, indicating exterior materials and color of the tower(s) on the proposed site.

(d) Plans shall be drawn at a scale of not less than one inch to 100 feet.

(4) Generally, approval of a wireless communications facility can be achieved if the following items are met:

(a) The location of the proposed tower is compatible with the Comprehensive Plan and Zoning Ordinance.

(b) There exists no city-owned sites or buildings, including schools, water towers, libraries, and parks, that can reasonably serve the needs of the owner of the proposed new facility/tower.

(c) There is no other existing or proposed facility/tower that can reasonably serve the needs of the owner of the proposed new facility/tower.

(d) All efforts to locate on an existing tower have not been successful or legally/physically possible.

(e) The submitted site plan complies with the performance criteria set in these regulations.

(f) The proposed facility/tower will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.

(g) The lowest six feet of the facility/tower be visually screened by a combination of trees, large shrubs, solid walls, fences, nearby buildings or natural topography.

(h) The height and mass of the facility/tower does not exceed that which is essential for its intended use and public safety.

(i) The owner of the wireless communication facility has agreed to permit other persons/cellular providers to attach cellular antenna or other communications apparatus which do not interfere with the primary purpose of the facility.

(j) The proposed facility/tower is not constructed in such a manner as to result in needless height, mass, and guy-wire supports.

(k) The color of the proposed facility/tower will be of a light tone or color (except where required otherwise by the FAA) as to minimize the visual impact and that the tower will have a security fence around the tower base or the lot where the tower is located.

(l) The facility/tower is in compliance with any other applicable local, state, or federal regulations.

#### (F) LOCATION AND DESIGN REQUIREMENTS.

(1) Co-location requirements. All commercial wireless telecommunication towers erected, constructed, or located within the city shall comply with the following requirements:

(a) A proposal for a new commercial wireless telecommunication service tower



shall not be approved unless the City Council finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on a city-owned or public building or property or on an existing or approved tower or building within a one half mile search radius of the proposed tower due to one or more of the following reasons:

(i) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

(ii) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.

(iii) Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.

(iv) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

(v) Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable or like antennas for at least three additional users if the tower is 101-150 feet in height, for at least two additional users if the tower is 60-100 feet in height, or for at least one additional user if the tower is less than 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

(2) Tower and design requirements. Proposed or modified towers and antennas shall meet the following design requirements:

(a) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.

(b) Commercial wireless telecommunication service towers shall be of a monopole design unless the City Council determines that an alternative design would better blend in to the surrounding environment.

(3) Tower construction requirements. All towers erected, constructed, or located within the city, and all wiring therefor, shall comply with the requirements set forth in the City's Building Code.

(4) Tower setbacks. Towers shall conform to each of the following minimum setback requirements in addition to the district requirements established in § 153.xxx of this chapter:

(a) Towers, at a minimum, shall meet the setbacks of the underlying zoning

district.

(b) Towers shall be set back from the planned public rights of way. All guy wires or guy wire anchors shall not be erected within public or private utility and drainage easements.

(c) A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the City Council, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device, or similar structure.

(d) A tower's setback may be reduced at the sole discretion of the City Council, if a report from a qualified and licensed professional engineer demonstrates that the design of the tower will not allow the tower to physically damage adjoining properties.

(e) Towers erected on any protected residential parcel as defined in § 153.xxx of this chapter are also subject to the setback provisions of this chapter.

(5) Tower height. All proposed towers shall meet the height restrictions set forth in § 153.xxx of this chapter.

(6) Tower lighting. Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

(7) Signs and advertising. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

(8) Accessory utility buildings. All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

(9) Abandoned or unused towers or portions of towers. Abandoned or unused towers or portions of towers shall be removed as follows:

(a) All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the Zoning Administrator. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application. In the event that a tower is not removed within 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the city and the costs of removal assessed against the property.

(b) Unused portions of towers above a manufactured connection shall be removed within six months of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new conditional use permit.

(10) Antennas mounted on roofs, walls, and existing towers. The placement of wireless telecommunication antennas on roofs, walls, and existing towers are preferred to erecting new towers and may be approved by the Zoning Administrator, provided the antennas

meet the requirements of this code, after submittal of a final site and building plan as specified by § xxx of this code, and a report prepared by a qualified and licensed professional engineer indicating the existing structure or tower's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings, and the precise point of attachment shall be indicated.

(11) Interference with public safety telecommunications. No new or existing telecommunications service shall interfere with public safety telecommunications. All applications for new service shall be accompanied by an intermodulation study that provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the city at least ten calendar days in advance of such changes and allow the city to monitor interference levels during the testing process.

(G) PROHIBITIONS.

(1) No tower shall be over 150 feet in height or within one mile of another tower regardless of municipal/township boundaries.

(2) A proposal for a new wireless service tower shall not be approved unless it can be shown by the applicant that the telecommunication equipment planned for the proposed tower cannot be accommodated:

(a) On an existing tower or structure, or

(b) On a tower that has already been permitted (even though it might not yet be constructed)

(c) On a tower whose application is currently pending before the city.

(3) No temporary mobile cell sites are permitted except in the case of equipment failure, equipment testing, or in the case of an emergency situation as authorized by the County Sheriff. Use of temporary mobile cell sites for testing purposes shall be limited to 24 hours; use of temporary mobile cell sites for equipment failure or in the case of emergency situations shall be limited to a term of 30 days. These limits can be extended by the Zoning Administrator.

(4) Permanent platforms or structures, exclusive of antennas, other than those necessary for safety purposes or for tower maintenance are prohibited.

(H) DISTRICT PROVISIONS.

(1) Commercial wireless facility standards. Antennas and towers are regulated differently depending on the zoning district in which that property is located. Antennas and towers supporting commercial antennas conforming to all applicable provisions of this code shall be allowed by a conditional use permit as described in the following districts:

(a) All districts. Antennas attached to water towers are not restricted by height requirements, provided that the antennas blend into and do not extend more than 20 feet above the height of the water tower structure.

(b) General Agriculture (A). The maximum height of any tower, including all antennas and other attachments, shall not exceed two feet for each foot the tower is setback from the property line, up to a maximum height of 150 feet.

(c) Residential Districts (R):

(i) Towers shall only be allowed with a conditional use permit in the following residentially zoned locations unless no sites exist that can

reasonably serve the needs of the owner of the proposed new facility/tower:

- (a) Church sites, when camouflaged as steeples or bell towers;
- (b) Park sites, when compatible with the nature of the park; and,
- (c) Government, school, utility, and institutional sites.

(ii) In all protected residential property the maximum height of any tower, including all antennas and other attachments, shall be 35 feet. In all residential zoning districts other than protected residential property, the maximum height of any tower, including all antennas and other attachments, shall not exceed one foot for each foot the tower is setback from the property line, up to a maximum height of 150 feet.

(d) Business (B). The maximum height of any tower, including all antennas and other attachments, shall not exceed 100 feet in height. A tower must be setback from a residentially zoned property a minimum of one foot for each one foot of height.

