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**TITLE XV: LAND USAGE**

Chapter

**150. BUILDING REGULATIONS; CONSTRUCTION**

**151. STREETS AND SIDEWALKS**

**152. PUBLIC AND PRIVATE PROPERTY  
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**CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION**

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**GENERAL PROVISIONS**

**§ 150.01 BUILDING CODE ADOPTED.**

(A) The following are hereby adopted by reference as though set forth verbatim herein:

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(1) The Minnesota State Building Code (SBC), including the following option, Ch. 1335, Flood-Proofing Regulations; and

(2) Minnesota Rules Ch. 7080, Individual Sewage Treatment Standards of the Minnesota Pollution Control Agency.

(B) One copy of the Code shall be marked "CITY OF SPRING VALLEY -- OFFICIAL COPY" and kept on file in the office of the City Administrator and open to inspection and use by the public.

(Prior Code, § 4.01)

**§ 150.02 PERMIT FEES.**

Fees for permits under this subchapter, which may include a surcharge, shall be determined by the Council and fixed by its resolution, a copy of which shall be in the office of the City Administrator and uniformly enforced.

(Prior Code, § 4.02)

**§ 150.03 BUILDING PERMITS REQUIRED.**

It is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure, or any part or portion thereof, including, but not limited to, the plumbing, electrical, ventilating, heating or air conditioning systems therein, or cause the same to be done, without first obtaining a separate building or mechanical permit for each building, structure or mechanical components from the city.

(Prior Code, § 4.03) Penalty, see § 150.99

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**§ 150.15 DEFINITIONS.**

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

**COMBINED MOVING PERMIT.** A permit to move a building on both a street and a highway.

**HIGHWAY.** A public thoroughfare for vehicular traffic which is a state trunk highway, county state-aid highway or county road.

**HIGHWAY MOVING PERMIT.** A permit to move a building on a highway for which a fee is charged which does not include route approval, but does include regulation of activities which do not involve the use of the highway; which activities include, but are not limited to, repairs or alterations to a municipal utility required by reason of the movement.

**MOVING PERMIT.** A document allowing the use of a street or highway for the purpose of moving a building.

**STREET.** A public thoroughfare for vehicular traffic which is not a state trunk highway, county state-aid highway or county road.

**STREET MOVING PERMIT.** A permit to move a building on a street for which a fee is charged which does include route approval, together with use of the street and activities including, but not limited to, repairs or alterations to a municipal utility required by reason of the movement. (Prior Code, § 4.04)

**§ 150.16 APPLICATION.**

The application for a moving permit shall state the dimensions, weight and approximate loaded height of the structure or building proposed to be moved, the places from which and to which it is to be moved, the route to be followed, the dates and times of moving and parking, the name and

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address of the mover and the municipal utility and public property repairs or alterations that will be required by reason of the movement. In the case of a street moving permit or combined moving permit, the application shall also state the size and weight of the structure or building proposed to be moved and the street alterations or repairs that will be required by reason of the movement. All applications shall be referred to the Police Department and the Utilities Commission, and no permits shall be issued until route approval has been obtained from the Police Department and the Utilities Commission.

(Prior Code, § 4.04)

### **§ 150.17 PERMIT AND FEE.**

(A) The moving permit shall state date or dates of moving, hours, routing, movement and parking. Permits shall be issued only for moving buildings by building movers licensed by the state; except that, a permit may be issued to a person moving his or her own building, or a person moving a building which does not exceed 12 feet in width, 25 feet in length or 16 feet in loaded height. No permit shall be required for a person moving his or her own building which does not exceed 12 feet in width, 24 feet in length and 14 feet in loaded height.

(B) Fees to be charged shall be separate for each of the following:

(1) A moving permit fee to cover use of streets and route approval; and

(2) A fee equal to the anticipated amount required to compensate the city for any municipal utility and public property (other than streets) repairs or alterations occasioned by the movement.

(C) All permit fees shall be paid in advance of issuance.

(Prior Code, § 4.04)

### **§ 150.18 PERMIT AND CODE COMPLIANCE.**

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Before any building is moved from one location to another within the city, or from a point of origin without the city to a destination within the city, regardless of the route of movement, it shall be inspected and a building permit shall have been issued for at least the work necessary to bring it into full compliance with the state's Building Code.

(Prior Code, § 4.04)

#### **§ 150.19 UNLAWFUL ACTS.**

(A) It is unlawful for any person to move a building on any street without a moving permit from the city.

(B) It is unlawful for any person to move a building on any highway without a highway moving permit from the city.

(C) It is unlawful to move any building (including a manufactured home) if the point of origin or destination (or both) is within the city, and regardless of the route of movement, without having paid in full all real and personal property taxes, special assessments and municipal utility charges due on the premises of origin and filing written proof of the payment with the city.

(Prior Code, § 4.04) Penalty, see § 150.99

#### **§ 150.99 PENALTY.**

Every person violates a section, division, paragraph or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when the failure is prohibited or declared unlawful by a code adopted by reference by this chapter and, upon conviction thereof, shall be punished as for a misdemeanor, except as otherwise stated in specific provisions hereof.

(Prior Code, § 4.99)

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**GENERAL PROVISIONS**

**§ 151.001 LOAD LIMITS.**

The city may, from time to time, impose upon vehicular traffic on any part or all of the streets load limits as may be necessary or desirable. The limits, and the specific extent or weight to which loads are limited, shall be clearly and legibly sign-posted thereon. It is a misdemeanor for any person

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to operate a vehicle on any street in violation of the limitation so posted.  
(Prior Code, § 7.10) Penalty, see § 151.999

#### **§ 151.002 CURB AND GUTTER, STREET AND SIDEWALK PAINTING OR COLORING.**

It is unlawful for any person to paint, letter or color any street, sidewalk or curb and gutter for advertising purposes, or to paint or color any street, sidewalk or curb and gutter for any purpose, except as the same may be done by city employees acting within the course or scope of their employment; provided, however, that, this provision shall not apply to uniformly coloring concrete or other surfacing, or uniformly painted house numbers, as such coloring may be approved by the City Administrator.

(Prior Code, § 7.11) Penalty, see § 151.999

#### **§ 151.003 MOTORIZED VEHICLES PROHIBITED ON SIDEWALKS.**

It is unlawful for any person to drive or operate a motorized vehicle, except snow removal or vegetation cutting equipment, on any public sidewalk or public property designated for use as pedestrian walkway or bicycle trail, except when crossing the same for ingress and egress to private property lying on the other side thereof.

(Prior Code, § 7.12) Penalty, see § 151.999

### ***ICE AND SNOW ON PUBLIC SIDEWALKS***

#### **§ 151.015 ICE AND SNOW A NUISANCE.**

All snow and ice remaining upon public sidewalks is hereby declared to constitute a public nuisance and shall be abated by the owner or tenant of the abutting private property within 12 hours after the snow or ice has ceased to be deposited.

(Prior Code, § 7.05) Penalty, see § 151.999

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#### **§ 151.016 CITY TO REMOVE ICE AND SNOW.**

The city may cause to be removed from all public sidewalks, beginning 24 hours after snow or ice has ceased to fall, all snow or ice which may be discovered thereon, and it shall keep a record of the cost of the removal and the private property adjacent to which the accumulations were found and removed.

(Prior Code, § 7.05)

#### **§ 151.017 COSTS OF REMOVAL TO BE ASSESSED.**

The City Administrator shall, upon direction of the Council, and on receipt of the information provided for in § 151.016 of this chapter, extend the cost of the removal of snow or ice as special assessment against the lots or parcel of ground abutting on walks which were cleared, and the special assessments shall, at the time of certifying taxes to the County Auditor, be certified for collection as other special assessments are certified and collected.

(Prior Code, § 7.05)

#### **§ 151.018 CIVIL SUIT FOR COST OF REMOVAL.**

The City Administrator shall, in the alternative, upon direction of the Council, bring suit in a court of competent jurisdiction to recover from the persons owning land adjacent to which sidewalks were cleared, as provided in § 151.016 of this chapter, the cost of the clearing and the cost and disbursement of a civil action therefor.

(Prior Code, § 7.05)

#### **§ 151.019 NOTICE.**

On or before the first week in November of each year, the City Administrator shall cause a notice of the provisions of this subchapter to be published in the official newspaper of the city. The

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notice may be in such abbreviated form as the City Administrator may determine.  
(Prior Code, § 7.05)

***SIDEWALK MAINTENANCE***

**§ 151.030 PRIMARY RESPONSIBILITY.**

It is the primary responsibility of the owner of property upon which there is abutting any sidewalk to keep and maintain the sidewalk in safe and serviceable condition.  
(Prior Code, § 7.06)

**§ 151.031 CONSTRUCTION, RECONSTRUCTION AND REPAIR SPECIFICATIONS.**

All construction, reconstruction or repair of sidewalks shall be done in strict accordance with specifications on file in the office of the City Administrator.  
(Prior Code, § 7.06)

**§ 151.032 NOTICES; EMERGENCY AND NON-EMERGENCY.**

(A) *No emergency.*

(1) Where, in the opinion of the City Administrator, no emergency exists, notice of the required repair or reconstruction shall be given to the owner of the abutting property.

(2) The notice shall require completion of the work within 90 days, and shall be mailed to the owner or owners shown to be such on the records of the county officer who mails tax statements.

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**(B) *Emergency.***

(1) Where, in the opinion of the City Administrator, an emergency exists, notice of the required repair or reconstructions shall be given to the owner of the abutting property.

(2) The notice shall require completion of the work within ten days, and shall be mailed to the owner or owners shown to be such on the records of the county officer who mails tax statements. (Prior Code, § 7.06)

**§ 151.033 FAILURE OF OWNER TO RECONSTRUCT OR MAKE REPAIRS.**

If the owner of the abutting property fails to make repairs or accomplish reconstruction, as herein required, the City Administrator shall report the failure to the Council and the Council may order the work to be done under its direction and the cost thereof assessed to the abutting property owner as any other special assessment. (Prior Code, § 7.06)

**§ 151.034 DUTY TO INSPECT.**

In order to accomplish the purpose of this subchapter, it shall be the duty of the City Administrator to inspect sidewalks within the city, or cause the same to be inspected under his or her direction. (Prior Code, § 7.06)

***STREET AND SIDEWALK OBSTRUCTIONS***

**§ 151.045 OBSTRUCTIONS GENERALLY.**

It is a misdemeanor for any person to place, deposit, display or offer for sale, any fence, goods

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or other obstructions upon, over, across or under any street without first having obtained a written permit from the Council, and then only in compliance in all respects with the terms and conditions of the permit, and taking precautionary measures for the protection of the public. An electrical cord or device of any kind is hereby included, but not by way of limitation, within the definition of an obstruction.

(Prior Code, § 7.07) Penalty, see § 151.999

#### **§ 151.046 FIRES.**

It is a misdemeanor for any person to build or maintain a fire upon a street.

(Prior Code, § 7.07) Penalty, see § 151.999

#### **§ 151.047 DUMPING IN STREETS.**

It is a misdemeanor for any person to throw or deposit in any street any nails, dirt, glass or glassware, cans, discarded cloth or clothing, metal scraps, garbage, leaves, grass or tree limbs, paper or paper products, shreds or rubbish, oil, grease or other petroleum products, or to empty any water containing salt or other injurious chemical thereon. It is a violation of this subchapter to haul any such material, inadequately enclosed or covered, thereby permitting the same to fall upon streets. It is also a violation of this subchapter to place or store any building materials or waste resulting from building materials or waste resulting from building construction or demolition on any street without first having obtained a written permit from the Council.

(Prior Code, § 7.07) Penalty, see § 151.999

#### **§ 151.048 SIGNS AND OTHER STRUCTURES.**

It is a misdemeanor for any person to place or maintain a sign, advertisement or other structure in any street without first having obtained a written permit from the Council. In a district zoned for commercial or industrial enterprises, special permission allowing an applicant to erect and maintain signs overhanging the street may be granted upon such terms and conditions as may be set forth in the zoning or construction provisions of the city code.

(Prior Code, § 7.07) Penalty, see § 151.999

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**§ 151.049 PLACING SNOW OR ICE IN ROADWAY OR SIDEWALK.**

(A) It is a misdemeanor for any person, not acting under a specific contract with the city or without special permission from the City Administrator, to remove snow or ice from private property and place the same in any roadway or on a sidewalk.

(B) Where permission is granted by the City Administrator the person to whom the permission is granted shall be initially responsible for payment of all direct or indirect costs of removing the snow or ice from the street or sidewalk. If not paid, collection shall be by civil action or assessment against the benefitted property as any other special assessment.

(Prior Code, § 7.07) Penalty, see § 151.999

**§ 151.050 CONTINUING VIOLATION.**

Each day that any person continues in violation of this subchapter shall be a separate offense and punishable as such.

(Prior Code, § 7.07)

**§ 151.051 CONDITION.**

Before granting any permit under any of the provisions of this subchapter, the Council may impose the insurance or bonding conditions thereon as it, considering the projected danger to public or private property or to persons, deems proper for safeguarding the persons and property. The insurance or bond shall also protect the city from any suit, action or cause of action arising by reason of the obstruction.

(Prior Code, § 7.07)

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**§ 151.065 PERMIT REQUIRED.**

It is a misdemeanor for any person, except a city employee acting within the course and scope of his or her employment or a contractor acting within the course and scope of a contract with the city, to make any excavation, opening or tunnel in, over, across or upon a street or other public property without first having obtained a written permit from the City Administrator as herein provided.  
(Prior Code, § 7.08) Penalty, see § 151.999

**§ 151.066 APPLICATION.**

Notice must be given to City Hall before a street excavation is made with written notice being preferred, but verbal notice will be accepted for emergency cases. The notice shall describe with reasonable particularity the name and address of the applicant, the place, purpose and size of the excavation and other information as may be necessary or desirable to facilitate the investigation hereinafter provided for, and shall be filed with the City Administrator.  
(Prior Code, § 7.08)

**§ 151.067 INVESTIGATION AND PAYMENT OF ESTIMATED COSTS.**

Upon receipt of the application, the City Administrator shall cause the investigation to be made as he or she may deem necessary to determine estimated cost of repair, such as back-filling, compacting, resurfacing and replacement, and the conditions as to the time of commencement of work, manner of procedure and time limitation upon the excavation. The foregoing estimated costs shall include permanent and temporary repairs due to weather or other conditions and the cost of the investigation shall be included in the estimate.  
(Prior Code, § 7.08)



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#### **§ 151.068 PROTECTION OF CITY AND PUBLIC.**

(A) *Non-completion or abandonment.* Work shall progress expeditiously to completion in accordance with any time limitation placed thereon so as to avoid unnecessary inconvenience to the public. In the event that work is not performed in accordance therewith, or shall cease or be abandoned without due cause, the city may, after six hours' notice in writing to the holder of the permit of its intention to do so, correct the work, fill the excavation and repair the public property, and the cost thereof shall be paid by the person holding the permit.