(e) General Industry (I). The maximum height of any tower, including all antennas and other attachments, shall not exceed 150 feet in height. A tower must be setback from a residentially zoned property a minimum of one foot for each one foot of height.

(2) Antennas mounted on roofs and walls. Antennas may be attached to an existing building's roof or wall if it meets the provisions of this chapter and the following conditions:

- (a) The antenna meets the height restrictions of the relevant district.
- (b) The antenna does not extend more than ten feet above the highest point of the structure.

(3) Non-commercial wireless facility (amateur radio antenna) standards. Towers supporting amateur radio antennas and conforming to all applicable provisions of these regulations shall be allowed only in the rear yard of residentially zoned parcels. In accordance with the Federal Communications Commission's preemptive ruling PRB1, towers erected for the purpose of supporting amateur radio antennas may exceed 35 feet in height provided that a determination is made by the Zoning Administrator that the proposed tower height is technically necessary to successfully engage in amateur radio communications.

#### (I) NONCONFORMING ANTENNAS AND TOWERS.

All legal nonconforming antennas and towers may remain subject to the following:

- (1) The antennas and towers may not be moved to a new location.
- (2) Any antenna or tower which is located in a place which constitutes a hazard to either persons or property shall not be allowed to remain and shall be removed upon order of the City Council. The cost of removing any such antenna/tower shall be the responsibility of the owner of the property upon which the hazardous antenna/tower is located.
- (3) A legal, non-conforming antenna/tower which is modified, enlarged or changed, except for routine and minor repairs shall be brought into compliance with this chapter.

#### (J) PENALTY.

A violation of this chapter shall be a misdemeanor, punishable in accordance with the

provisions of this Chapter. Each day that a violation is permitted is considered a separate offense. In addition, the city may seek injunctive relief in the County District Court to require conformance with this chapter. All costs and reasonable attorney's fees incurred by the city in enforcing the provisions of this chapter shall be paid by the violator of this chapter.

## **§ 153.102 ADULT USES.**

(A) DEFINITIONS. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ACCESSORY ADULT USES.** A use, business or establishment having 10% or less of its stock in trade or floor area allocated to, or 20% or less of its gross receipts derived from adult use.

**ADULT BODY PAINTING STUDIO.** An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when the body is wholly or partially nude in terms of **SPECIFIED ANATOMICAL AREAS**.

**ADULT BOOKSTORE.** A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape or motion picture film if the building or portion of a building is not open to the public generally but only to one or more classes of the public excluding any minor by reason of age or if a substantial or significant portion of the items are distinguished or characterized by an emphasis on the depiction or description of **SPECIFIED SEXUAL ACTIVITIES** or **SPECIFIED ANATOMICAL AREAS**.

**ADULT CABARET.** A building or portion of a building used for providing dancing or other live entertainment, if the building or portion of a building excludes minors by virtue of age or if the dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of **SPECIFIED SEXUAL ACTIVITIES** or **SPECIFIED ANATOMICAL AREAS**.

**ADULT COMPANIONSHIP ESTABLISHMENT.** A companionship establishment which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee, representative or agent of the establishment and a customer, if the service is distinguished or characterized by an emphasis on **SPECIFIED SEXUAL ACTIVITIES** or **SPECIFIED ANATOMICAL AREAS**.

**ADULT CONVERSATION/RAP PARLOR.** A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion, if the service is distinguished or characterized by an emphasis on **SPECIFIED SEXUAL ACTIVITIES** or **SPECIFIED ANATOMICAL AREAS**.

**ADULT HEALTH/SPORT CLUB.** A health/sport club which excludes minors by reason of age, or if the club is distinguished or characterized by an emphasis on **SPECIFIED SEXUAL ACTIVITIES** or **SPECIFIED ANATOMICAL AREAS**.

**ADULT HOTEL OR MOTEL.** A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to **SPECIFIED SEXUAL ACTIVITIES** or **SPECIFIED ANATOMICAL AREAS**.

**ADULT MASSAGE PARLOR, HEALTH CLUB.** A massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if the service is distinguished or characterized by an emphasis on **SPECIFIED SEXUAL ACTIVITIES** or **SPECIFIED ANATOMICAL AREAS**.

**ADULT MINI-MOTION PICTURE THEATER.** A building or portion of a building with a capacity for less than 50 persons used for presenting material if the building or portion of a building as a prevailing practice excludes minors by virtue of age, or if the material is distinguished or characterized by an emphasis on **SPECIFIED SEXUAL ACTIVITIES** or **SPECIFIED ANATOMICAL AREAS** for observation by patrons therein.

**ADULT MODELING STUDIO.** An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to the customers and who engage in **SPECIFIED SEXUAL ACTIVITIES** or display **SPECIFIED ANATOMICAL AREAS** while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by the customers.

**ADULT MOTION PICTURE ARCADE.** Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motor picture machines, projectors or other image-producing devices are maintained 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**.

**ADULT MOTION PICTURE THEATER.** A building or portion of a building with a capacity of 50 or more persons used for presenting material in the building or portion of a building as a prevailing practice and excludes minors by virtue of age or if the material is distinguished or characterized by an emphasis on **SPECIFIED SEXUAL ACTIVITIES** or **SPECIFIED ANATOMICAL AREAS** for observation by patrons therein.

**ADULT NOVELTY BUSINESS.** A business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designated for sexual stimulation.

**ADULT SAUNA.** A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on **SPECIFIED SEXUAL ACTIVITIES** or **SPECIFIED ANATOMICAL AREAS**.

**ADULT STEAM ROOM/BATHHOUSE FACILITY.** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent if the building or portion of a building restricts minors by reason of age or 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**.

**ADULT USES.** Adult bookstores, adult motion picture theaters, adult motion picture rental, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios and other premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of **SPECIFIED SEXUAL ACTIVITIES** or **SPECIFIED ANATOMICAL AREAS** which are capable of being

seen by members of the public.

**PRINCIPAL ADULT USES.** A use, business or establishment having more than 10% of its stock in trade or floor area allocated to, or more than 20% of its gross receipts derived from, any adult use.

**SPECIFIED ANATOMICAL AREAS.**

(1) Less than completely and opaquely covered human genitals, pubic region, buttock, anus or female breast(s) below a point immediately above the top of the areola.

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

**SPECIFIED SEXUAL ACTIVITIES.**

(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, or the use of excretory functions in the context of a sexual relationship and any of the following sexual-oriented acts or conduct artilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty.

(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 region, buttocks or female breast.

(5) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any persons.

(6) Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being.

(7) Human erection, urination, menstruation, vaginal or anal irrigation.

**(B) GENERAL PROVISIONS.**

Adult uses as defined in this subchapter shall be subject to the following general provisions.

(1) In no instance shall the application or interpretation of this subchapter be construed to allow an activity otherwise prohibited by law.

(2) Adult uses, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.

(3) An adult use which does not qualify as an adult use accessory, shall be classified as an adult use principal.

**(C) ADULT USE PRINCIPAL.**

(1) Adult use principal shall be permitted a permitted use in the Commercial/Light industry (C-I) Zoning District, subject to the location criteria outlined in division (B) of this section.

(2) Adult use principal shall be located at least 350 radial feet, as measured in a straight line from the closest point of the property line of the building upon which the adult use principal is located to the property line of:

(a) A zoning district in which residential uses other than lodging services are specifically listed as a permitted or conditional use;

(b) A licensed day care center;

- (c) A public or private educational facility classified as an elementary, junior high or senior high;
  - (d) A public library;
  - (e) A public park;
  - (f) Another adult use principal; and
  - (g) Any church or church related organization.
- (3) No adult use principal shall be located in the same building or upon the same property as another adult use principal. This limitation does not apply to any business or establishment that contains more than one adult use-principal as of November 21, 2001.
- (4) Adult use principal shall adhere to the following sign regulations in addition to the sign regulations of §§ 153.215 through 153.220.
- (a) Sign messages shall be generic in nature and shall only identify the name of the business.
  - (b) Signs shall comply with the requirements of size and number for the district in which they are located.
- (5) Adult use principal shall be limited to 7:00 a.m. to 12:30 p.m. for its hours of operation. A differing time schedule may be approved by the City Council, if it can be satisfactorily demonstrated by the operator to the City Council that all of the following apply:
- (a) Will not adversely impact or affect uses or activities within 350 feet of the building or property in or upon which the adult use occurs;
  - (b) Will not result in increased policing and related service calls; and
  - (c) Is critical to the operation of the business.

**(D) ADULT USE ACCESSORY.**

Adult uses, accessory, shall be permitted in all commercial districts, provided the accessory use conforms with the provisions of this section.

- (1) Adult use accessory shall:
- (a) Comprise no more than 10% of the floor area of the establishment in which it is located;
  - (b) Comprise no more than 20% of the gross receipts of the entire business operation; and
  - (c) Not involve or include any activity except the sale or rental of merchandise.
- (2) Adult use accessory shall restrict and prohibit access to minors by the physical separation of items from areas of general public access.
- (a) *Movie rentals.* Display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the person responsible for the operation.
  - (b) *Magazines.* Publications classified or qualifying as adult uses shall not be physically accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.
  - (c) *Other use.* Adult uses accessory not specifically cited shall comply with the intent of this subchapter subject to the approval of the Zoning Administrator.
- (3) Adult use accessory shall be prohibited from both internal and external advertising and signs of adult materials and products.



**(E) NONCONFORMING ADULT USE PRINCIPAL OR ACCESSORY.**

Adult uses which are in existence prior to November 21, 2001, shall be classified as legal nonconforming uses and may continue in accordance with the provisions of this chapter. If an adult use becomes nonconforming because of rezoning or the amendment of this chapter, the adult use shall be considered legal nonconforming and may continue in accordance with the provisions of this chapter. In no instance shall a legal nonconforming adult use be allowed to structurally expand the use on the lot on which it is located when the use becomes legally nonconforming, or expand the adult use to include another lot on which the adult use was not located when it became legally nonconforming. If the building in which a legal nonconforming adult use is located is destroyed by any means to an extent of greater than 50% of its market value, or if the building in which the legally nonconforming adult use is vacant for more than 12 months, an adult use shall not be re-established unless it is in conformance with this subchapter.

**§ 153.103 DOG KENNELS.**

(A) All dog kennels within the city shall be subject to the following criteria.

(1) All dog kennels shall be constructed of chain link fencing or equal.

(2) Dog kennels shall require a place of shelter and bedding for the dog as required by M.S. § 343.40, as it may be amended from time to time.

(3) Dog kennels shall be neat and clean of manure, trash and rubbish and maintained in good order.

(4) Dog kennels shall be required to be located in back or side yards, never in front yards.

(5) All abandoned dog kennels must be dismantled and removed from the premises.

(A) All dog kennels within the corporate limits of the city shall comply with this section within 30 days after the effective date of this chapter.

**§ 153.104 MINING AND EXTRACTION, GENERALLY.**

The purpose of this subchapter is to provide appropriate controls for land disturbed by the mining and extraction of gravel, sand or other mineral resources in order to minimize conflicts with adjacent land uses; to ensure that the area so affected is restored for the conservation, development, management and appropriate use of all natural resources; to be compatible for multiple purposes; to aid in the maintenance or improvement of the tax base; protect the health, safety and general welfare of the citizens; and to preserve the natural aesthetic character of the city.

**(A) ADMINISTRATION.**

(1) A conditional use permit shall be required for all mining and extraction operations. The Planning Director and the City Engineer or Water Resource Engineer shall review the permit and the site for compliancy every 18 months at the expense of the current property owner and shall be billed directly from the city for those services. The owner/applicant shall contact the city immediately if change of ownership or property boundaries occur and shall provide the appropriate certificate of surveys, documents of dedication and any additional supporting documentation as requested by the Planning Director. Existing operations of any size within the city shall obtain a conditional use permit within one year after the date of enactment of this subchapter. The city shall require a performance bond from the applicant to ensure that the

requirements of this subchapter and the conditional use permit are adhered to. The bond amount shall be determined at an amount sufficient to completely restore the property to its natural aesthetic value at the most intense use of the property and that amount shall be determined by a engineer registered in the state.

(2) The following information shall be provided by the owner/applicant of the affected site:

(a) Name and address of the entity requesting the conditional use permit and the current owner of the property affected by the mining and extraction operations;

(b) Certificate of survey signed by a land surveyor registered in the state dated within 12 months of the date of the application for the conditional use permit;

(c) Complete legal description and acreage of the area to be affected by the mining and extraction operation; and

(d) The following maps shall be required of the site and shall include all areas within 1,000 feet of the site. All maps shall be drawn at a scale of one to 100 feet unless otherwise stated below:

(i) Map A - existing conditions to include:

(a) Contour map at two-foot intervals. Existing vegetation.

(b) Existing drainage and permanent water areas;

(c) Existing structures;

(d) Existing wells; and

(e) All property owners within 1,000 feet of the site.

ii) Map B - proposed operations to include:

(a) Structures to be erected. The structures shall be subject to all Zoning and Building Code regulations and permitting procedures;

(b) Exact location of sites to be mined indicating depth of proposed excavation;

(c) Exact storage location of mined materials, indicating maximum height of deposits;

(d) Exact location of stationary machinery to be used in the mining operation;

(e) Exact location of vehicle parking and access roads. Additional review by the county and/or the state may be require.

(f) Truck routes and approximate hours of travel;

(g) Location of storage of explosives; and

(h) Erosion and sediment control structures.

iii) Map C - staging plan to include:

(a) Final grade of proposed site showing elevations and contour lines at two-foot intervals;

(b) Location and species of vegetation to be replaced;

(c) Written reclamation and staging plan;

(d) Written final development plan; and

(e) The following plans shall be submitted in written form and shall be required at the time of application: (1) Soil, erosion and sediment control; (2) Dust and noise control; (3) A complete description of all phases of the proposed operation to include an estimate of duration of the mining and excavation operation, location and approximate acreage of each stage and specific time schedule for reclamation; (4) Recycling plan for concrete or any other forms of aggregate; and (5) Additional supporting documents as requested by the Zoning Administrator.