(B) *Insurance.* Prior to commencement of the work described in the application, the applicant shall furnish the city satisfactory evidence in writing that the applicant will keep in effect public liability insurance of not less than \$1,000,000 for any person, \$1,000,000 for any occurrence and property damage insurance of not less than \$100,000, issued by an insurance company authorized to do business in the state on which the city is named as a co-insured.

(C) *Indemnification.* Before issuance of a permit, the applicant shall, in writing, agree to indemnify and hold the city harmless from any liability for injury or damage arising out of the action of the applicant in performance of the work, or any expense whatsoever incurred by the city incident to a claim or action brought or commenced by any person arising therefrom.

(Prior Code, § 7.08)

#### **§ 151.069 ISSUANCE OF PERMIT.**

The City Administrator shall issue the permit after:

(A) Completion of the investigation;

(B) Payment by the applicant in advance of all estimated costs as aforesaid;

(C) Agreement by the applicant to the conditions of time and manner as aforesaid;

(D) Agreement in writing by the applicant to pay all actual cost of repairs over and above the estimate, including cost of the investigation; and

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(E) Agreement in writing by the applicant to be bound by all of the provisions of this subchapter.

(Prior Code, § 7.08)

**§ 151.070 REPAIRS.**

Any temporary and permanent repairs, including back-filling, compacting and resurfacing may be made, or contracted for, by the city in a manner prescribed by the City Administrator and an accurate account of costs thereof shall be kept.

(Prior Code, § 7.08)

**§ 151.071 COST.**

Within 60 days following completion of the permanent repairs the City Administrator shall determine actual costs of repairs, including cost of investigation, and prepare and furnish to the permit holder an itemized statement thereof and claim additional payment from the permit holder, as the case may be.

(Prior Code, § 7.08)

**§ 151.072 ALTERNATE METHOD OF CHARGING.**

In lieu of the above provisions relating to cost and cost adjustment for street openings, the city may charge on the basis of surface square feet removed, excavated cubic feet or a combination of surface square feet and excavated cubic feet, on an established unit price uniformly charged.

(Prior Code, § 7.08)

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#### **§ 151.085 CITY TO CONTROL TREE PLANTING.**

(A) The city shall have control and supervision of planting shrubs and trees upon, or overhanging, all the streets or other public property. The city may establish and enforce uniform standards relating to the kinds and types of trees to be planted and the placement thereof.

(B) The standards shall be kept on file in the office of the City Administrator and may be revised from time to time by action of the Council upon the recommendation of the City Administrator.

(Prior Code, § 7.09)

#### **§ 151.086 PERMIT REQUIRED.**

It is unlawful for any person to plant, spray, trim or remove trees or other plants which are upon city property, including rights-of-way, without first procuring from the city a permit in writing to do so.

(Prior Code, § 7.09) Penalty, see § 151.999

#### **§ 151.087 DUTY OF PROPERTY OWNERS TO CUT AND MAINTAIN.**

(A) Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of the property nearest to the street to the center of the street.

(B) If the grass or weeds in such a place attain a height in excess of six inches, it shall be prima facie evidence of a failure to comply with this section.

(C) Every owner of property abutting on any street shall, subject to the provision herein requiring a permit therefor, trim, cut and otherwise maintain all trees and shrubs from the line of the property nearest to the street to the center of the street.

(Prior Code, § 7.09) Penalty, see § 151.999

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**§ 151.088 CITY MAY ORDER WORK DONE.**

The city may, in cases of failure to comply with this subchapter, perform the work with employees of the city, keeping an accurate account of the cost thereof for each lot, piece or parcel of land abutting upon the street.

(Prior Code, § 7.09)

**§ 151.089 ASSESSMENT.**

If the maintenance work is performed by the city as set forth in § 151.088 of this chapter, the City Administrator shall forthwith upon completion thereof ascertain the cost attributable to each lot, piece or parcel of abutting land. The City Administrator shall, at the next regular meeting thereof, present the certificate to the Council and obtain its approval thereof. When the certificate has been approved, it shall be extended as to the cost therein stated as a special assessment against the abutting land and the special assessment shall, at the time of certifying taxes to the County Auditor, be certified for collection as other special assessments are certified and collected.

(Prior Code, § 7.09)

**§ 151.999 PENALTY.**

Every person violates a section, division, paragraph or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful and, upon conviction thereof, shall be punished as follows.

(A) Where the specific section, division, paragraph or provision specifically make violation a misdemeanor, he or she shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he or she shall be punished as for a misdemeanor; where he or she stands convicted of violation of any provision of this chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding 12-month period for the third or subsequent time, he or she

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shall be punished as for a misdemeanor.

(B) As to any violation not constituting a misdemeanor under the provisions of division (A) above, he or she shall be punished as for a petty misdemeanor.  
(Prior Code, § 7.99)

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152.19 Snow or ice on public property

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**§ 152.01 MAINTENANCE OF PRIVATE PROPERTY.**

(A) It is the primary responsibility of any owner or occupant of any lot or parcel of land to maintain any weeds or grass growing thereon at a height of not more than six inches; to remove all public health or safety hazards therefrom; to install or repair water service lines thereon; and to treat or remove insect- infested or diseased trees thereon.

(B) If any owner or occupant fails to assume the primary responsibility described in division (A)

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above, and after notice given by the City Administrator has not within seven days of the notice complied, the city may cause the work to be done and the expenses thus incurred shall be a lien upon the real estate. The City Administrator shall certify to the County Auditor a statement of the amount of the cost incurred by the city. The amount together with interest shall be entered as a special assessment against the lot or parcel of land and be collected in the same manner as real estate taxes. (Prior Code, § 10.11) Penalty, see § 152.99

## ***OBSTRUCTIONS ON PUBLIC PROPERTY***

### **§ 152.15 OBSTRUCTIONS.**

It is unlawful for any person to place, deposit, display or offer for sale, any fence, goods or other obstructions upon, over, across or under any public property without first having obtained a written permit from the Council, and then only in compliance in all respects with the terms and conditions of the permit, and taking precautionary measures for the protection of the public. An electrical cord or device of any kind is hereby included, but not by way of limitation, within the definition of an obstruction.

(Prior Code, § 10.12) Penalty, see § 152.99

### **§ 152.16 FIRES.**

It is unlawful for any person to build or maintain a fire upon public property.  
(Prior Code, § 10.12) Penalty, see § 152.99

### **§ 152.17 DUMPING ON PUBLIC PROPERTY.**

It is unlawful for any person to throw or deposit on public property any nails, dirt, glass or glassware, cans, discarded cloth or clothing, metal scraps, garbage, leaves, grass or tree limbs, paper or paper products, shreds or rubbish, oil, grease or other petroleum products, or to empty any water containing salt or other injurious chemicals thereon. It is a violation of this subchapter to place or

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store any building materials or waste resulting from building construction or demolition on public property without first having obtained a written permit from the Council.

(Prior Code, § 10.12) Penalty, see § 152.99

#### **§ 152.18 SIGNS AND OTHER STRUCTURES.**

It is unlawful for any person to place or maintain a sign, advertisement or other structure on public property without first having obtained a written permit from the Council.

(Prior Code, § 10.12) Penalty, see § 152.99

#### **§ 152.19 SNOW OR ICE ON PUBLIC PROPERTY.**

It is unlawful for any person not acting under a contract with the city to dump snow or ice on public property.

(Prior Code, § 10.12) Penalty, see § 152.99

#### **§ 152.20 CONTINUING VIOLATION.**

Each day that any person continues in violation of this subchapter shall be a separate offense and punishable as such.

(Prior Code, § 10.12)

#### **§ 152.21 CONDITION.**

Before granting any permit under any of the provisions of this subchapter, the Council may impose insurance or bonding conditions thereon as it, considering the projected danger to public or private property or to persons, deems proper for safeguarding the persons and property. The insurance or bond shall also protect the city from any suit, action or cause of action arising by reason of the obstruction.

(Prior Code, § 10.12)



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**§ 152.99 PENALTY.**

Every person violates a section, division, paragraph or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when the failure is prohibited or declared unlawful by a code adopted by reference by this chapter and, upon conviction thereof, shall be punished as for a misdemeanor, except as otherwise stated in specific provisions hereof.

(Prior Code, § 10.99)

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**§ 153.001 POLICY.**

(A) It is hereby declared to be the policy of the city to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the city pursuant to the official Comprehensive Plan of the city for the orderly, planned, efficient and economical development of the city.

(B) Land to be subdivided shall be of a character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.

(C) The existing and proposed public improvements shall conform to and be properly related to the proposals shown in the Comprehensive Plan and the capital budget and program of the city, and it is intended that enforcement of these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in building codes, city code zoning provisions, land use plan and capital budget of the city.

(Prior Code, § 12.01)

**§ 153.002 PURPOSES.**

(A) This chapter sets forth the minimum requirements deemed necessary to ensure and protect the health, safety and welfare of the public.

(B) More specifically, the provisions of this chapter are designed to:

(1) Assure that all lands will be developed for the best possible use with adequate protection against deterioration and obsolescence;

(2) Assure that effective protection is given to the natural resources of the community, especially ground water and surface water areas;

(3) Encourage well planned subdivisions through establishment of adequate design standards;

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(4) Discourage developments that might adversely affect the local tax base;

(5) Create neighborhoods which will be of lasting credit to the community;

(6) Facilitate adequate provisions for transportation and other public facilities;

(7) Secure the rights of the public with respect to public lands and waters;

(8) Improve land records by the establishment of standards for surveys and plats;

(9) Safeguard the interests of the public, the homeowner, the subdivider and units of local government;

(10) Provide a common ground for understanding between developers and local units of government; and

(11) Prevent excessive governmental operating and maintenance costs.

(Prior Code, § 12.01)

**§ 153.003 JURISDICTION.**

(A) These subdivision regulations shall apply to all subdivisions of land, as defined herein, located within the corporate limits of the city and the unincorporated land within two miles of its corporate limits.

(B) No land shall be subdivided until:

(1) The subdivider or his or her agent shall submit a general development plan of the parcel to the Planning and Zoning Commission;

(2) Obtain approval of the general development plan and preliminary and final approval of the plat itself by the Planning and Zoning Commission and Council; and

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(3) The approved plat is filed with the County Recorder.  
(Prior Code, § 12.01)

**§ 153.004 ENACTMENT.**

This chapter is enacted pursuant to § 462.355, subd. 3, Laws of Minnesota, 1959, as amended.  
(Prior Code, § 12.01)

**§ 153.005 INTERPRETATION, CONFLICT AND SEPARABILITY.**

(A) *Interpretation.* In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

(B) *Conflict with public and private provisions.*

(1) *Public provisions.* The regulations are not intended to interfere with, abrogate or annul any other city code provision, rule or regulation, statute or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other city code provision, rule or regulation, or other provision of laws, whichever provisions are more restrictive or impose higher standards shall control.

(2) *Private provisions.* These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction; provided that, where the provisions of these regulations are more restrictive or impose higher standards or regulations than the easement, covenant or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, or the determinations of the Planning and Zoning Commission or the Council in approving a subdivision or in enforcing these regulations, and the private provisions are not inconsistent with these regulations or determinations thereunder, then the private provisions shall be operative and supplemental to these regulations and determinations made thereunder.

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(C) *Separability*. If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The Planning and Zoning Commission hereby declares that it would have enacted the remainder of these regulations even without any such part, provision or application.

(Prior Code, § 12.01)

**§ 153.006 SAVING PROVISION.**

These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the city under any section or provision existing at the time of adoption of the regulations, or as vacating or annulling any rights obtained by any person, firm or corporation, by lawful action of the city, except as shall be expressly provided for in these regulations.

(Prior Code, § 12.01)

**§ 153.007 RESERVATIONS AND APPEALS.**

Upon the adoption of these regulations according to law, any previous subdivision regulations of the city, as amended, are hereby repealed, except as to the sections expressly retained herein.

(Prior Code, § 12.01)

**§ 153.008 AMENDMENTS.**

The Planning and Zoning Commission may, of its own motion or upon petition or at the direction of the Council, cause to be prepared amendments supplementing or changing regulations herein established. Before any proposed amendment can be acted on, a public hearing shall be held by the Planning and Zoning Commission with notice given in the official newspaper at least ten days

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prior to the hearing. If action is not taken within 60 days of the public hearing, another hearing shall be held with the same procedures.

(Prior Code, § 12.01)

#### **§ 153.009 CONDITIONS.**

Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the state to the city. The developer has the duty of compliance with reasonable conditions laid down by the Planning and Zoning Commission for design, dedication, improvement and restrictive use of land so as to conform to the physical and economical development of the city and to the safety and general welfare of the future lot owners in the subdivision and of the community at large.

(Prior Code, § 12.01)

#### **§ 153.010 RESUBDIVISION OF LAND.**

For any change in a map of an approved or recorded subdivision plat, if the change affects any street layout shown on the map, or area reserved thereon for public use, or any lot line, or if it affects any map or plan legally reached prior to the adoption of any regulations controlling subdivision, the parcel shall be approved by the Planning and Zoning Commission by the same procedure, rules and regulations as for a subdivision.

(Prior Code, § 12.01)

#### **§ 153.011 VARIANCES.**

(A) *General.* The Zoning Adjustment Board, on request of the applicant, may grant a variance from strict compliance with the subdivision regulations contained in this chapter when it finds that each of the following conditions exist:

(1) Application of the subdivision regulations to the land will create an unusual and exceptional hardship not experienced by other property of similar intended use and condition;



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(2) The variance is necessary for the preservation and enjoyment of substantial property rights;

(3) The authoring of the variance will not be of substantial detriment to the community and will not materially impair the purposes of the subdivision regulations or the public interest; and

(4) The intended use and conditions of the property forming the basis for granting a variance are not of so general or recurrent a nature as to cause the formulation and adoption of a general subdivision regulation for similar uses and conditions.

(B) *Conditions.* In approving variances, the Zoning Adjustment Board may require such conditions as will, in its judgment, secure substantially the objective of the standards or requirements of these regulations.

(C) *Procedures.* A petition for any variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the Planning and Zoning Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.  
(Prior Code, § 12.01)

## **§ 153.012 ENFORCEMENT AND VIOLATIONS.**

### (A) *General.*

(1) It shall be the duty of the Zoning Administrator to enforce these regulations and to bring to the attention of the City Attorney any violations or lack of compliance herewith.