(B) RENEWAL OF MINING AND EXCAVATION CONDITIONAL USE PERMITS.

(1) Immediate cessation of all mining and excavations shall be ordered by the city if the owner/applicant of the operation fails to adhere to any of the provisions of the conditional use permit.

(2) An increase in the intensity of the operations agreed upon in the conditional use permit shall require the owner/applicant to apply for a new conditional use permit at the expense of the owner/applicant.

(3) All city and county property owners and residents within 1,000 feet of the mining and excavation operation shall be notified of the public hearing for the conditional use permit. County Planning and Zoning Administrators shall also be notified and resulting comments shall be taken under advisement by the city.

(C) USE RESTRICTIONS.

(1) In addition to obtaining a conditional use permit for mining and excavation of gravel, sand and other minerals, individual conditional use permits shall also be required for the following activities to be conducted on the site where the mining and excavation activities are located:

(a) The crushing, washing, refining or processing of materials;

(b) In stone quarries, the production or manufacturing of veneer stone sills, lintels, cut flagstone, hearth stones, paving stones and similar architectural or structural stone and the storing or stockpiling of the products on the site; and

(c) The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready mix concrete and any similar production or manufacturing processes which might be related to the mining and excavation operation.

(2) The Planning Director may recommend additional performance standards as part of the issuance of a conditional use permit.

(D) PERFORMANCE STANDARDS.

Conditional use permits approved under this subchapter for mining and excavation operations shall be subject to the following performance standards.

(1) Weeds and any other unsightly or noxious vegetation shall be cut or trimmed according to city regulations in order to maintain a reasonably neat appearance and to minimize seeding on adjacent property.

(2) All equipment used for mining and excavation operations shall be constructed, maintained and operated in a manner as to minimize as far as practicable noise, dust and vibrations adversely affecting the surrounding property.

(3) The mining operation shall be conducted in a manner as to minimize interference with the surface water drainage within, and outside of the boundaries of the city.

(4) Safety fencing may be required by the city around all or a portion of the mining and excavation operation.

(5) To minimize problems of dust and noise and to shield mining and extraction operations from public view, a vegetative screening barrier shall be required between the mining and excavation site and adjacent properties. A screening barrier may also be required between the mining and excavation site and any public road location within 500 feet of any mining and excavation or processing operation.

(6) Processing of gravel or minerals shall not be conducted closer than 200 feet from the

property line or closer than 200 feet from any residential, commercial or industrial structure. Mining and excavation operations shall not be conducted closer than 100 feet from the boundary of any zoning district where the operations are not permitted. Mining operations shall not be conducted closer than 100 feet from the right-of-way line of any existing or platted street, road or highway, except that excavating may be conducted within the limits in order to reduce the elevation thereof to conform to the existing or platted street, road or highway.

(7) Access to the site shall be provided from secondary roadways and shall be subject to review by the County or State Engineer.

### **§ 153.105 GRADING PERMITS/LAND ALTERATION.**

Rehabilitation of mining and excavation sites shall commence immediately after mining and excavations cease. Rehabilitation shall be completed within one year after commencement. The following standards shall apply.

(A) *Removal of building structures and plants.*

(1) All building structures and equipment incidental to the operation shall be dismantled and removed by and at the expense of the mining and excavation operator last operating the building structures and equipment within the following period of time:

(a) Within 60 days after the termination of mining operation; and

(b) Within 60 days after abandonment of the operation for a period of 90 days or more.

(2) A temporary conditional use permit may be granted for those building structures and equipment required to process previously mined materials stored on the site. The temporary conditional use permit shall allow the continued use for a period of no greater than one year after which the building structures and equipment shall be removed.

(B) *Surface grading.* The peaks and depressions of the area shall be graded and back-filled to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding and which will minimize erosion. Grading of finished slopes shall not exceed acceptable civil and/or environmental engineering standards and practices.

(C) *Reclamation and staging.* Reclamation and staging shall begin after the mining or excavation of 25% of the total area to be mined or excavated, or four acres, whichever is less. Once this area has been depleted of the mine as deposits, it shall be sloped and seeded in accordance with the preliminary mining plan.

(D) *Reclaimed areas.* Reclaimed areas shall be surfaced with soil of a quality at least equal to the top soil of the land areas immediately surrounding and to a depth of at least six inches. The top soil shall be seeded, sodded and planted. The planting shall adequately retard soil erosion.

(E) *Completion of reclamation project.* Following the completion of the reclamation project, the Planning Director shall be notified and given the opportunity to inspect the site with assistance of the City Engineer or Water Resource Engineer in order to determine if the site is in compliance with the approved reclamation plan and all final conditions. If the site is not in accordance with the reclamation plan, the Planning Director shall notify the owner/applicant of deficiencies in written form and the deficiencies shall be corrected at the expense of the owner. If the site is in accordance with the plan, the Planning Director shall issue a letter of acceptance within 30 days to the owner/applicant.

(F) *Failure to comply.* Failure to comply with the terms of the staging or final development plan shall result in the city exercising the bond in order to properly restore the site to comply with conditions in the permit.

## § 153.106 MANUFACTURED HOME PARKS

### (A) Performance Standards

(1) *Soils and topography.* Conditions of soil, ground water level, drainage and topography shall not create hazards to the property or to the health and safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion shall be subject to unpredictable and/or sudden flooding.

(2) *Sewage disposal and water supply.* All manufactured homes shall be connected to a central water supply and a central sanitary sewer system in accordance with the Plumbing Code. All water and sewer systems shall be constructed in accordance with plans and specifications approved by the city and the State Department of Health.

(3) *Refuse.* The storage, collection and disposal of refuse in the manufactured home park shall be so conducted as to create no health hazards, rodent infestation, insect breeding, accidents, fire hazards or air pollution.

(4) *Fuel systems.* All fuel systems shall be maintained from a common central source metered to the individual mobile home site and maintained in accordance with applicable codes and regulations governing the system.

### (B) FIRE PROTECTION.

(1) Manufactured home parks shall be kept free of litter, rubbish and flammable material.

(2) Fires shall be made only in stoves, incinerators and other equipment intended for those purposes and in compliance with State Fire and Building Codes.

(3) Fire hydrants shall be installed if the park water supply system is capable of serving them. Fire hydrants, if provided, shall be located within 500 feet of any manufactured home, service building or other structure in the park. Fire hydrant locations and water main size shall be approved by the city.

### (C) MANUFACTURED HOME PARK LOTS.

(1) Each manufactured home lot shall contain at least 5,000 square feet of land area for the exclusive use of the occupant and shall be at least 50 feet wide.

(2) Manufactured homes shall be placed upon lots so that there shall be at least five feet from the side lot line, 15 feet between the front of the manufactured home and front lot line, and 20 feet between the rear of the manufactured home and the rear lot line.

(3) The area occupied by a manufactured home or other structure shall not exceed 50% of the total area of a manufactured home lot; land may be occupied by a manufactured home, a vehicle, a utility shed or building, a carport, an awning, or other structure unless otherwise restricted by the provisions of this chapter.

(4) No more than two motor vehicles shall be stored or kept on any manufactured home lot. No vehicle shall be dismantled, nor shall any mechanical work except for very minor repair work be done on any vehicle on a manufactured home lot; nor shall any vehicle that is not in an operable condition be parked, stored or kept on a manufactured home lot or in a manufactured

home park, except a vehicle that became inoperable when it was in the manufactured home park, and then it shall not be parked in that condition for a period of more than seven days.

(5) Each lot shall be landscaped.

(D) MANUFACTURED HOME PARK DESIGN.

(1) *Streets.*

(a) All manufactured home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each manufactured home lot. The access shall be provided by streets, driveways or other means.

(b) Entrance to manufactured home parks shall be designed to minimize congestion and hazards, and allow free movement of traffic on adjacent streets. No parking shall be permitted on the park entrance street for a distance of 100 feet from its point of intersection with a public street.

(c) Surfaced roadways shall be of adequate width to accommodate anticipated traffic, and in any case shall meet the following minimum requirements.

(i) All streets shall be at least 24 feet in width.

(ii) Dead-end streets shall be limited in length to 500 feet and shall be provided at the closed end with a turn-around having an outside roadway diameter of at least 90 feet.

(iii) All dead-end streets shall be marked with approved signs at the entrance to the dead-end street.

(iv) All streets shall be provided with a paved concrete or bituminous surface. Pavement edges shall be protected to prevent raveling of the wearing surface and shifting of the pavement base. Street surfaces shall be maintained in a satisfactory condition.

(v) Longitudinal grades of all streets shall range between 0.40% and 8.00%. Transverse grades of all streets shall be sufficient to ensure adequate transverse drainage.

(vi) Streets within 50 feet of an intersection shall be at right angles to the crossing street.

(vii) A distance of at least 85 feet shall be maintained between the centerline of offset intersecting streets within the park intersections of two or more streets at one point shall be avoided.

(viii) All parks shall be furnished with lighting units so spaced and equipped with luminaries placed at mounting heights as approved by the city.

(2) *Walkways.*

(a) All manufactured home parks shall be provided with pedestrian walkways that are durable and maintainable between individual manufactured homes and park streets, and all community facilities provided for park residents. Sudden changes in alignment and gradient shall be avoided.

(b) A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. The common walks shall have a minimum width of five feet. All manufactured homes shall be connected to a park walkway system, paved streets, paved driveways or parking spaces connected to a paved street.

(3) *Parking.* Each manufactured home lot shall have an off-street parking space for at least two automobiles. Each space shall be a minimum of ten feet in width by 20 feet in length and located on the side yard area of the lot.

(4) *Landscaping and screening.* A landscaped area shall be adequately maintained around each manufactured home park. Exposed ground surfaces other than walks, streets and driveways

shall be protected with a vegetative growth that is capable of preventing soil erosion and eliminating objectionable dust. All manufactured home parks adjacent to industrial, commercial or residential land uses shall be provided with screenings such as fences or natural growth along the property boundary lines separating the park from the adjacent use.

(5) *Lots.*

(a) The area of the manufactured home lot shall be improved to provide adequate support for the placement and tie-down of manufactured homes, thereby securing the structure against uplift, sliding, rotation and overturning.

(b) The manufactured home lot shall not heave, shift or settle unevenly under the weight of the manufactured home due to frost action, inadequate drainage, vibration or other forces acting upon the structure.

(c) A manufactured home lot that is at any time without a manufactured home located upon it after the enactment of this chapter shall be provided with anchors and tie-downs such as cast-in-place concrete foundations or runways, screw augers, arrowhead anchors or other devices.

(d) Anchors and tie-downs shall be placed in accordance with the manufactured home specifications or directions. Each anchor shall be able to sustain a minimum tensile strength of 2,800 pounds or as approved by the State Uniform Mobile Home Standards Code, whichever is more restrictive.

(6) *Structures.*

(a) Every structure in the manufactured home park shall be developed and maintained. The exterior of every structure shall be kept in good repair. Multi-purpose portable fire extinguishers shall be kept in all service buildings and other locations conveniently and readily accessible for use by all occupants. All manufactured homes shall also require a smoke detector.

(b) The area beneath all manufactured homes shall be maintained. The exterior of every structure shall be kept in good repair. Multi-purpose portable fire extinguishers shall be kept in all service buildings and other locations conveniently and readily assessable for use by all occupants.

(7) *Community building and/or storm shelter and storage areas.*

(a) Each manufactured home park shall have at least one central community building with central heating which must be maintained. This building shall be lighted during all hours and shall contain public telephones and mail boxes and public toilet facilities. The building shall be constructed in accordance with the State Building Code.

(b) All manufactured home parks shall have an area for storage of such items as boats, trailers, recreational vehicles and other equipment not generally stored within each manufactured home and/or utility building on the manufactured home lot. This storage area shall be screened with a fence, berm, or trees, and shrubs.

(E) PARK MANAGEMENT.

(1) The operator of a manufactured home park shall operate the park in compliance with this chapter and shall provide supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

(2) The operator shall notify park occupants of all applicable provisions of this chapter and inform them of their duties and responsibilities under this chapter.

(3) An adult caretaker must be able to be contacted and is responsible for the maintenance of the park.

(4) Unless otherwise set forth in the state statutes, each park shall have an on-site office or

location for the use of the operator distinctly marked and the marking shall be illuminated during all hours of darkness.

(5) The operator of every manufactured home park shall maintain a registry in the office of the manufactured home park indicating the name and address of each permanent resident. Each manufactured home site shall be identified by either number, letter or both.

(6) The corners of each manufactured home shall be marked by survey stakes.

(7) A plat of the manufactured home park shall be displayed at the manufactured home park office and be illuminated during all hours of darkness.

(8) Signs located in the park to advertise the location and row of manufactured homes are limited to one location in the park and must conform to the sign requirements of this chapter as they may be amended from time to time.

#### (F) INSPECTION OF MANUFACTURED HOME PARKS.

(1) The Zoning Administrator and Building Inspector shall have the power to inspect the register containing a record of all residents of the manufactured home park.

(2) It shall be the duty of the park management to give the Zoning Administrator or Building Inspector free access to all lots at reasonable times for the purpose of inspection.

(3) Whenever, upon inspection of any manufactured home park, the Zoning Administrator or Building Inspector finds that conditions or practices exist which are in violation of any provision of the city code, the Zoning Administrator and Building Inspector shall give notice in writing to the manufactured home park management that the conditions or practices must be corrected within the time specified in the notice of the Zoning Administrator or Building Inspector.