(2) No owner or agent of the owner of any parcel of land located in a proposed subdivision shall transfer or sell any parcel before a plat of the subdivision has been approved by the Planning and Zoning Commission and Council in accordance with the provisions of these regulations and filed with the County Recorder.

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(B) *Civil enforcement.* Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation, to prevent illegal occupancy of a building, structure or premises, and these remedies shall be in addition to the penalty provision of this chapter and, further, it may be required that the building or premises be restored to its original condition.

(Prior Code, § 12.01)

## **§ 153.013 DEFINITIONS AND USAGE.**

### *(A) Usage.*

(1) For the purpose of these regulations, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this section.

(2) Unless the context clearly indicates to the contrary, the word “herein” means “in these regulations” and the word “regulations” means “these regulations”. A “building” includes a “structure”; a “building” or “structure” includes any part thereof; “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged or designed to be used or occupied”.

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

**ALLEY.** A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other streets.

**APPLICANT.** The owner of land proposed to be subdivided or his or her representative. Consent shall be required from the legal owner of the premises.

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**BLOCK.** Any combination of land ownership bounded by streets, roads or highways or a combination thereof or by a combinations of streets, roads or highways and public parks, cemeteries, railroad right-of-way, streams, lakes or similar human-made or natural physical barriers.

**BOND.** Any form of security including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the Council wherever a bond is required by these regulations.

**BUILDABLE AREA.** The part of the lot not included within the open areas required by Ch. 154 of this code of ordinances, official map or other official control.

**BUILDING.** Any structure built for the support, shelter or enclosure of persons, animal, chattels or movable property of any kind, including any structure.

**CITY ENGINEER.** The Minnesota licensed engineer designated by the Council to furnish engineering assistance for the administration of this chapter.

**COMPREHENSIVE DEVELOPMENT PLAN (MASTER PLAN).** A compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, or the city and its environs and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan and recommendations for plan execution. A **COMPREHENSIVE PLAN** represents the Planning and Zoning Commission's recommendations for the future development of the city.

**CONSTRUCTION PLAN.** The maps or drawings showing the specific location and design of improvements to be installed in the subdivision.

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

**CUL-DE-SAC (COURT).** A maximum uninterrupted length of 600 feet of street having one end open to traffic and being permanently terminated by a circular turn-around for vehicles.

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**DEVELOPER.** The owner of land proposed to be subdivided or his or her representative. Consent shall be required from the legal owner of the premises.

**EASEMENT.** A grant by the property owner of the use of a designated portion of land by the public, individuals, groups or corporations for specific purposes.

**ESCROW.** A deposit of cash with the local government in lieu of an amount required and still in force on a performance or maintenance bond. The escrow funds shall be deposited in a separate account.

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

**FRONTAGE.** The side of a lot abutting on a street or roadway.

**FRONTAGE STREET.** Any street to be constructed by the developer or any existing street in which development shall take place.

**GENERAL DEVELOPMENT PLAN.** A sketch preparatory to the preparation of the preliminary plat to enable the subdivider to save time and expense in reaching general agreement with the Planning and Zoning Commission as to the form of the plat and the objectives of these regulations.

**GRADE.** The slope of a road, street or other public way, specified in percentage terms.

**IMPROVEMENTS.** See **LOT IMPROVEMENTS** or **PUBLIC IMPROVEMENTS**.

**LOT.** A portion of a subdivision or other parcel of land intended as a unit for transfer of ownership or for development.

**LOT, CORNER.** A lot situated at the intersection of two streets, the interior angle of the intersection not exceeding 135 degrees.

**LOT IMPROVEMENT.**

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(a) Any building, structure, place, work of art or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of the betterment.

(b) Certain *LOT IMPROVEMENTS* shall be properly bonded as provided in these regulations.

**MONUMENT.** Concrete and/or metal markers utilized to establish survey points and lot boundaries.

**NON-RESIDENTIAL SUBDIVISION.** A subdivision whose intended use is other than residential, such as commercial or industrial. The subdivision shall comply with the applicable provisions of these regulations.

**OFFICIAL MAP.** A map of the city and/or any portion thereof lying within the incorporated limits, which shows the exact alignment, gradients, dimensions and other pertinent data for highways and major streets and including specific controls for setbacks from the right-of-way of buildings or other physical structures or facilities.

**OPEN SPACE.** An area of land preserved from building development and reserved for the use of the general public or a homeowners' association for the purpose of active and passive recreation and certain necessary community facilities.

**OWNER.** Any person or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

**PARK AND RECREATION DEVELOPMENT FUND.** A special fund established by the Council to retain monies contributed by developers in accordance with the "money in lieu of land" provisions of these regulations within reasonable proximity of the land to be subdivided so as to be of local use to the future residents of the subdivision.

**PARKS.** Area of public land developed and maintained primarily as pleasurable landscaped areas providing for both active and passive recreational purposes, including tot-lots, playgrounds,

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neighborhood parks, play fields and special purpose areas.

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

**PUBLIC IMPROVEMENT.** Any drainage ditch, roadway, parkway, sidewalk, pedestrianway, tree, lawn, off-street parking area, lot improvement or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established. All such **IMPROVEMENTS** shall be properly bonded.

**RESUBDIVISION.** A change in a map of an approved or recorded subdivision plat if the change affects any street layout on such map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

**RIGHT-OF-WAY.** A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees or for another special use. The usage of the term **RIGHT-OF-WAY** for landplattng purpose shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining the right-of-way and not included within the dimensions or areas of such lots or parcels. **RIGHT-OF-WAY** intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees or any other use involving maintenance by the maker of the plat on which the **RIGHT-OF-WAY** is established.

**RIGHT-OF-WAY WIDTH.** The distance between property lines measured at right angles to the centerline of the street.

### **STREETS.**

(a) **ARTERIAL.** A four-lane street which provides service for intraurban trips at a somewhat lower level of traffic mobility than the expressway. The at-grade intersections should be fully or partially regulated by traffic-control devices to ensure safe and efficient conditions for the arterial traffic. Direct private access onto the street will be permitted but regulated. Under certain

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circumstances, a frontage road may be needed. Additional right-of-way would be required for the frontage road.

(b) **COLLECTOR**. A street that serves local traffic and provides for direct private access to abutting land uses. This system channels the local traffic to and from the arterial system and is capable of serving a minimum amount of through traffic.

(c) **EXPRESSWAY**. Divided roadways which are designed for through traffic and also to serve intraurban travel between major centers of activity in the metropolitan area. The at-grade intersections are usually spaced at infrequent intervals and are fully or partially regulated by traffic-control devices. No direct private access onto the street should be permitted so as to minimize the number of vehicle-vehicle conflicts. If no alternative forms of access are available and frontage roads are warranted, additional right-of-way will be required.

(d) **FREEWAYS**. Designed for the safe and efficient movement of high volumes of through traffic, at relatively high speeds. A standard design feature of a **FREEWAY** is a divided roadway with full control of access by the use of ramps.

(e) **FRONTAGE ROAD**. Adjacent to a major thoroughfare. Its primary function is to preserve the safety and capacity of the thoroughfare by controlling access to the major street while still providing direct access to the adjoining properties. The roadway of the **FRONTAGE ROAD** abuts the thoroughfare's right-of-way.

(f) **LOCAL**. Offers the lowest level of mobility because service to through traffic is deliberately discouraged. Direct private access to abutting land uses is provided.

**SUBDIVIDER**. Any person who:

(a) Having an interest in land, causes it, directly or indirectly, to be divided into a subdivision;

(b) Directly or indirectly, sells, leases or develops or offers to sell, lease or develop, or advertises for sale, lease or development any interest, lot, parcel site, unit or plat in a subdivision;

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(c) Engages directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development a subdivision or any interest, lot, parcel site, unit or plat in a subdivision; and/or

(d) Is directly or indirectly controlled by, or under direct or indirect, common control with any of the foregoing.

**SUBDIVISION.** Any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, units, plots or interests for the purpose of offer, sale, lease or development, either on the installment plan or upon any and all other plans, terms and conditions, including the resubdivision. **SUBDIVISION** includes the division or development of residential and non-residential zoned land, whether by deed, metes and bounds description, lease, map, plat or other recorded instrument.

**SUBDIVISION AGENT.** Any person who represents, or acts for or on behalf of, a subdivider or developer, in selling, leasing or developing, or offering to sell, lease or develop any interest, lot, parcel, unit, site or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services.

**SUBDIVISION BY METES AND BOUNDS.** Any subdivision containing not more than three lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Master Plan, Official Map, Zoning Chapter or these regulations.

**SUBDIVISION PLAT.** The final map or drawing, described in these regulations, on which the subdivider’s plan of subdivision is presented to the Planning and Zoning Commission and the Council for approval and which, if approved, may be submitted to the County Recorder for filing.

**VARIANCE.** Any departure from the requirements of these regulations that is granted by the appropriate governmental agency.

**ZONING ADMINISTRATOR.** The officer as appointed by the Council to administer these regulations and to assist administratively other boards and commissions.



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(Prior Code, § 12.02) (Ord. 134-S, effective 12-20-1977)

**§ 153.014 IMPROVEMENTS, PAYMENT AND PERFORMANCE BONDS.**

*(A) Cost and assessment.*

(1) The city may finance public works within the limits of sound fiscal policy. A cash deposit of 5% of the estimated construction costs, determined by the City Engineer, shall be made prior to the authorization of any public works.

(2) In new subdivisions the cost of all public works, including all engineering and administrative costs, shall be assessed to the properties benefitted. These costs shall be assessed as follows.

(a) All storm drainage costs will be paid by the city and assessed on a per lot basis.

(b) All sanitary sewer and water main construction costs will be paid by the city and will be assessed on a front foot basis.

(c) All service lines will be paid by the city and assessed on a unit basis.

(d) All trunk line sewer and water main construction costs will be assessed to the area to be developed on a per lot basis.

(e) All street construction costs including grading, base, curb and gutter and surfacing will be paid by the city and will be assessed on a per front foot basis.

(f) All assessments to the property shall be over a period as determined by the control not to exceed 15 years, with a simple interest rate of 1% over bond rate.

(g) Assessment charges shall include all construction, engineering and administrative costs.

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(B) *Option.* The subdivider, at his or her option, may install public improvements in a new subdivision or resubdivision in accordance with Form PC 102. (Prior Code, § 12.40) (Ord. 134-S, effective 12-20-1977; Ord. 159, effective 8-22-1980)

**§ 153.015 FEES.**

(A) A filing fee payable to the City Administrator shall accompany the application for final review by the Council of each subdivision.

(B) The filing fees shall be as set forth and changed from time to time by action of the Council. (Prior Code, § 12.41) (Ord. 134-S, effective 12-20-1977)

***SUBMISSION OF PLATS***

**§ 153.030 PRELIMINARY PLAT.**

(A) The subdivider shall prepare a general development plan and a preliminary plat, which shall conform to the requirements of this chapter and Ch. 154 of this code of ordinances, together with improvement plans and other supplemental material as may be specified by the Planning and Zoning Commission and its reviewing agencies.

(B) An application shall be filed at least 15 days prior to the meeting of the Planning and Zoning Commission, at which action is desired. After approval, the City Administrator shall send copies of the preliminary plat to each of the following agencies for their comments or recommendations:

- (1) Public Utilities Commission;
- (2) Street Department;
- (3) Park and Recreation Board;

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(4) Sewer Department;

(5) Fire Department;

(6) City Engineer;

(7) County Engineer, if the subdivision is adjacent to a county road;

(8) State Highway Commissioner, if the subdivision is adjacent to a state highway;

(9) DNR Commissioner, if the subdivision is adjacent to the floodplain; and

(10) County Commissioners, if the subdivision lies outside the corporate limits of the city.

(Prior Code, § 12.10)

**§ 153.031 PUBLIC HEARING ON PRELIMINARY PLAT.**

The Planning and Zoning Commission shall hold a public hearing on the preliminary plat. Notice of the public hearing shall be given at least ten days before the date of the hearing by publications in the official newspaper and by written notice mailed to the applicant and to owners of record listed in the office of the City Administrator of all land within 500 feet of the outer boundary of the preliminary plat. The failure to give mailed notice to individual property owners or defects in the notice shall not affect the validity of the proceedings or of any action taken by the Planning and Zoning Commission or the Council. It shall be the responsibility of the subdivider to furnish the city with names and addresses of all owners of property within 500 feet of the development boundaries.

(Prior Code, § 12.10)

**§ 153.032 APPROVAL OF PRELIMINARY PLAT.**

Approval of a preliminary plat shall not constitute approval of the final plat. Unless earlier rescinded by the Council, approval of a preliminary plat is limited to a period of one year after which

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time the applicant is required to resubmit preliminary plan. Upon application filed with the City Administrator, the Council may continue the approval for an additional period of time. The application shall be filed at least 20 days prior to expiration of the approval of the preliminary plat. (Prior Code, § 12.10)

**§ 153.033 FINAL PLAT.**

(A) Following approval of a preliminary plat, the applicant may prepare a final plat and shall file with the City Administrator an application for approval of the final plat. The application shall be filed at least 15 days prior to the meeting of the Planning and Zoning Commission, at which action is desired. The City Administrator shall send copies of the application and final plat to each of the agencies which received a preliminary plat for their comments and recommendations.

(B) No final plat shall be considered unless it is filed with the City Administrator within the effective period of the approval of the preliminary plat.

(C) A final plat shall conform to the requirements of this chapter and all conditions set forth in the approval of the preliminary plat. (Prior Code, § 12.10)

**§ 153.034 REVIEW OF FINAL PLAT.**

The Planning and Zoning Commission shall review the final plat and the comments and recommendations of the other agencies and shall submit its findings and recommendations in writing to the Council and the applicant. (Prior Code, § 12.10)

**§ 153.035 COUNCIL ACTION; FINAL PLAT.**

(A) The Council shall, by resolution adopted within 40 days, approve or disapprove the final plat.

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(B) The reasons for disapproval shall be recorded in the minutes of the Council and reported to the applicant and Planning and Zoning Commission by the City Administrator.

(C) No final plat shall be approved by the Council unless satisfactory evidence is filed with the city that all past taxes have been paid in full, that the final plat is in a form acceptable for recording in the office of the County Recorder and until there is deposited with the city the amount of the filing fee to be charged for the recording.

(Prior Code, § 12.10)

**§ 153.036 RECORDING FINAL PLAT.**

Upon approval by the Council, the City Administrator shall record the final plat in the office of the County Recorder as provided by law.