#### (G) NOTICE OF TRANSFER.

Every operator of a manufactured home park shall give notice in writing to the Zoning Administrator and Building Inspector within 72 hours after having sold, transferred, given away or otherwise disposed of an interest in or control of any manufactured home park. The notice shall be made to the Zoning Administrator and Building Inspector to include the name and address of the person succeeding to the ownership or control of the manufactured home park.

#### (H) GRANDFATHER CLAUSE.

Existing manufactured home parks on the date of adoption of this chapter shall not have to comply with the required lot sizes, setbacks and tie down requirements except as specifically set forth in § 153.163(E)(3). All other provisions must be met within two years following enactment of this chapter.

### **§ 153.107 MOTOR VEHICLE SERVICE STATION STANDARDS.**

The building or buildings shall be set back at least 35 feet from the street right-of-way. Near residential districts, the service station buildings, signs and pumps shall be a minimum of 25 feet from adjoining residential property. In commercial areas, the structures shall be set back at least ten feet from adjoining property.

#### (A) CURBS AND GUTTERS.

Curbs and gutters shall be installed on all streets giving access to the station. There shall be a six-inch curb along all interior driveways.



(B) BOUNDARY LINE FENCING AND SCREENING.

When adjacent to a residential district, there shall be a screening along the boundary of the property lying adjacent to a residential district in accordance with § 153.132 of this chapter.

(C) VEHICLES.

No vehicle shall be parked on the premises other than those utilized by employees or awaiting service. No vehicle shall be parked or be awaiting service longer than 15 days.

(D) SCREENING EXTERIOR STORAGE.

All areas utilized for the storage or disposal of trash, discarded parts and similar items shall be fully screened. All structures and grounds shall be maintained in an orderly, clean and safe manner.

**§ 153.108 ACCESSORY SOLAR ENERGY SYSTEMS.**

(A) *Definitions.* For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Solar energy system, accessory. Solar energy systems accessory to the principal land use, primarily designed to supply energy for the principal use.

Solar energy system, architecturally integrated. A solar energy system or component thereof that is an integral part of a building, rather than a separate mechanical device, replacing or substituting for an architectural component of the building including but not limited to systems that are contained within roofing materials, windows, and skylights.

Solar energy system, principal. Solar energy systems designed to supply energy for off-site uses on the distribution grid, consistent with Minn. Statutes 216B.1641 as may be amended, or any ground-mount solar energy arrays that are the principal use on the lot, designed for providing energy to off-site uses or export to the wholesale market. This definition includes solar farms and community solar gardens.

Solar farm. A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the principal land use for the parcel on which it is located.

Solar garden, community. A solar-electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system, consistent with Minn. Statutes 216B.1641 or successor statute.

B. Accessory Solar Energy Systems.

1. Solar energy systems shall be a permitted accessory use in all zoning districts, provided that the system is in compliance with all applicable zoning regulations and building codes related to accessory uses.
2. Solar farms, solar gardens, and other such installations are principal uses of property and not permitted within the City.
3. The use of solar energy systems is subject to the restraints of the zoning regulations contained in this chapter and any existing vegetation.
4. The effect of trees on the solar access of surrounding development shall be minimized to the greatest possible extent in selecting tree species and locating trees on public lands and along roadways. Whenever possible, every effort shall be made to avoid shading existing or proposed solar collectors.
5. Reasonable care should be taken to protect the opportunity for the utilization of solar energy systems at all locations available.
6. The City shall take affirmative actions to the extent possible to preserve solar access for all existing and future development.
7. The City does encourage the use of private easements and restrictive covenants as a means to protect access to sunlight.
8. Ground mounted accessory solar energy systems may be permitted in the B-2, I-1, and I-2 districts when meeting the following standards:
  - a. The system shall be screened from view from property in residential districts.
  - b. The total ground area covered by the system is limited to 300 square feet.
  - c. All systems shall meet the required setbacks for accessory structures and are not permitted in the front yard.
  - d. The maximum height permitted is 15 feet at full tilt.
  - e. The collector surface and any foundation, compacted soil, or other component of the solar installation that rests on the ground is considered impervious surface
  - f. A system may be placed in the front yard meeting  $\frac{1}{2}$  the required setback for the principal structure when in receipt of a conditional use permit.
  - g. A system may exceed 300 square feet when in receipt of a conditional use permit provided the system does not exceed the area of 25% of the principal structure's building footprint. Square footage is measured by the total area of the solar collector surface(s).
9. Building mounted accessory solar energy systems are permitted in all districts in the following manner:
  - a. All systems shall be flush mounted on peaked roofs.
  - b. A maximum of 85% of the roof may be covered by systems unless architecturally integrated into features of the building.
  - c. No system shall extend beyond the edge of the roof.
  - d. All systems shall meet height regulations in the district.
  - e. No system shall extend beyond 12 feet from the roof at maximum tilt on a flat roof. Mechanical screening shall be required on street facing sides of multi-family, commercial, and industrial buildings.
  - f. No residential accessory structure within the principal structure setback shall be permitted to have a roof mounted solar energy system except when in receipt of a conditional use permit.

10. *Utility notification.* No solar energy system shall be installed until written evidence has been given to the Zoning Administrator establishing that the owner of the property upon which the system is located has notified the utility company of the intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

11. *Abandonment.* A ground- or pole-mounted solar energy system shall be considered abandoned after one year without energy production. A solar energy system and its related accessory facilities shall be removed within 60 days after written notice by the city that the solar energy system has been deemed abandoned.

### **§ 153.109 WIND ENERGY CONVERSION SYSTEMS.**

*Purpose.* Health, safety, welfare, compatibility, functionality of turbines in urban areas.

(A) *Definitions.* For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*BLADE ARC.* The arc created by the edge of the rotor blade that is farthest from the center.

*FALL ZONE.* The area defined as the furthest distance from the WECS tower base in which a guyed tower will collapse in the event of a structural failure.

*ROTOR DIAMETER.* The diameter of the circle described by the moving rotor blades.

*TOTAL HEIGHT.* The highest point, above ground level, reached by a rotor tip or any other part of the WECS.

*TOWER.* A tower includes a vertical structure that supports the electrical generator or rotor blades of the WECS.

*TOWER HEIGHT.* The total height of the WECS exclusive of the rotor blades.

*TURBINE.* Any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

*WIND ENERGY CONVERSION SYSTEM (WECS).* An electrical generating facility comprised of one wind turbine and accessory facilities that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

(B) *Zoning district regulations.* A WECS is permitted only as an interim use in Agricultural Zoning Districts and only if the WECS complies with the requirements set forth in § 153.xxx and those requirements set forth below.

(1) In reviewing an application for an interim use permit for a WECS, the Planning Commission and Council may attach whatever reasonable conditions they deem necessary to mitigate anticipated adverse impacts associated with the use, to protect the value of property within the zoning district and to achieve the goals and objectives of the Comprehensive Plan. Such conditions may include increasing setbacks, relocating the WECS, or landscaped screening in order to protect views, reduce noise or other negative characteristics.

(2) A roof or building-mounted WECS is not permitted.