(Prior Code, § 12.10)

***APPLICATIONS AND PLATS***

**§ 153.050 APPLICATION FOR PRELIMINARY PLAT.**

An application for approval of a preliminary plat shall include the following:

(A) A copy of the application on form PC 100 approved by the Planning and Zoning Commission;

(B) Six copies of the preliminary plat on black or blue line prints;

(C) Six copies of the preliminary street and sidewalk profile map on black or blue line prints with outside dimensions of 24 inches wide and 36 inches long drawn to a horizontal scale of one inch equals 100 feet and a vertical scale of one inch equals ten feet, showing the location of existing and

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proposed streets and sidewalks, utility easements, depth to rock and ground water along the streets and typical street cross-sections; and

(D) Six copies of a vicinity map drawn either on each preliminary plat or on a separate sheet with a scale of one inch equals 500 feet or more, but not to exceed 1,000 feet, showing existing subdivisions, streets and tracts of land adjoining the proposed subdivision.

(Prior Code, § 12.11)

## **§ 153.051 APPLICATION FOR FINAL PLAT.**

(A) An application for approval of a final plat shall include the following:

(1) Two copies of the application on form PC 100 approved by the Planning and Zoning Commission;

(2) Ten copies of the final plat on black or blue line prints;

(3) Two muslin backed originals and one reproducible Mylar of the final plat, each of which shall contain all of the certifications, signatures (except that of the City Administrator and County Recorder), and acknowledgment required to file and record the same in the office of the County Recorder;

(4) Two copies of a title opinion prepared by an attorney and approved by the City Attorney identifying the owners and persons of record having an interest in the properties being subdivided;

(5) A copy of boundary closure calculations; and

(6) Two copies of existing or proposed private deed restrictions, if any.

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(B) Except for the signature of the City Administrator, the final plat shall be in recordable form and shall include the fee to be charged for filing and recording of the plat in the office of the County Recorder indicating the amount of the fee.

(Prior Code, § 12.11)

#### § 153.052 FORMAT.

Each preliminary plat shall be prepared by a Minnesota Engineer or Minnesota Registered Land Surveyor. When more than one sheet, it shall be numbered consecutively and shall contain a notation of the total number of sheets (i.e., “2 of 3”). Each plat shall be drawn to scale of one inch equals 100 feet.

(Prior Code, § 12.11)

#### § 153.053 FORM OF PLATS.

Preliminary plats and final plats shall be prepared in accordance with the provisions of this chapter and the laws of the state and shall contain the following information:

<i>Preliminary Plat</i>	<i>Final Plat</i>
(All measurements and information shall be accurate)	
1. <i>Identification.</i> Date, scale, north point, and proposed name of the subdivision. The name shall not duplicate or closely approximate the name of any other subdivision in the city	1. <i>Identification.</i> Same
2. <i>Legal description.</i> Legal description of the land to be subdivided	2. <i>Legal description.</i> Same
3. <i>Principals.</i> Names of the owners of record and registered land surveyors	3. <i>Principals.</i> Same
4. <i>Boundaries.</i> Length and bearing of the exterior boundaries of the land being subdivided	4. <i>Boundaries.</i> Same
5. <i>Radii and tangents.</i> Approximate radii of all curves and lengths of all tangents	5. <i>Radii and tangents.</i> Exact radii of all curves and lengths of tangents

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6. <i>Lots and blocks</i> . Layouts and approximate dimensions of lots and blocks. Lots shall be numbered progressively through each block, and blocks shall be numbered progressively through each plat	6. <i>Lots and blocks</i> . Layout and exact dimensions of lots and blocks. Lots shall be numbered progressively through each block, and blocks shall be numbered progressively through each plat
7. <i>Monuments and lot corners</i> . The approximate location of all permanent monuments and lot corners	7. <i>Monuments and lot corners</i> . The exact location and material of all permanent lot corners and monuments.
8. <i>Existing streets and public uses</i> . Layout, width and identification of existing public streets, easements, drainage ditches, parks and other public property within and adjacent to the proposed subdivision	8. <i>Existing streets and public uses</i> . Same.
9. <i>Existing utilities</i> . Location of existing sanitary and storm sewer lines, water mains and culverts adjacent to the proposed subdivision with pipe sizes, cross-sectional areas, grades and capacities indicated	9. <i>Existing utilities</i> . Omit
10. <i>Other existing features</i> . Location of existing buildings and structures, railroad right-of-way, municipal lines, township lines and lakes, rivers and streams and their known high and low water elevations. Water elevation references shall be the United States Geological Survey Datum. Flood hazard areas shall be clearly labeled	10. <i>Other existing features</i> . Same, except buildings and structures shall be omitted
11. <i>Proposed features</i> . Layout, width and identification of proposed streets, easements, drainage ditches, parks and other property to be dedicated to the public or reserved by covenants for the common use of property owners within the subdivision. Location of proposed sewer lines, water mains, culverts and drainage facilities	11. <i>Proposed features</i> . Layout, width, and identification of proposed street rights-of-way, easements, drainage ditches, parks and other property to be dedicated to the public or reserved by covenants for the common use of property owners within the subdivision
12. <i>Topography</i> . Topographic map of the area showing contours as follows: 2-foot intervals where slope is 7% or less; 5-foot intervals where slope is from 7% to 15%; 20-foot intervals where slope is greater than 15%. All areas of the subdivision to be platted with a slope greater than 25% must be clearly indicated	12. <i>Topography</i> . Omit
13. <i>Percolation tests</i> . Percolation test results, minimum of 2 per lot, together with soil borings, every acre to indicate depth to water table and rock formations. Omit if municipal sanitary sewer is available	13. <i>Percolation tests</i> . Omit



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14. <i>Zoning</i> . Identification of zoning classification	14. <i>Zoning</i> . Omit
15. <i>Dedication</i> . Omit	15. <i>Dedication</i> . A statement of dedication signed, acknowledged, and witnessed as required by law for recording conveyances. The dedication shall read substantially as follows: "We, the undersigned, certify that we are the sole interested parties in the tract of land described in the foregoing Surveyor's Certificate, which is written on the plat on which this instrument is written, that we have caused the same to be surveyed and platted as...Subdivision as shown on said plat and that we do hereby grant and dedicate to the public for public use forever the streets, alleys, avenues, park sites, walks, easements, school facilities and limited accesses as shown thereon."
16. <i>Certificates</i> . Omit	16. <i>Certificates</i> . (a) Surveyor – A certificate of the surveyor that the plat was made in accordance with this chapter and the laws of Minnesota, that the plat is a correct representative of the survey, that all distances are correctly shown on the plat, that all monuments have been correctly placed in the ground as shown, and that the outside boundary lines are correctly designated on the plat; (b) Owner – A certificate of the owners in substantially the form as follows: "As owners, we hereby certify that we caused the land described on this plat to be surveyed, divided, mapped, dedicated as represented on the plat." This certificate shall be signed, acknowledged and witnessed as required by law for recording conveyances; (c) Taxes – A certificate by the County Auditor that all prior taxes have been paid; (d) City Administrator – A certificate by the City Administrator that the plat has been approved by the Council; (e) County Surveyor – A certificate that the plat has been checked for surveying accuracy and compliance with applicable state platting laws.
17. <i>Deed restrictions</i> . Omit	17. <i>Deed restrictions</i> . Copies of proposed deed restrictions, if any, shall be attached to the final plat

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(Prior Code, § 12.11) (Ord. 134-S, effective 12-20-1977)

#### **§ 153.054 CONVEYANCE OF UNPLATTED LAND OR PORTION OF PLATTED LOT.**

No conveyance involving a portion of a platted lot, or involving unplatted land the conveyance of which is prohibited by M.S. § 462.358, subd. 4, as it may be amended from time to time, shall be made unless approval is first obtained as follows.

(A) *Portion of platted lots.* On application of the owner, the Planning and Zoning Commission may approve a conveyance of a portion of a platted lot under the following circumstances if, in each instance, the new and residual parcels of land which would result from the conveyance meet the frontage and area requirements of Ch. 154 of this code of ordinances:

(1) When it is desired to detach a portion of a platted lot and add it to an adjoining platted lot; and

(2) When it is desired to divide two platted lots into not more than three parcels, and the dedication of public utility or street easements is not involved.

(B) *Unplatted land.* On application of the owner filed with the Zoning Administrator, the Council, by resolution, may approve a conveyance by metes and bounds if it is determined that the following conditions exist:

(1) The restriction against such conveyance will create an unnecessary hardship;

(2) The conveyance will not interfere with the purposes of this chapter;

(3) The dedication of the public utility or street easements is not involved;

(4) The conveyance involves the division of a parcel into not more than three separate parcels; and

(5) The new and residential parcels of land which would result from the conveyance meet

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the frontage and area requirements of Ch. 154 of this code of ordinances.

(C) *Applications.* All applications under this section shall be filed with the Zoning Administrator and shall have attached thereto a surveyor’s certificate, legal description and map of the land to be surveyed.

(D) *Violations.* Any owner or agent of the owner of land who conveys a portion of a platted lot or unplatted land in violation of the provisions of this section shall be subject to the same violation provisions as set forth in § 153.999 of this chapter.  
(Prior Code, § 12.30) Penalty, see § 153.999

**DESIGN STANDARDS**

**§ 153.065 GENERAL.**

The design of each subdivision and resubdivision shall conform to the Comprehensive Plan and shall comply with the design standards contained in this subchapter.  
(Prior Code, § 12.20) (Ord. 134-S, effective 12-20-1977)

**§ 153.066 STREET DESIGN.**

(A) The street system of a proposed subdivision shall be designed to facilitate adequate traffic circulation within the subdivision and from the subdivision to adjacent areas.

(B) Street arrangements, character, width, grade, location, sight distance and surface material shall be related to existing or planned streets, topography, convenience, safety and their intended ultimate function.

(1) The arrangement of major streets in a subdivision shall provide for the continuation or projection of existing streets in adjacent areas or conform to a plan approved by the Planning and

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Zoning Commission where topographic or other conditions make continuance of conformance to existing streets impracticable.

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

(3) Local streets shall be designed to benefit from the topography, to discourage through traffic and to provide the minimum amount of street necessary for safe access to adjacent property. The use of curvilinear and cul-de-sac streets is allowed where necessary.

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

(5) Streets are designed and laid out so as to have one end permanently closed shall not exceed 600 feet in length, except where the Zoning Adjustment Board has approved additional length due to property limitation or large lot size.

(6) Turnarounds shall be provided at the permanently closed ends of all streets and shall have a minimum turnaround radius of 50 feet. The Planning and Zoning Commission may approve a "T" or "Y" type turnaround in lieu of the circular turnaround.

(7) All subdivisions abutting a public lake, river or stream shall provide public access at least 80 feet wide to the low water elevation so that there will be public access at not more than one-quarter mile interval as measured along the lake, river or stream shoreline.

(Prior Code, § 12.20) (Ord. 134-S, effective 12-20-1977)

### **§ 153.067 SIDEWALK DESIGN.**

All sidewalks should be constructed parallel with the street and shall be located on the public

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right-of-way. Sidewalks shall be five feet in width and constructed according to specifications on file at City Hall.

(Prior Code, § 12.20) (Ord. 134-S, effective 12-20-1977)

### **§ 153.068 INTERSECTIONS.**

(A) All streets shall intersect at right angles or as close thereto as possible.

(B) No street shall intersect another at an angle of less than 70 degrees.

(C) More than two streets intersecting at the same location shall be prohibited.

(D) Street jogs with centerline offsets of less than 150 feet shall be prohibited.

(Prior Code, § 12.20) (Ord. 134-S, effective 12-20-1977) Penalty, see § 153.999

### **§ 153.069 UTILITY EASEMENTS.**

Easements for telephone service, electricity, gas lines and other public utilities shall be provided and centered along the rear and side lot lines where needed. The easements shall be ten feet in width and shall be aligned from block to block.

(Prior Code, § 12.20) (Ord. 134-S, effective 12-20-1977)

### **§ 153.070 BLOCKS.**

Block lengths shall not exceed 1,200 feet shall not be less than 300 feet. Block widths shall be sufficient to provide two tiers of lots of appropriate depth.

(Prior Code, § 12.20) (Ord. 134-S, effective 12-20-1977)

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**§ 153.071 LOTS.**

(A) The size, shape and orientation of lots shall be appropriate for the location of the proposed subdivision and the type of use contemplated. All lots shall comply with the minimum lot frontage and area requirements specified in Ch. 154 of this code of ordinances.

(B) Every lot shall abut on a public street a minimum of 50 feet to assure access for fire protection, utilities and other services.

(C) Lot remnants which are less than the minimum lot size shall be added to adjacent lots.

(D) Side lot lines shall be as near to right angles with streets having straight lines or radial to adjacent streets having curved lines as possible.

(E) Residential lots fronting freeways, expressways and major streets, where deemed appropriate by the Council, shall be separated therefrom by the use of frontage roads, parallel streets, service drives or alleys in order to eliminate direct access to the major street.

(F) Residential lots shall have sidewalks constructed parallel with streets and shall be constructed in the public right-of-way.

(Prior Code, § 12.20) (Ord. 134-S, effective 12-20-1977)

**§ 153.072 PARKS, PLAYGROUNDS, RECREATION AREAS AND SCHOOL FACILITIES.**

In a subdivision, a developer is not required to contribute land for recreational or school facility use, but must contribute money in lieu of land, in the amount equal to 1.5% of the selling price of the total developed subdivision. However, the Council, with recommendation of the Planning and Zoning Commission, reserves the right to purchase a minimum of one-half acre of the development at the current value for city use.

(Prior Code, § 12.20) (Ord. 134-S, effective 12-20-1977)

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***REQUIRED IMPROVEMENTS***

**§ 153.085 GENERAL.**

The following improvements will be required for all new subdivisions and resubdivisions within the jurisdiction of this chapter and to the specifications as adopted by the Council:

(A) Water and sanitary sewer mains and laterals to the lot lines, water hydrants and water main shutoff;

(B) Storm sewer, where required, to provide surface water drainage; and

(C) Rough grading for roadway and drainage.

(Prior Code, § 12.31) (Ord. 134-S, effective 12-20-1977)

**§ 153.086 MONUMENTS.**

Durable iron monuments shall be placed at all block and lot corners, all intermediate points on blocks where there is a change in the direction of the block line, at points of curves in streets, at each angle and curve point on the exterior boundary lines of the plat, and at such other points as may be required by the Planning and Zoning Commission. All monuments shall be a minimum of one-half inch in diameter and 15 inches in length.

(Prior Code, § 12.31) (Ord. 134-S, effective 12-20-1977)

**§ 153.087 PUBLIC IMPROVEMENTS.**

(A) All public works shall be constructed in accordance with all applicable state laws and regulations.

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(B) All public works shall be constructed under the general supervision of the City Engineer as directed by the Council.

(C) No individual wells or disposal systems may be constructed, except in areas where the construction of city sewer and water is not feasible.

(D) In lands where city sewer and water is deemed by the Council to be not feasible, development may take place if the following requirements are met.

(1) All land must be platted.

(2) All lots must have the capabilities of being served by city sewer and water in the future.

(3) To meet the requirements for a building permit, each home site shall consist of at least three city-sized lots or one lot of equivalent size.

(4) An individual well may serve up to four homes.

(5) Each home must have an individual disposal system.

(6) All wells and disposal systems must be built to all recommended state standards.

(7) In the event one home is to be built on three or more acres, divisions (D)(2), (D)(3) and (D)(4) above shall not apply.

(E) The City Engineer shall be a duly registered civil engineer according to the laws of the state.

(F) Plans for all public works shall be prepared by a registered civil engineer. The plans shall be approved by the Council and the City Engineer.

(G) All level datum used within the city shall be referenced to mean sea level datum, 1929 adjustment, as determined by the United States and the state.



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(H) Public works shall be constructed to the current general specifications of the state's Department of Transportation and the standard utilities specifications of the City Engineers Association of Minnesota.

(Prior Code, § 12.31) (Ord. 134-S, effective 12-20-1977)

#### **§ 153.088 STREETS.**

(A) All streets constructed to a minimum width of 36 feet, with curb and gutter, and to a seven-ton minimum design loading, except in areas where city sewer and water is not available.

(B) All street construction shall be done in at least two stages. Stage one shall consist of utility construction, grading and base construction, and all drainage construction. Stage two shall consist of curb and gutter and surfacing. No more than one stage will be done in any one year.

(Prior Code, § 12.31) (Ord. 134-S, effective 12-20-1977)

#### **§ 153.089 SIDEWALKS.**

All sidewalks shall be constructed to a minimum width of five feet and be located in the public right-of-way.

(Prior Code, § 12.31) (Ord. 134-S, effective 12-20-1977)

#### **§ 153.090 SERVICE LINES.**

(A) Sewer service lines must conform with the State Code. Water service lines shall be three-fourths inch minimum size and shall be constructed of Type K copper pipe.

(B) All "curb stop" stacks shall contain an internal "shut off" rod.

(Prior Code, § 12.31) (Ord. 134-S, effective 12-20-1977)

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**§ 153.091 WATER.**

(A) All water mains shall be constructed of ductile iron pipe.

(B) Fire hydrant threads shall be national standard.

(Prior Code, § 12.31) (Ord. 134-S, effective 12-20-1977)

**§ 153.999 PENALTY.**

Every person violates a section, division, paragraph or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful and, upon conviction thereof, shall be punished as for a misdemeanor, except as otherwise stated in specific provisions hereof.

(Prior Code, § 12.99)

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***GENERAL PROVISIONS***

**§ 154.001 INTENT AND PURPOSE.**

This chapter is adopted for the purpose of:

(A) Implementing the goals and policies of the city’s Comprehensive Plan by regulating land uses;

(B) Protecting the public health, safety, comfort, convenience and general welfare;

(C) Promoting orderly development of the residential, commercial, industrial, recreational and public areas;

(D) Conserving the natural resources in the city;



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(E) Providing for the compatibility of different land uses and the most appropriate use of land throughout the city;

(F) Minimizing environmental pollution;

(G) Conserving energy such as through the encouragement of solar and earth-sheltered structures for commercial, industrial and residential areas; and

(H) Protecting the natural resources in the city.

(Prior Code, § 11.01)

**§ 154.002 RULES AND DEFINITIONS.**

(A) *Rules.* The language set forth in the text of this chapter shall be interpreted in accordance with the following rules of construction.

(1) All measured distances expressed in feet shall be to the nearest tenth of a foot.

(2) In the event of conflicting provisions, the more restrictive provisions shall apply.

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

**ACCESSORY USE OR STRUCTURE.** A use or structure, or portion of a structure, subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

**AGRICULTURAL BUILDING OR STRUCTURE.** Any building or structure existing or erected which is used principally for agricultural purposes, with the exception of dwelling units.

**AGRICULTURE USE.** The use of land for the growing and/or production of field crops, livestock and livestock products for the production of income, including, but not limited to, the following:

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(a) Field crops, including: barley; soy beans; corn; hay; oats; potatoes; rye; sorghum; and sunflowers;

(b) Livestock, including: dairy and beef cattle; goats; horses; sheep; hogs; poultry; game birds; and other animals, including dogs, ponies, deer, rabbits and mink; and

(c) Livestock products, including: milk; butter; cheese; eggs; meat; fur; and honey.

**ALLEY.** A street or thoroughfare affording secondary access to abutting property.

**APARTMENT.** A room or suite of rooms with cooking facilities available which is occupied as a residence by a single family, or a group of individuals living together as a single family unit. This includes any unit in buildings with more than two dwelling units.

**AUTO OR MOTOR VEHICLE REDUCTION YARD.** A lot or yard where one or more unlicensed motor vehicle(s), or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sales as scrap, storage or abandonment. (See also **JUNK YARD.**)

**AUTOMOBILE SERVICE STATION.** A building designed primarily for the supplying of motor fuel, oil, lubrication and accessories to motor vehicles or any portion thereof.

**BASEMENT.** A portion of a building located partly underground, but having one-half or more of its floor to ceiling height above the average grade of the adjoining ground. Where any reference is made to **BASEMENT** in the floodplain, **BASEMENT** shall mean any area of a structure, including crawl spaces, having its floor base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level and, in such cases, the term **CELLAR** and **BASEMENT** shall be synonymous.

**BED AND BREAKFAST.** A building of residential design wherein lodging is provided to tourists and wherein breakfast may also be provided to the tourists. For purposes of this definition, the term "tourist" shall mean persons renting the accommodations for a total period of time not to exceed 14 days during any consecutive 90-day period.

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***BOARDING HOUSE (ROOMING OR LODGING HOUSE).*** A building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodgings are provided for three or more persons, but not to exceed 20 persons.

***BUILDING.*** Any structure having a roof which may provide shelter or enclosure of persons, animals, chattel or property of any kind.

***BUILDING LINE.*** A line parallel to the street right-of-way line at any story level of a building and representing the minimum distance which all or any part of the building is set back from the right-of-way line.

***BUILDING HEIGHT.*** The vertical distance to be measured from the average grade of a building line to the top, to the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on round or other arch type roof, to the mean distance of the highest gable on a pitched or hip roof.

***BUILDING SETBACK.*** The minimum horizontal distance between the building at its furthest protrusion and a lot line, or the normal high water mark of a stream or river.

***BUSINESS.*** Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.

***CELLAR.*** The portion of a building having more than one-half of the floor-to-ceiling height below the average grade of the adjoining ground. The ***CELLAR*** shall not be counted as a story for purposes of height limitations. Where any reference is made to "basement" in the floodplain, "basement" shall mean any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level and, in such cases, the term ***CELLAR*** and ***BASEMENT*** shall be synonymous.

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

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**CLEAR-CUTTING.** The entire removal of a stand of vegetation.

**CLUSTERING/CLUSTER HOUSING.** A development pattern and technique whereby structures are arranged in closely related groups to make the most efficient use of the natural amenities of the land.

**COMMISSIONER.** Commissioner of the Department of Natural Resources.

**COMPREHENSIVE PLAN.** A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development of the city and its environs and includes any unit or part of the plan separately adopted and any amendment to the plan or part thereof.

**CONDITIONAL USE.** A use classified as conditional generally may be appropriate or desirable in a specified zone, but requires special approval because, if not carefully located or designed, it may create special problems such as excessive height or bulk or traffic congestion.

**CONDOMINIUM.** A form of individual ownership within a multi-family building with joint responsibility for maintenance and repairs of the common property. In a **CONDOMINIUM**, each apartment or townhouse is owned outright by its occupant and each occupant also owns a share of the land and other common property.

**COOPERATIVE.** A multi-unit development operated for and owned by its occupants. Individual occupants do not own their specific housing unit outright as in a condominium, but they own shares in the total enterprise.

**COUNCIL.** The Spring Valley City Council.

**CURB LEVEL.** The grade elevation established by the Council of the curb in front of the center of the building. Where no **CURB LEVEL** has been established, the city shall determine a **CURB LEVEL** or its equivalent for the purpose of this chapter.

**DEVELOPMENT.** Any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading,

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paving, excavation or drilling operation.

***DRIVE-IN.*** Any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where service to the automobile occupants is offered regardless of whether service is also provided within a building.

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

***DWELLING, DETACHED.*** One which is entirely surrounded by open space on the same lot with no common party walls.

***DWELLING UNIT.*** A residential building or portion thereof intended for occupancy by a single family, but not including, hotels, motels, boarding or rooming houses or tourist homes. There are three principal types.

(a) ***MULTIPLE-FAMILY.*** A residence designed for or occupied by three or more families, either wholly (attached) or partially a part of a large structure (detached), with separate housekeeping and cooking facilities for each.

(b) ***SINGLE-FAMILY ATTACHED.*** A residential building containing two or more dwelling units with one common wall.

1. ***DUPLEX.*** A residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each.

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

(c) ***SINGLE-FAMILY DETACHED.*** A free-standing residence structure designed for or occupied by one family only.

***EARTH-SHELTERED BERM.*** An earth covering on the above grade portions of building walls.

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***EARTH-SHELTERED BUILDING.*** A building constructed so that 50% or more of the completed structure is covered with earth. Earth covering is measured from the lowest level of livable space in residential units and of usable space in non-residential buildings. An ***EARTH-SHELTERED BUILDING*** is a complete structure that does not serve just as a foundation or substructure for above-ground construction. A partially completed building shall not be considered ***EARTH-SHELTERED***.

***EASEMENT.*** A grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining walkways; roadways; utilities, including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainageways and gas lines.

***EFFICIENCY UNIT.*** A dwelling unit with one primary room which doubles as a living room, kitchen and bedroom.

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

***ESSENTIAL SERVICES.*** Overhead or underground electrical, gas, steam or water transmission of distribution systems and structure or collection, communication, supply or disposal systems and structures used by public utilities or governmental departments or commissions or as are required for the protection of the public health, safety or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes and accessories in connection therewith, but not including buildings.

***EXTERIOR STORAGE*** (includes ***OPEN STORAGE***). The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

***EXTRACTION AREA.*** Any non-agricultural artificial excavation of earth exceeding 50 square feet of surface area of two feet in depth, other than activity involved in preparing land for earth-sheltered or conventional construction of residential, commercial and industrial buildings, excavated or made by the removal from the natural surface of the earth, of sod, soil, sand, gravel,

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stone or other natural matter, or made by turning, or breaking or undermining the surface of the earth; except that, public improvement projects shall not be considered *EXTRACTION AREAS*.

**FAMILY.** One or more persons related by blood, marriage or adoption. Five or fewer persons not related by blood, marriage or adoption will be considered a family regardless of the ownership of the unit amongst the five or fewer persons.

**FARM.** A tract of land which is principally used for agricultural activities such as the production of cash crops, livestock or poultry farming. The *FARMS* may include agricultural dwelling and accessory buildings and structures necessary to the operation of the farm.

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

**FLOOD.** A temporary rise in stream flow or stage that results in inundation of normally dry areas.

**FLOOD FREQUENCY.** The average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

**FLOOD FRINGE.** The portion of the floodplain outside of the floodway. *FLOOD FRINGE* is synonymous with the term *FLOODWAY FRINGE* used in the Flood Insurance Study for the city.

**FLOODPLAIN.** The areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.

**FLOOD-PROOFING.** A combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

**FLOODWAY.** The channel of the watercourse and those portions of the adjoining floodplain which are reasonably required to carry and discharge the regional flood.

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**FLOOR AREA.** The sum of the gross horizontal area of the several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within a building or structure.

**FRONTAGE.** The boundary of a lot which abuts an existing or dedicated public street.

**GARAGE, PRIVATE.** An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families resident upon the premises.

**GARAGE, PUBLIC.** Any building or premises, except those used as a private or storage garage, used for equipping, repairing, hiring, selling or storing motor driven vehicles.

**GARAGE, STORAGE.** Any building or premises used for housing motor driven vehicles and at which automobile fuels are not sold or motor vehicles are not equipped, repaired, hired or sold.

**GRADE.** The average of the finished level at the center of the exterior walls of the building. For an earth-sheltered building, **GRADE** means the average of the finished level at the center of the lot. For a building with earth berms, but less than 50% earth covering, **GRADE** means the average of the finished level at the center of the building at the beginning of the earth berm.

**HOME OCCUPATION.** Any gainful occupation or profession engaged in by the occupant of a dwelling at or from the dwelling when carried on within a dwelling unit. Such uses include professional offices, minor repair services, photo or art studios, dressmaking, barber shops, beauty shops, tourist homes or similar uses.

**HORTICULTURE.** Horticulture uses and structures designed for the storage of products and machinery pertaining and necessary thereto.

**HOTEL.** A building which provides a common entrance, lobby, halls and stairway and in which 20 or more people can be, for compensation, lodged with or without meals.

**JUNK YARD.** An open area where waste, used or second-hand materials are bought, sold,



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exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber, tires and bottles. A **JUNK YARD** includes an auto wrecking yard, but does not include uses established entirely within enclosed buildings. This definition does not include sanitary landfills.

**KENNEL.** Any structure or premises on which four or more dogs over six months of age are kept for sale, breeding, profit, training and the like.

**LANDSCAPING.** Plantings, including trees, grass, ground cover and shrubs.

**LODGING ROOM.** A room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms without cooking facilities, each room which provides sleeping accommodation shall be counted as one **LODGING ROOM**.

**LOT.** A parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof.

**LOT AREA.** The area of a lot in a horizontal plane bounded by the lot lines.

**LOT, CORNER.** A lot situated at the junction of, and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

**LOT COVERAGE.** The area of the zoning lot occupied by the principal buildings and accessory buildings. Earth berms are not to be included in calculating **LOT COVERAGE**. Only the above grade portions of an earth-sheltered building should be included in **LOT COVERAGE** calculations.

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

**LOT LINE.** The property line bounding a lot; except that, where any portion of a lot extends into the public right-of-way shall be the lot line for purposes of this chapter.

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**LOT LINE, FRONT.** The boundary of a lot which abuts an existing or dedicated public street and in the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the **FRONT LINE** shall be designated by the owner and filed with the County Recorder.

**LOT LINE, REAR.** The boundary of a lot which is opposite the front lot line. If the rear line is less than ten feet in length, or if the lot forms a point at the rear, the **REAR LOT LINE** shall be a line ten feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

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

**LOT OF RECORD.** Any lot which is one unit of a plat heretofore duly approved and filed, or one unit of an Auditor’s subdivision or a registered land survey that has been recorded in the office of the County Recorder prior to the effective date of this chapter.