(3) Only a WECS utilizing horizontal axis wind turbines (OHWT) is permitted. The OHWT must have the main rotor shaft and electrical generator at the top of the tower and must be

pointed into the wind.

(4) *Number.* Only one WECS shall be permitted per lot of record.

(5) *Height.* A WECS shall have a total height, including tower and rotor at its highest point, of no more than 150 feet.

(6) *Yard requirements.* In no case shall a WECS be located closer to the public right-of-way than any principal structure existing on the property at the time of construction of the WECS.

(7) *Setbacks.* A WECS shall be setback from all property lines, overhead electrical power lines, or planned right-of-way identified in the city's Transportation Plan a minimum of 1.1 times the total height of the WECS.

(8) *Safety design standards.*

(a) *Engineering certification.* An applicant seeking to install a WECS must provide engineering certification that the turbine, foundation, and tower design of the WECS is within accepted professional standards given site soil and climate conditions. Certification may be demonstrated by the WECS' manufacturer's engineer or another qualified engineer acceptable to the City Building Official.

(b) *Rotor safety.* Each WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS' operation in winds 40 mph or greater.

(9) *Equipment design and performance standards.*

(a) Each WECS must be mounted on a tubular, monopole type tower.

(b) *Color and finish.* All wind turbines and towers that are part of a WECS shall be white or grey, or a similar color approved by the Zoning Administrator. Finishes shall be matt or non-reflective.

(c) *Rotor clearance.* Blade arcs created by the WECS shall have a minimum of 30 feet of clearance over any structure or tree located within a 200 foot radius of the WECS.

(d) *Rotor diameter.* The rotor diameter of a WECS shall not exceed 50 feet.

(e) *Technology standards.* A WECS must meet the minimum standards of a WECS certification program recognized by the American Wind Energy Association, such as AWEA's Small Wind Turbine Performance and Safety Standard, the Emerging Technologies program of the California Energy Commission, or other third party standards acceptable to the city.

(f) *Established wind resource.* A WECS shall only be installed where there is an established wind resource. An established wind resource may be documented in the following ways:

1. The proposed site for the WECS has a minimum 11 MPH average wind speed at the designed hub height, as documented on the Minnesota Department of Commerce statewide wind speed maps.

2. The proposed WECS turbine has a minimum hub height of 80 feet and the blade arc is 30 feet higher, on a vertical measurement, than all structures and trees within 300 feet of the tower.

3. Providing to the city an analysis conducted by a certified wind energy installer or site assessor (North American Board of Certified Energy Professional, NABCEP, or equivalent) that includes estimates of wind speed at the WECS turbine height based on measured data, estimated annual production, and compliance with the WECS manufacturer's design wind speed.

(10) *Lighting.* A WECS shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other federal or state law or regulation that preempts local

regulations.

(C) *Plans required.* Plan applications shall be accompanied by to-scale horizontal and vertical (elevation) drawings of the entire WECS and a scaled site plan. At the city's sole discretion, a current survey may be required. The site plan must show the location of the WECS tower and accessory equipment and any structures or improvements (on or offsite) located within 500 feet of the proposed WECS tower location.

(D) *Noise.* Each WECS shall comply with Minnesota Rules 7030, and shall not exceed 50 dB(A) when measured from the outside of the nearest residence, business, school or other inhabited structure. The audible noise from a WECS may periodically exceed allowable noise levels when wind exceeds 30 mph.

(E) *Compliance with other codes.* Each WECS must comply with the Minnesota State Electrical Code and must be approved by the Federal Aviation Administration and the City Building Official.

(F) *Utility notification.* A WECS may not be installed until the Zoning Administrator has determined that the owner of the land upon which the WECS is to be located has submitted notification to the utility company of the owner's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

(A) *Abandonment.* A WECS shall be considered abandoned after one year without energy production. A WECS and its accessory facilities shall be removed to ground level within 60 days after the city has notified the owner of the land upon which the WECS is located that the city has declared the WECS abandoned.

## **§ 153.110 SIGNS**

(A) PERMITTED USES. Signs are a permitted accessory use in all districts, subject to the following regulations.

(1) A sign is a structure or a part of a structure for the purpose of applying height regulations.

(2) Except for traffic control, all signs are prohibited within the public right-of-way or easements, except that the city may grant a license or a conditional use permit to locate signs and decorations on or within the right-of-way for a specified time.

(3) Signs attached to buildings abutting the right-of-way and parts of the superstructure thereof may extend in the Central Business District (B-1) into the right-of-way a distance not to exceed 18 inches. All signs shall be building face surface mounted signs.

(4) Illuminated signs shall not be permitted within residential districts, with the exception of churches or public facilities.

(5) Illuminated signs or devices giving off an intermittent or rotating beam consisting of a collection or concentration of rays of light shall not be permitted in any district.

(6) One sign not to exceed six square feet per surface may be placed within the front yard of the property to be sold or leased. The sign shall not be less than five feet from the property line unless flat against the structure.

(7) One sign not exceed 32 square feet in area may be placed along the public right of way adjoining a development of five lots or residential units. All signs shall be removed when 75% of all lots or units in the new development are either sold or built upon.

(8) Signs existing on the effective date of this chapter that do not conform to the regulations

set forth in this chapter are a nonconforming use.

(9) The area of a sign within the frame shall be used to calculate the square footage except that width of a frame exceeding 12 inches shall constitute advertising space, or should the letters or graphics be mounted directly on a wall or fascia or in a manner as to be without a frame, the dimensions for calculating the square footage shall be in the area extending six inches beyond the periphery formed around the letters or graphics in a plane figure, bound by straight lines connecting the outermost points thereof, and each surface utilized to display a message or to attract attention shall be measured as a separate sign. Any symbols, flags, pictures, wording, figures or other forms of graphics painted on or attached to windows, walls, awnings, freestanding structures, suspended by balloons or kites or on persons, animals or vehicles shall be considered a sign.

(10) Signs shall not be attached by an adhesive nor painted on a building or fence but shall be on a separate frame or attached to a permanent fixture.

(11) The source of light for any illuminated sign shall not be directed into any street or property used or zoned for residential purposes.

(12) Election signs are permitted in all districts; however, they shall be removed within two weeks following election day.

#### (B) SIGNS IN RESIDENTIAL DISTRICTS.

(1) Signs in residential districts shall be permitted but subject to the following regulations:

(a) One sign for each dwelling and the sign shall not exceed two square feet in area per surface, and no sign shall be so constructed as to have more than two surfaces;

(b) One nameplate sign for each dwelling group of three or more units, and the sign shall not exceed six square feet in area per surface and no sign shall be so constructed as to have more than two surfaces; and

(c) One nameplate sign for each permitted principal use or use by conditional use permit other than residential and the sign shall not exceed 30 square feet in area per surface.

(d) Symbols, statues, sculptures and integrated architectural features on nonresidential buildings may be illuminated by floodlights provided the direct source of light is not visible from the public right-of-way or adjacent residential property.

(e) No commercial advertising shall be allowed in residential districts. Home Occupations legally operating in a residence shall not have identification of the commercial use as a part of the allowed signage on residential property.