**LOT, SUBSTANDARD.** A lot or parcel of land for which a deed has been recorded in the office of the County Recorder upon or prior to the effective date of this chapter which does not meet the minimum lot area, structure setbacks or other dimensional standards of this chapter.

**LOT WIDTH.** The maximum horizontal distance between the side lot lines of a lot measured within the first 30 feet of the lot depth.

**MANUFACTURED HOME.** A structure transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and including the plumbing, heating, air conditioning and electrical systems contained therein; except that, the term includes any structure which meets all the requirements, and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this chapter.

**MANUFACTURED/MOBILE HOME PARK.** Any site, lot, field or tract of land under

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single ownership, designated, maintained or intended for the placement of two or more occupied homes. It shall include any buildings, structure, vehicle or enclosure intended for use as part of the equipment of the mobile/manufactured home park.

***METES AND BOUNDS.*** A method of property description by means of their direction and distance from an easily identifiable point.

***MINING.*** The extraction of sand, gravel, rock, soil or other material from the land in the amount of 1,000 cubic yards or more and the removing thereof from the site. The only exclusion from this definition shall be removal of materials associated with construction of a building; provided, the removal is an approved item in the building permit.

***MODULAR HOME.*** A non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site.

***MOTEL (TOURIST COURT).*** A building or group of detached, semi-detached or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients.

***MOTOR HOME or RECREATION VEHICLE.*** Any vehicle mounted on wheels and for which a license would be required if used on highways, roads or streets, and so constructed and designed as to permit occupancy thereof for dwelling or sleeping purposes and used for recreational purposes.

***NURSERY, LANDSCAPE.*** A business growing and selling trees, flowering and decorative plants and shrubs and which may be conducted within a building or without, for the purpose of landscape construction.

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***NURSING HOME.*** A building with facilities for the care of children, the aged, infirm or place of rest for those suffering bodily disorder. The ***NURSING HOME*** shall be licensed by the state's Board of Health as provided for in M.S. § 144.50, as it may be amended from time to time.

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

***OPEN SALES LOT (EXTERIOR STORAGE).*** Any land used or occupied for the purpose of buying and selling any goods, materials or merchandise and for the storing of same under the open sky prior to sale.

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

***PARKING SPACE.*** A suitably surfaced and permanently maintained area on privately-owned property either within or outside of a building of sufficient size to store one standard automobile.

***PARTY WALL.*** A wall common to two residential dwelling units such as in condominiums or zero lot line buildings. This is applicable to townhouses and other multi-family developments.

***PEDESTRIAN WAY.*** A public or private right-of-way across or within a block, to be used by pedestrians.

***PLANNED UNIT DEVELOPMENT.*** A residential development whereby buildings are grouped or clustered in and around common open space areas in accordance with a prearranged site plan and where the common open space is owned by the homeowners and usually maintained by a homeowner's association.

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**PRINCIPAL STRUCTURE OR USE.** One which determines the predominant use as contrasted to accessory use or structure.

**PROPERTY LINE.** The legal boundaries of a parcel of property which may also coincide with a right-of-way line or a road, cartway and the like.

**PROPERTY OWNER.** Any person, association or corporation having a freehold estate interest, leasehold interest extending for a term or having renewal options for a term in excess of one year, a dominant easement interest, or an option to purchase any of same, but not including owners or interests held for security purposes only.

**PROTECTIVE COVENANT.** A contract entered into between private parties which constitutes a restriction of the use of a particular parcel of property.

**PUBLIC LAND.** Land owned or operated by municipal, school district, county, state or other governmental units.

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

**RECREATION, COMMERCIAL.** Includes all uses such as bowling alleys, roller and skating rinks, driving ranges and movie theaters that are privately owned and operated with the intention of earning a profit by providing entertainment for the public.

**RECREATION, PUBLIC.** Includes all uses such as tennis courts, ball fields, picnic areas and the like that are commonly provided for the public at parks, playgrounds, community centers and other sites owned and operated by a unit of government for the purpose of providing recreation.

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

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**REGISTERED LAND SURVEY.** A survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts of Registered Land Survey Number. (See M.S. § 508.47, as it may be amended from time to time.)

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

**RIGHT-OF-WAY.** The total width of land owned by a governmental unit (local, county, state and federal) in and adjacent to a street, road or highway. This shall include the road surface, drainage ditches, curb and gutter and sidewalk.

**ROADSIDE STAND.** A temporary structure, unenclosed and so designed and constructed that the structure is easily portable and can be readily removed.

**SELECTIVE CUTTING.** The removal of single scattered trees.

**SETBACK.** The minimum distance between a structure or sanitary facility and a property line.

### **SHORELAND.**

(a) Land located within the following distance from public waters:

1. One thousand feet from the ordinary high water mark of a lake, pond or flowage; and

2. Three hundred feet from a river or stream, or the landward extent of a floodplain designated by ordinance on such a river or stream, whichever is greater.

(b) The practical limits of **SHORELANDS** may be less than the statutory limits whenever the waters involved are bounded by natural topographic divides which extend landward from the water or lesser distances and when approved by the Commissioner.

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***SHORELAND ALTERATION.*** Grading and filling in shoreland area or any alteration of the natural topography where the slope of the land is toward a public water or a watercourse leading to a public water.

***SHORELAND SETBACK.*** The minimum horizontal distance between a structure and the ordinary high-water mark.

***SIGN.*** Any letters, figures, design, symbol, trademark, architectural or illuminating device intended to attract attention to any place, subject, person, firm, corporation, public performance, article, machine or merchandise whatsoever and painted, printed or constructed and displayed in any manner whatsoever for recognized advertising purposes. For purposes of this chapter, a flag constitutes a ***SIGN***, but not including an emblem, or insignia of a government, school or religious group when displayed for official purposes.

***SIGN, ADVERTISING.*** A sign which directs attention to a business, commodity, service, activity or entertainment not necessarily conducted, sold or offered upon the premises where such a sign is located.

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

***SIGN, FLASHING.*** Any illuminated sign on which the illumination is not kept stationary or constant in intensity and color at all times when the sign is in use.

***SIGN, NAME PLATE.*** Any sign which states the name or address or both of the business or occupant of the lot where the sign is placed.

***SIGN, PROJECTING.*** A sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.

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**SIGN, PYLON.** A free-standing sign erected upon a single pylon or post which is in excess of ten feet in height with a sign mounted on top thereof.

**SIGN, ROTATING.** A sign which revolves or rotates on its axis by mechanical means.

**SIGN, SURFACE AREA OF.** The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside of the limits of the sign and not forming an integral part of the display.

**SIGN, WALL (FLAT).** A sign affixed directly to the exterior wall and confined within the limits thereof of any building and which projects from that surface less than 18 inches at all points.

**SOLAR ACCESS SPACE.** The airspace above all lots within the district necessary to prevent any improvement, vegetation or tree located on the lots from casting a shadow upon any solar device located within the zone greater than the shadow cast by a hypothetical vertical wall ten feet high located along the property lines of the lots between the hours of 9:30 a.m. and 3:30 p.m., Central Standard Time, on December 21; provided, however, this definition shall not apply to any improvement or tree which casts a shadow upon a solar device at the time of the installation of the device or to vegetation existing at the time of installation of the solar device.

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

**SOLAR ENERGY SYSTEM.** A complete design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components to the distribution of transformed energy (to the extent they cannot be used jointly with a conventional energy system). To qualify as a **SOLAR ENERGY SYSTEM**, the system must be permanently located for not less than 90 days in any calendar year beginning with the first calendar year after completion of construction. **PASSIVE SOLAR ENERGY SYSTEMS** are included in this definition, but not to the extent that they fulfill other functions such as structural and recreational.

**SOLAR SKYSPACE.** The space between a solar energy collector and the sun which must be free of obstructions that shade the collector to an extent which precludes its cost effective operation.



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***SOLAR SKYSPACE EASEMENT.*** A right, expressed as an easement, covenant, condition or other property interest in any deed or other instrument executed by or on behalf of any landowner, which protects the solar skyspace of an actual, proposed or designated solar energy collector at a described location by forbidding or limited activities or land uses that interfere with access to solar energy. The solar skyspace must be described as the three dimensional space in which obstruction is prohibited or limited, or as the times of day during which direct sunlight to the solar collector may not be obstructed, or as a combination of the two methods.

***SOLAR STRUCTURE.*** A structure designed to utilize solar energy as an alternate for, or supplement to, a conventional energy system.

***STABLE, PRIVATE.*** An accessory building in which horses are kept for private use and not for hire, remuneration or sale.

***STABLE, PUBLIC.*** A building in which horses are kept for remuneration, hire or sale therefor, a principal building and/or use.

***STREET.*** A public right-of-way which affords primary means of access to abutting property, and shall also include avenue, highway, road or way.

***STREET, COLLECTOR.*** A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

***STREET, LOCAL.*** A street intended to serve primarily as an access to abutting properties.

***STREET, MAJOR OR THOROUGHFARE.*** A street which serves, or is designed to serve, heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

***STREET PAVEMENT.*** The wearing or exposed surface of the roadway used by vehicular traffic.

***STREET WIDTH.*** The width of the right-of-way, measured at right angles to the centerline

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of the street.

***STORY.*** The portion of a building included between the surface of any floor and the surface of the floor next above, including below ground portion of earth-sheltered buildings.

***STORY, HALF.*** A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of the story.

***STRUCTURAL ALTERATION.*** Any change in the supporting members of a building such as bearing walls, columns, beams or girders, or any change in the roof or in any exterior walls.

***STRUCTURE.*** Anything constructed, the use of which requires more or less permanent location on the ground or attached to something having a permanent location on the ground.

***SUBDIVISION.*** The division or redivision of a lot, tract or parcel of land into two or more lots either by plat or by metes and bounds description.

***TOWNHOUSE.*** A single-family building attached by party walls with other single-family buildings and oriented so that all exits open to the outside.

***USE.*** The purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained.

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

***USE, CONDITIONAL.*** See ***CONDITIONAL USE.***

***USE, NON-CONFORMING.*** Use of land, buildings or structures legally existing on the effective date of this chapter which does not comply with all the regulations of this chapter or any amendments hereto governing the zoning district in which the use is located.

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

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

**VARIANCE.** A modification or variation of the provisions of this chapter where it is determined that by reason of special and unusual circumstances relating to a specific lot, that strict application of this chapter would cause undue hardship.

**WETLAND.** Land which is annually subject to periodic or continual inundation by water and commonly referred to as bog, swamp or marsh.

### **YARD.**

(a) A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky, except as permitted in this chapter.

(b) The **YARD** extends along the lot line at right angles to the lot line to a depth or width specified in the setback regulations from the zoning district in which the lot is located.

(c) For earth-sheltered buildings and buildings covered with earth berm, the line of the building is measured from the exterior surface of the building regardless of whether it is above or below grade.

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

**YARD, REAR.** The portion of the yard on the same lot with the principal building located between the rear line of the building and the rear lot line and extending for the full width of the lot.

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**YARD, SIDE.** The yard extending along the side lot line between the front yard and rear yards to a depth or width required by setback regulations for the zoning district in which the lot is located.

**ZONING ADMINISTRATOR.** The duly appointed person charged with enforcement of this chapter.

**ZONING AMENDMENT.** A change authorized by the city either in the allowed use within a district or in the boundaries of a district.

**ZONING DISTRICT.** A area or areas within the limits of the city for which the regulations and requirements governing use are uniform as defined by this chapter.  
(Prior Code, § 11.02) (Ord. 177, effective 6-19-1986; Ord. 180, effective 6-26-1986; Ord. 2, effective 5-22-1989)

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

(A) This chapter shall be applicable to all lands, structures and waters within the corporate limits of the city.

(B) In their interpretation and application, the provisions of this chapter shall be held to the minimum requirements for the promotion of the public health, safety and welfare.

(C) No part of the yard or open space required for a given building shall be included as part of the yard or other space required for another building, and no lot shall be used for more than one principal building.

(D) Each new occupied building shall be required to connect to the city sewage disposal system where it is available. For existing lots of record where city sewage service is not available, the private sewage disposal system shall meet the standards of the state's Pollution Control Agency (6 MCAR #4.8040).

(E) Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, stacks, scenery

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lofts, tanks, water towers, ornamental towers, spires, wireless or broadcasting towers, masts or aerials, and necessary mechanical appurtenances are hereby excepted from the height regulations of this chapter and may be erected in accordance with other regulations or city code provisions.

(F) (1) Except as in this chapter, specifically provided, no structure shall be erected, converted, enlarged, reconstructed or altered; and no structure or land shall be used for any purpose or in any manner which is not in conformity with this chapter.

(2) Temporary buildings that are used in conjunction with construction work, including trailers and manufactured/mobile homes used as offices and for tool storage, may be permitted in any district during the period that construction is taking place, but the temporary buildings shall be removed within 30 days after completion of construction work.

(Prior Code, § 11.10) Penalty, see § 154.999

#### **§ 154.004 SEPARABILITY.**

It is hereby declared to be the intention that several provisions of this chapter are separable in accordance with the following.

(A) If any court of competent jurisdiction shall judge any provisions of this chapter to be invalid, the judgment shall not affect any other provisions of this chapter not specifically included in the judgment.

(B) If any court of competent jurisdiction shall judge invalid the application of any provision of this chapter to be a particular property, building or structure, the judgment shall not affect other property, buildings or structures.

(Prior Code, § 11.11)

#### **§ 154.005 NON-CONFORMING USES AND STRUCTURES.**

Any structure or use existing on the effective date of this chapter, and which does not conform to the provisions of this chapter, may be continued for a certain period of time subject to the

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following conditions.

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

(B) If a non-conforming use is discontinued for a period of 12 months, further use of the structures or property shall conform to this chapter. The County Assessor and/or Zoning Administrator shall notify the City Administrator or Planning Commission in writing of all instances of non-conforming uses which have been discontinued for a period of 12 consecutive months.

(C) If a non-conforming structure is destroyed by any cause, to an extent exceeding 50% of its fair market value as indicated by the records of the County Assessor, a future structure on the site shall conform to this chapter.

(D) All non-conforming junk yards, open storage areas and similar non-conforming uses of open land not involving a substantial investment in permanent buildings shall be removed, altered or otherwise made to conform within one year of the effective date of this chapter.

(E) Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.

(F) Any alterations or additions to a non-conforming structure or non-conforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevations on fill or flood-proofing techniques allowable in the state's Building Code, except no alterations or additions to the structure over the life of the structure shall exceed 50% of the market value of the structure unless the conditions of the chapter are satisfied. The cost of all structural alterations and additions constructed since September of 1981 must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alteration and additions exceeds 50% of the current market value of the structure, then the structure must be brought into compliance with all provisions of the chapter.

(Prior Code, § 11.12) (Ord. 2, effective 5-22-1989)

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**§ 154.006 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 effective date of this chapter may be used for single-family detached dwelling purposes; provided, the area and width thereof are within 60% of the minimum requirements of this chapter; and, provided, it can be demonstrated that safe and adequate sewage treatment systems can be installed to serve the permanent dwelling.

(Prior Code, § 11.13)

**§ 154.007 ZONING AND COMPREHENSIVE PLAN.**

Any change in zoning granted by the Council shall automatically amend the Comprehensive Plan in accordance with the zoning change.

(Prior Code, § 11.15) (Ord. 177, effective 6-19-1986)

**§ 154.008 ZONING DISTRICTS AND DISTRICT PROVISIONS.**

- (A) *Zoning districts.* The zoning districts are so designed as to assist in carrying out the intents and purposes of the Comprehensive Plan which has the purpose of protecting the public health, safety, convenience and general welfare. For the purposes of this chapter, the city is hereby divided into the following zoning districts:

<i>Symbol</i>	<i>Name</i>
A	Agricultural District

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C-1	Central Business District
C-2	Highway Commercial District
F	Floodplain District
I-1	Industrial District
R-1	Suburban Residential District
R-2	Urban Residential District
R-3	Multi-Family Residential District
R-4	Manufactured/Mobile Home District

(B) *Zoning map.*

(1) The location and boundaries of the districts established by this chapter are set forth on the Official Zoning map which is hereby incorporated as part of this chapter and which is on file at the Zoning Administrator's office.

(2) District boundary lines recorded on the Zoning Map are intended to follow lot lines, the centerline of streets or alleys, the centerline of streets or alleys projected, railroad rights-of-way lines, the center of watercourses or the corporate limit lines as they exist on the effective date of this chapter.

(3) The Floodplain Districts are based on the data contained in the Flood Insurance Study for the city prepared by the Federal Insurance Administration dated 3-2-1981, and the Flood Boundary and Floodway Maps and the Flood Insurance Rate Maps therein dated 9-2-1981. The Flood Insurance Study and the Flood Insurance Rate Maps are hereby adopted by reference and declared to be part of this chapter.

(4) All territory which may hereafter be annexed to the city shall be considered zoned in the same manner as the contiguous territory inside the previous city limits until otherwise classified.

(5) Amendments to the Zoning Map shall be recorded on the Official Zoning Map by the Zoning Administrator within 15 days after the adoption of the amendment by the Council. The



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Official Zoning Map shall be maintained by the Zoning Administrator and shall be kept on file in the office of the Zoning Administrator for view by the public during normal office hours.

(6) In those cases where there is a question of the exact location of a zoning district, the Board of Adjustment shall make the necessary interpretation. In the case of interpretation of floodplain boundaries, the Board shall make the necessary interpretation based upon elevations on the regional flood profile and other available technical data.

(Prior Code, § 11.30)

### **§ 154.009 BUILDING PERMIT.**

No building permit shall be issued for any construction, enlargement, alteration or repair, demolition or moving of any building or structure on any lot or parcel until all requirements of these regulations have been fully met.

(Prior Code, § 11.80) (Ord. 177, effective 6-19-1986)

## ***ADMINISTRATION***

### **§ 154.020 ENFORCING OFFICER.**

(A) The Council shall appoint a Zoning Administrator.

(B) The Zoning Administrator shall enforce this chapter and shall perform the following duties:

(1) Issue building and other permits, and make and maintain record thereof;

(2) Conduct inspections of buildings and use of land to determine compliance with the terms of this chapter;

(3) Maintain permanent and current records of this chapter, including, but not limited to:

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all maps, amendments and conditional uses; variances; appeals; and applications therefor;

(4) Receive, file and forward all applications for appeals, variances, conditional uses or other matters to the designated official bodies; and

(5) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334. (Prior Code, § 11.20) (Ord. 177, effective 6-19-1986)

**§ 154.021 APPEALS AND THE BOARD OF ZONING ADJUSTMENT.**

(A) A Board of Zoning Adjustment is hereby established which shall consist of five members appointed by the Council and shall be vested with the administrative authority as hereinafter provided. The terms shall be for four years and vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The members of the Board of Adjustment may be paid their necessary expenses, as determined by the Council, in attending meetings of the Board and in the conduct of the business of the Board.

(B) The Board shall annually elect a Chairperson and Vice-Chairperson from among its members and shall appoint a Secretary, who need not be a member of the Board. It shall adopt rules for the transaction of its business and shall keep a public record of its transaction, findings and determinations.

(C) The Board of Adjustment shall act upon all questions as they may arise in the administration of this chapter, including the interpretation of Zoning Maps, and it shall hear and decide appeals from and review any order, requirement, decision or determination made by such an administrative official charged with enforcing this chapter. The appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the city. The Board of Adjustment shall also have the power to grant variances to the provisions of this chapter under certain conditions. The conditions for the issuance of a variance are as indicated in § 154.025 of this chapter. No use variances (uses different than those allowed in the district) shall be issued by the Board of Zoning Adjustment.

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(D) Hearings by the Board of Adjustment shall be held within such time and upon the notice to interested parties as is provided in this chapter and its adopted rules for the transaction of its business. Any party may appear at the hearing in person or by agent or attorney.

(E) The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination as, in its opinion, ought to be made in the premises. The reasons for the Board's decision shall be stated.

(Prior Code, § 11.20) (Ord. 177, effective 6-19-1986)

## **§ 154.022 PLANNING AND ZONING COMMISSION.**

(A) A Planning and Zoning Commission is hereby established which shall consist of five members, one of which may be a member of the Council. The members of the Commission shall be appointed by the Council and shall serve staggered four-year terms.

(B) The Commission shall elect a Chairperson from among its members and may create and fill other offices as it may determine is necessary to conduct business. The City Administrator's office shall provide a Secretary for the purpose of taking minutes.

(C) The Commission shall hold meetings and adopt rules for the transaction of business along with keeping public records of any resolutions, transactions, findings and recommendations of the Commission.

(D) The Planning Commission shall provide assistance to the Council and Zoning Administrator in the administration of this chapter and the recommendation of the Planning Commission shall be advisory in nature. Specifically, the Planning Commission shall review, hold public hearings and make recommendations to the Council on all applications for zoning amendments and conditional use permits using the criteria in §§ 154.023 and 154.024 of this chapter.

(Prior Code, § 11.20) (Ord. 177, effective 6-19-1986)

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### **§ 154.023 ZONING AMENDMENTS.**

(A) *Criteria for granting zoning amendments.* The Council may adopt amendments to this chapter and the Zoning Map in relation both to land uses within a particular district or to the location of a district line. The amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the city as reflected in the Comprehensive Plan or changes in conditions in the city.

(B) *Kinds of amendments.*

- (1) A change in a district's boundary (rezoning);
- (2) A change in a district's regulations; and
- (3) A change in any other provision of this chapter.

(C) *Initiation of proceedings.* Proceedings for amending this chapter shall be initiated by at least one of the following three methods:

- (1) By petition of an owner or owners of property which is proposed to be rezoned or for which district regulation changes are proposed;
- (2) By recommendation of the Planning Commission; or
- (3) By action of the Council.

(D) *Required exhibits for rezoning or district regulation changes initiated by property owners.*

- (1) A preliminary building and site development plan. The Council may also require a

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boundary survey of the property; and

- (2) Evidence of ownership or enforceable option on the property.

(E) *Procedure.* The procedure for a property owner to initiate a rezoning or district regulation change applying to this property is as follows.

(1) The property owner or his or her agent shall meet with the Zoning Administrator to explain his or her situation, learn the procedures and obtain an application form.

(2) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee as established by Council resolution.

(3) The Zoning Administrator shall transmit the application and required exhibits to the Planning Commission and shall notify all property owners within the affected zone and within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive the notification shall not invalidate the proceedings.

(4) The Zoning Administrator shall set the date for a public hearing and shall have notices of the hearing published in the legal newspaper at least once, not less than ten days and not more than 30 days prior to the hearing.

(5) The Planning Commission shall hold the public hearing and then shall recommend to the Council within 30 days, one of three actions: approval; denial; or conditional approval.

(6) The Council shall act upon the application within 30 days after receiving the recommendation of the Planning Commission.

(7) No application for an amendment by a property owner for the text of this chapter or the Zoning Map shall be considered by the Planning Commission within the one-year period following a denial of the request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

(F) *Limitations.* The floodplain designation on the Official Zoning Map shall not be removed

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from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he or she determines that, through other measures, lands are adequately protected for the intended use. Also, all amendments to this chapter or the Official Zoning Map that deal with the floodplain in any way must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency’s (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten days’ written notice of all hearings to consider an amendment to this chapter having any affect on the floodplain and the notice shall include a draft of the amendment and any technical data pertaining to the amendment.  
(Prior Code, § 11.20) (Ord. 177, effective 6-19-1986; Ord. 2, effective 5-22-1989)

**§ 154.024 CONDITIONAL USE PERMITS.**

(A) *Criteria for granting conditional use permits.* In granting a conditional use permit, the Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use on the Comprehensive Plan and upon the health, safety and general welfare of occupants of surrounding lands. Among other things, the Council shall make the following findings, where applicable:

(1) The use will not create an excessive burden on existing parks, schools, streets and other public facilities which serve or are proposed to serve the area;

(2) The use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land;

(3) The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties;

(4) The use, in the opinion of the Council, is reasonably related to the overall needs of the city and to the existing land use;

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(5) The use is consistent with the purposes of this chapter and the purposes of the zoning district in which the applicant intends to locate the proposed use;

(6) The use is not in conflict with the Comprehensive Plan of the city;

(7) The use will not cause traffic hazard or congestion; and

(8) Adequate utilities, access roads, drainage and necessary facilities have been or will be provided.

**(B) *Additional conditions.***

(1) In permitting a new conditional use or in the alternative of an existing conditional use, the Council may impose, in addition to these standards and requirements expressly specified by this chapter, additional conditions which the Council considers necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

(a) Increasing the required lot size or yard dimension;

(b) Limiting the height, size or location of buildings;

(c) Controlling the location and number of vehicle access points;

(d) Increasing the street width;

(e) Increasing the number of required off-street parking spaces;

(f) Limiting the number, size, location or lighting of signs;

(g) Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property;

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(h) Designation sites for open space; and

(i) Establish a time limit.

(2) The Zoning Administrator shall maintain a record of all conditional use permits issued including information on the use, location and conditions imposed by the Council, time limits, review dates and other information as may be appropriate.

(C) *Required exhibits for conditional use permits.*

(1) A preliminary building and site development plan. The Planning and Zoning Commission or the Council may also require a boundary survey of the property; and

(2) Evidence of ownership or enforceable option on the property.

(D) *Procedure.* The procedure for obtaining a conditional use permit is as follows.

(1) The property owner or his or her agent shall meet with the Zoning Administrator to explain the situation, obtain an application form and follow the procedures outlined in Ch. 154 of this code of ordinances.

(2) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee as established by Council resolution.

(3) The Zoning Administrator shall present the application to the Planning Commission and shall notify all property owners within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive the notification shall not invalidate the proceedings.

(4) The Zoning Administrator shall set the date for a public hearing and shall have notice of the hearing published at least once in the legal newspaper, not less than ten days, and not more than 30 days, prior to the hearing.

(5) The Planning Commission shall hold the public hearing and then shall study the



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application to determine possible adverse effects of the proposed conditional use and to determine what additional requirements may be necessary to reduce the adverse effects and recommend one of three actions to the Council within 30 days after holding the public hearing: approval; denial; or conditional approval.

(6) The Council shall take appropriate action on the request for a conditional use permit within 30 days of receiving the recommendations by the Planning Commission. If it grants the conditional use permit, the Council may impose conditions it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.

(7) Where a conditional use permit has been issued pursuant to the provisions of this chapter, the permit shall become null and void without further action by the Planning Commission or the Council unless work thereon commences within six months of the date granting the conditional use. The conditional use permit shall not be assignable. A conditional use permit shall be deemed to authorize only one particular use and shall expire if that use shall cease for more than six consecutive months.

(8) In the event that the applicant violates any of the conditions set forth in this permit, the Council shall have the authority to revoke the conditional use permit.

(9) No application of a property owner for a conditional use shall be considered by the Planning Commission within a one-year period following a denial for such a request, except the Planning Commission may permit a new application if, in its opinion, new evidence or a change in circumstances warrant it.

(Prior Code, § 11.20) (Ord. 177, effective 6-19-1986)

## **§ 154.025 VARIANCES.**

### *(A) Criteria for granting variances.*

(1) A variance to the provisions of this chapter may be issued by the Board of Adjustment

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to provide relief to the landowner in those cases where this chapter imposes undue hardship or practical difficulties to the property owner in the use of this land. No use variances may be issued. A variance may be granted only in the event that all the following circumstances exist:

(a) Exceptional or extraordinary circumstances apply to the properties which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owners of property since the effective date of this chapter have had no control;

(b) The literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;

(c) The special conditions or circumstances do not result from the actions of the applicant;

(d) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to owners of other lands, structures or buildings in the same district;

(e) The variance requested is the minimum variance which would alleviate the hardship. Economic conditions alone shall not be considered a hardship; and

(f) The variance would not be materially detrimental to the purpose of this chapter or to other property in the same zone.

(2) The Board of Adjustment may impose the restrictions and conditions upon the premises benefitted by a variance as may be necessary to comply with the standards established by this chapter, or to reduce or minimize the effect of the variance upon other properties in the neighborhood, and to better carry out the intent of the variance. No variance shall permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area or permit standards lower than those required by federal, state or local law.

*(B) Required exhibits for variances.*

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- (1) Certificate of survey of the property;
- (2) A preliminary building and site development plan; and
- (3) Evidence of ownership or enforceable option on the property.

(C) *Procedures.* The procedure for obtaining a variance from the regulations of this chapter are as follows.

(1) The property owner or his or her agent shall meet with the Zoning Administrator to explain the situation, obtain an application form and follow the procedures outlined in this chapter.

(2) The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee as established by Council resolution.

(3) The Zoning Administrator shall present the application to the Board of Adjustment for review and shall notify all property owners within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive the notification shall not invalidate the proceedings.

(4) The Zoning Administrator shall set the date for a public hearing and shall have notice of the hearing published at least once in the legal newspaper, not less than ten days, nor more than 30 days, prior to the hearing.

(5) The Board of Adjustment shall hold a public hearing on the proposed variance and shall make a decision within 30 days after the public hearing. It shall recommend one of three actions: approval; denial; or conditional approval.