#### (C) SIGNS IN OTHER DISTRICTS.

Name plate signs and business signs are permitted subject to the following regulations.

(1) In any Business (B) or Planned Unit Development (PUD) Zoning District, the square footage of wall sign space per building shall not exceed fifteen (15) percent of the wall area facing the public right of way. In the case of a multiple frontage lot, the two greatest walls facing public rights of way may be counted.

(2) In any Business (B) or Planned Unit Development (PUD) Zoning District, one freestanding sign may be allowed.

(a) No part of such sign may be closer than 5 feet to any property line.

(b) No such sign shall exceed 100 (one hundred) square feet per sign face.

(c) No such sign shall exceed 25 (twenty five) feet in height, measured from the natural

grade on which it is located.

- (3) In a General Industry (I) Zoning District, the square footage of wall sign space per building shall not exceed ten (10) percent of the wall area facing the public right of way. In the case of a multiple frontage lot, the two greatest walls facing public rights of way may be counted.
- (4) In a General Industry (I) Zoning District, one freestanding sign may be allowed.
  - (a) No part of such sign may be closer than 5 feet to any property line.
  - (b) No such sign shall exceed 100 (one hundred) square feet per sign face.
  - (c) No such sign shall exceed 25 (twenty five) feet in height, measured from the natural grade on which it is located.

(D) SIGN MAINTENANCE.

- (1) The owner of any sign shall be required to have the sign properly painted and maintained.
- (2) The owner or lessee of any sign or the owner of the land on which the sign is located shall keep the grass, weeds and other growth cut and the area free from refuse between the sign and the street, and also for a distance of six feet behind and at the ends of the sign.

(E) OBSOLETE SIGNS.

Any sign which no longer advertises a bona fide business conducted or a product sold shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or land upon which the sign may be found within 30 days after written notice from the Zoning Administrator.

(F) UNSAFE OR DANGEROUS SIGNS.

Any sign which becomes structurally unsafe or endangers the safety of a building or premises, or endangers the public safety shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or land upon which the sign is located within ten days after written notification from the Zoning Administrator.

## **§ 153.111 MODEL HOMES**

- (A) One temporary real estate sales office or model sales home per builder or developer shall be permitted in a section or phase of a new residential development for each twenty five (25) units in the development project, provided the office and/or model home :
  - (1) Is aesthetically compatible with the character of project development in terms of exterior color, predominant exterior building materials, and landscape;
  - (2) Is served by a hard-surfaced roadway to ensure provision of emergency vehicles and services if necessary;
  - (3) Is served by utility services for staff and visitors;
  - (4) Complies with the applicable standards in the approved development plan (if applicable);
  - (5) Is operated by a developer or builder active in the same phase or section where the use is located; and

(6) Is removed or the model home is converted into a permanent residential use once 85 percent occupancy in the section or phase of the development is reached.

(B) A temporary real estate sales office of model home shall be issued a temporary certificate of occupancy prior to use. No residential occupancy may be approved until a final certificate of occupancy is issued by the City's Building Official.

### **§ 153.112 AIRPORTS**

(A) The City may, from time to time, adopt a separate Airport Zoning Ordinance which shall regulate and restrict the height of structures and objects of natural growth, and otherwise regulate the use of property in the vicinity of the Le Sueur Municipal Airport, by creation of the appropriate zones and establishment of the boundaries thereof; provide for the changes in the restrictions and boundaries of such zones; define applicable terms used in such ordinance; and include such exhibits and maps as necessary to implement the intent of the ordinance; and provide for enforcement, administration and impose penalties.

(B) Until such time as a separate ordinance is established for this purpose, the City hereby incorporates by reference the model ordinance from the U.S. Federal Aviation Administration, Advisory Circular 150/5190-4A.

### **§ 153.113 ESSENTIAL SERVICES**

(A) Purpose. The purpose of this Section is to provide for the installation of essential services such as telephone lines, pipelines, electrical transmission lines and substations in such a manner that the health, safety and welfare of the City will not be adversely affected. Essential services should also be installed in cognizance of existing and projected demands for such services.

(B) All underground telephone lines, pipelines for local distribution, underground electric transmission lines, and overhead electric transmission lines and substations less than 33 KV, when installed in any public right-of-way in any zoning district, shall require a special permit approved by the City Engineer. No above-ground equipment, such as utility service cabinets or boxes, shall be constructed without a permit from the City Engineer.

(C) All underground telephone lines, pipelines for local distribution, underground electric transmission lines, and overhead electric transmission lines less than 33 KV, which are intended to serve more than one (1) parcel and are proposed to be installed at locations other than in public right-of-way, shall require a special permit issued by the City after approval by the City Engineer. No above-ground equipment, such as utility service cabinets or boxes, shall be constructed without a permit from the City Engineer.

Approval by the City Engineer shall be based upon the information furnished in the following procedural requirements:

1. Prior to the installation of any of the previous essential services, the owner of such service shall file with the Zoning Administrator, all maps and other pertinent information as deemed necessary for the City Engineer to review the proposed project.



2. The Zoning Administrator shall transmit the map and accompanying information to the City Engineer for his review and approval regarding the project's relationship to the Comprehensive Plan and/or Ordinances and parts thereof.
3. The City Engineer shall report in writing to the Zoning Administrator his findings as to the compliance of the proposed project with the Comprehensive Plan and Ordinances of the City.
4. In considering applications for the placement of essential services, as regulated in this Section, the aforesaid City staff shall consider the effect of the proposed project upon the health, safety and general welfare of the City, as existing and as anticipated; and the effect of the proposed project upon the Comprehensive Plan.
5. Upon receiving the approval of the City Engineer, the Zoning Administrator shall issue a special permit for the installation and operation of the applicant's essential services. If the Engineer's report recommends the denial of said permit causing the Zoning Administrator to deny its issuance, the applicant may appeal said decision to the Board of Appeals and Adjustments under the rules and procedures as set forth in Section 153.xxx of this Ordinance.

(D) All transmission pipelines (i.e. pipelines not required for local distributing network) and overhead transmission and substation lines in excess of 33 KV shall be a conditional use in all districts subject to the following procedural requirements:

1. Prior to the installation of any of the previous essential services, the owner of such service shall file with the Zoning Administrator, all maps and other pertinent information as deemed necessary for the Planning Commission to review the proposed project.
2. The Zoning Administrator shall transmit the map and accompanying information to the Planning Commission for its review and recommendations regarding the project's relationship to the Comprehensive Plan and parts thereof. A part of this review shall be a written report from the City Engineer.
3. The Planning Commission shall report in writing to the City Council its findings as to compliance of the proposed project with the Comprehensive Plan.
4. The City Council shall hold the necessary public hearings as prescribed by this Ordinance for conditional use.
5. In considering the applications for the placement of essential services, as regulated by this subdivision, the City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed project upon the health, safety and general welfare of the City, existing and anticipated; and the effect of the proposed project upon the Comprehensive Plan.