(6) No application by a property owner for a variance shall be submitted to the Board of Adjustment within a six-month period following a denial of such request, except the Board may permit a new application if, in the opinion of the Board, new evidence of a change of circumstances warrant it.

(Prior Code, § 11.20) (Ord. 177, effective 6-19-1986)

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**§ 154.026 ENFORCEMENT PROCEDURE.**

(A) *Enforcing Officer.* It shall be the duty of the Zoning Administrator and Building Inspector to cause the provisions of this chapter to be properly enforced through the proper legal channels.

(B) *Building permit.*

(1) Hereafter, no person shall construct, alter, wreck or move any kind of structure or building or part thereof, including decks, without first securing a building permit therefor.

(2) Applications for building permits shall be accompanied by the following exhibits unless waived by the Zoning Administrator:

(a) A drawing or sketch of an area including the property in question up to 100 feet beyond its outer boundaries or adjacent building, whichever is closer, showing existing utilities, lot boundaries and dimension, buildings, easements, foliage and topography and waterways if pertinent. Soil tests may be required if pertinent; and

(b) Preliminary building and site development plans showing building's location, dimensional parking and loading arrangement, vehicular and pedestrian access and egress, surface drainage plan, landscaping, utility plan, screening, size and location of all signs, building floor plans of all floors, elevations of all sides of buildings, sections and outline material specifications as appropriate.

(3) Prior to the granting of a building permit, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.

(C) *Procedure.*

(1) Persons requesting a building permit shall fill out a building permit form available from the Zoning Administrator.

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(2) Completed building permit forms and a fee as may be established by resolution of the Council shall be submitted to the Zoning Administrator. If the proposed development conforms in all respects to this chapter, a building permit shall be issued by the Zoning Administrator within a period of 30 days.

(3) If the proposed development involves a zoning amendment, variance or conditional use permit, the application, together with a building permit, shall be submitted either to the Planning Commission or Board of Zoning Appeals for review and appropriate action according to the procedures set forth in §§ 154.023, 154.024 or 154.025 of this chapter.

(4) Whenever appropriate, a certificate of occupancy shall be submitted to the Building Inspector for review. The Building Inspector, after conferring with the Zoning Administrator, shall either issue or deny the certificate depending upon whether the structure or its use conforms to this chapter.

(D) *Unlawful acts.* It is unlawful for any person to violate or refuse to comply with any of the provisions of this chapter. Each day that the violation is permitted to exist shall constitute a separate offense. Violation of any condition of a conditional use permit may result in immediate termination of the permit by the Council, following public hearing. Notice and public hearing of violations and termination proceedings on all non-conforming, any conditional, incompatible, accessory or conditional uses or home occupation uses, shall be given by the Council to the interested party or parties by certified mail or in lieu thereof by one legal published notice at least ten days before the hearing date, which notice shall be given by the Council within a reasonable time.

(Prior Code, § 11.20) (Ord. 177, effective 6-19-1986; Ord. 2, effective 5-22-1989) Penalty, see § 154.999

***PLANNED UNIT DEVELOPMENT (PUD)***

**§ 154.040 PURPOSE.**

The purposes of this subchapter are:

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### **Zoning**

(A) To encourage a more creative and efficient development of land and its improvements than is possible under the more restrictive application of zoning requirements such as lot sizes and building setbacks, while at the same time meeting the standards and purposes of the Comprehensive Plan and preserving the health, safety and welfare of the citizens;

(B) To allow for a mixture of residential units in an integrated and well-planned area; and

(C) To ensure concentration of open space into more usable areas, and the preservation of the natural resources of the site including wetlands, woodlands, steep slopes and scenic areas.  
(Prior Code, § 11.14)

#### **§ 154.041 PERMITTED USES.**

Dwelling units in detached, clustered, semi-detached, attached or multi-storied structures or combinations thereof.  
(Prior Code, § 11.14)

#### **§ 154.042 GENERAL REQUIREMENTS.**

(A) A conditional use permit shall be required of all planned unit developments.

(B) The city may approve the planned unit development only if it finds that the development satisfies all the following standards in addition to meeting the requirements of § 154.024 of this chapter, except for the time limit:

(1) The planned unit development is consistent with the Comprehensive Plan of the city;

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(2) The planned unit development is an effective and unified treatment of the development possibilities in the project site and the development plan provides for the preservation of unique natural amenities such as streams, stream banks, wooded cover, rough terrain and similar areas;

(3) The planned unit development can be planned and developed to harmonize with any existing or proposed development in the areas surrounding the project site;

(4) Financing is available to the applicant on conditions and in an amount which is sufficient to assure completion of the planned unit development;

(5) A minimum of five or more principal structures are proposed;

(6) The tract under consideration is under single control; and

(7) The tract is at least two acres in size.

(Prior Code, § 11.14)

## **§ 154.043 COORDINATION WITH SUBDIVISION REGULATIONS.**

(A) It is the intent of this chapter that subdivision review under the subdivision regulations be carried out simultaneously with the review of a planned development under this subchapter.

(B) The plans required under this subchapter must be submitted in a form which will satisfy the requirements of the subdivision regulations for the preliminary and final plans required under these regulations.

(Prior Code, § 11.14)

## **§ 154.044 PRE-APPLICATION MEETING.**

Prior to the submission of any plan to the Planning Commission, the applicant shall meet with the Zoning Administrator and, if necessary, with the Planning Commission to discuss the contemplated project relative to community development objectives for the area in question and to learn the procedural steps for a conditional use permit and a preliminary plat. The applicant may

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submit a simple sketch plan at this stage for informal review and discussion. The applicant is urged to avail himself or herself of the advice and assistance of the planning staff to facilitate the review of the outline plan and preliminary plat.

(Prior Code, § 11.14)

**§ 154.045 PRELIMINARY DEVELOPMENT PLAN.**

(A) An applicant shall make an application for a conditional use permit following the procedural steps as set forth in § 154.024 of this chapter.

(B) In addition to the criteria and standards set forth in § 154.024 of this chapter for granting of the conditional use permits, the following additional findings shall be made before the approval of the outline development plan.

(1) The proposed PUD is in conformance with the Comprehensive Plan.

(2) The uses proposed will not have an undue and adverse impact on the reasonable enjoyment of neighboring property, and will not be detrimental to potential surrounding uses.

(3) Each phase of the proposed development, as it is proposed to be completed, is of sufficient size, composition and arrangement that its construction, marketing and operation of dwelling units and common open space are balanced and coordinated.

(4) The PUD will not create an excessive burden on parks, schools, streets and other public facilities and utilities which are proposed to serve the district.

(5) The proposed total development is designed in a manner as to form a desirable and unified environment within its own boundaries.

(C) *Preliminary development plan documentation.* The following exhibits shall be submitted to the Zoning Administrator by the proposed developer as part of the application of a conditional use permit:



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(1) An explanation of the character and need for the planned development and the manner in which it has been planned to take advantage of the planned development regulations;

(2) A statement of proposed financing of the PUD;

(3) A statement of the present ownership of all the land included within the planned development and a list of property owners within 350 feet of the outer boundaries of the property;

(4) A general indication of the expected schedule of development including sequential phasing and time schedules;

(5) A map giving the legal description of the property including approximate total acreage and also indicating existing property lines and dimensions, ownership of all parcels, platting, easement, street rights-of-way, utilities and buildings for the property and for the area 350 feet beyond;

(6) Natural features map or maps of the property and area 350 feet beyond showing contour lines at no more than two-foot intervals, drainage patterns, wetlands, vegetation, soil and subsoil condition;

(7) A map indicating proposed land uses including housing units and types, vehicular and pedestrian circulation and open space uses; and

(8) Full description as to how all necessary governmental services will be provided to the development including sanitary sewers, storm sewers, water system, streets and other public utilities.

(D) *Preliminary plat.* The applicant shall also submit a preliminary plat and all the necessary documentation as required under Ch. 153 of this code of ordinances of all or that portion of the project to be platted. For purposes of administrative simplification, the public hearings required for the conditional use permit and preliminary plat may be combined into one hearing or may be held concurrently.

(Prior Code, § 11.14)

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**§ 154.046 FINAL DEVELOPMENT PLAN.**

(A) Within 90 days following the approval of the preliminary development plan with recommended modifications, if any, and the preliminary plat, the applicant shall file with the Zoning Administrator a final development plan containing in final form the information required in the preliminary development plan, plus any changes recommended by the Planning Commission and the Council as a result of the public hearing. The applicant shall also submit a final plat for all or that portion to be platted.

(B) The Zoning Administrator shall submit a final development plan and the final plat to the Planning Commission and other applicable agencies for review.

(C) The final development plan and the final plat shall conform to the preliminary development plan and preliminary plat, plus any recommended changes by the Planning Commission or the Council to the general development plan and preliminary plat.

(D) The Council shall review the final development plan and final plat. The Council shall give notice and provide opportunity to be heard on the final development plan to any person who has indicated in writing that he or she wishes to be notified.

(E) If the final development plan is approved by the Council, the Zoning Administrator shall issue a conditional use permit to the applicant.

(Prior Code, § 11.14)

**§ 154.047 ENFORCING DEVELOPMENT SCHEDULE.**

## **Building Regulations; Construction**

### **Streets and Sidewalks**

### **Public and Private Property Maintenance**

### **Subdivisions**

### **Zoning**

The construction and provisions of all of the common open spaces and public and recreational facilities which are shown on the final development plan must proceed at the same rate as the construction of dwelling units. At least once every six months following the approval of the final development plan, the Zoning Administrator shall review all of the building permits issued for the planned development. If he or she shall find that the rate of construction of dwelling units is faster than the rate of which common open spaces and public and recreational facilities have been constructed and provided, he or she shall forward this information to the Council, which may revoke the conditional use permit. If the developer or landowners fail to complete the open spaces and recreation areas within 60 days after the completion of the remainder of the project, the city may finish the open space areas and assess the cost back to the developer or landowner. (Prior Code, § 11.14)

#### **§ 154.048 CONVEYANCE AND MAINTENANCE OF COMMON OPEN SPACE.**

(A) All land shown on the final development plan as common open space must be conveyed under one of the following methods at the option of the city:

(1) It may be conveyed to a public agency which will agree to maintain the common open space and any buildings, structures or improvements which have been placed on it; and

(2) It may be conveyed to trustees provided in an indenture establishing an association or similar organization for the maintenance of the planned development. The common open space must be conveyed to the trustees subject to covenants to be approved by the Council which restrict the common open space to the uses specified on the final development plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.

(B) If the common open space is conveyed to a homeowner's association, and the common open space is not maintained properly to standards established by the city, the city shall have the authority to maintain the property and assess the costs back to the homeowner's association. (Prior Code, § 11.14)

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#### **§ 154.049 STANDARDS FOR COMMON OR PUBLIC OPEN SPACE.**

No open area may be accepted as common open space under the provisions of this chapter unless it meets the following standards.

(A) The location, shape, size and character of the common open space must be suitable for the planned development.

(B) Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned development, considering its size, density, expected population, topography and the number and type of dwellings to be provided.

(C) Common open space must be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must converse and enhance the amenities of the common open space having regard to its topography and unimproved condition.

(Prior Code, § 11.14)

#### **§ 154.050 PUD REVIEW AND AMENDMENTS.**

(A) *Annual review.* The Zoning Administrator and Planning Commission shall review all PUDs within the city at least once each year and shall make a report to the Council on the status of the development in each of the PUD Districts. If the Council finds that the development has not occurred within a reasonable time after the original approval of the conditional use for the PUD, the Planning Commission may recommend that the city revoke the conditional use permit as set forth in § 154.024 of this chapter.

(B) *Revisions to the PUD.*

(1) Minor changes in the location, placement and heights of buildings or structures may be authorized by the Zoning Administrator if required by engineering or other circumstances not

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foreseen at the time the final plan was approved.

(2) Approval of the Planning Commission and the Council shall be required for other minor changes such as rearrangement of lots, blocks and building tracts. These changes shall be consistent with the purpose and intent of the approved final development plan.

(C) *Amendments to the PUD.* Any amendment to the PUD shall require the same procedures for the application of a conditional use permit as set forth in § 154.024 of this chapter. (Prior Code, § 11.14)

***AGRICULTURAL DISTRICT (A)***

**§ 154.065 PURPOSE.**

The major purpose of this district is to allow existing agricultural and conservancy areas in the outlying parts of the city that does not have central sewer services. Limited residential development will be allowed in this district and clustering of housing units will be encouraged. (Prior Code, § 11.31)

**§ 154.066 PERMITTED USES.**

- (A) Single-family residences;
- (B) Commercial agricultural and horticulture;
- (C) Farm buildings and structures;
- (D) Farm drainage and irrigation systems;

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### **Zoning**

(E) Roadside stands for the sale of agricultural products;

(F) Historic sites;

(G) Public and private riding stables;

(H) Truck gardens, orchards, nurseries and greenhouses;

(I) Roadside stands for sale of farm products produced only on agricultural premises;

(J) Public and parochial schools of general instruction;

(K) Churches and similar places of worship and instruction, including parish houses;

(L) Cemeteries, including mausoleums and crematories;

(M) Hospitals, clinics, sanatoriums and charitable institutions for the treatment of diseases, nursing and convalescent homes, except correctional or penal institutions;

(N) Public parks, recreation areas, playgrounds and community centers;

(O) Public and private forests and wildlife reservations or similar conservation projects;

(P) Semi-public recreation areas and center, including country clubs, swimming pools and golf courses, but not including such uses as miniature golf courses or practice driving tees which are operated for commercial purposes;

(Q) Essential services (telephone, telegraph, power lines and necessary appurtenant equipment and structures under 35 KV); and

(R) Signs, subject to the standards in §§ 154.255 through 154.266 of this chapter.  
(Prior Code, § 11.31)

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**Building Regulations; Construction**

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**Zoning**

**§ 154.067 ACCESSORY USES.**

(A) Any incidental machinery, structure or buildings necessary to the conduct of agricultural, single-family residential and other permitted uses; and

(B) Private garages, carports, screen houses, swimming pools and storage buildings for use of occupants of the principal structures.

(Prior Code, § 11.31)

**§ 154.068 CONDITIONAL USES.**

(A) Commercial amusement or recreation developments;

(B) Home occupations;

(C) Agricultural products and livestock processing plants;

(D) Hobby farms and stables;

(E) Resort campgrounds;

(F) Mining, sand and gravel operations;

(G) Municipal, county, state and federal government buildings and areas;

(H) Radio and television towers and broadcast stations;

(I) Power lines and structures over 35 KV;

(J) Airports and private landing fields;

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## **Building Regulations; Construction**

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### **Subdivisions**

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### **Zoning**

(K) Commercial feedlots; provided that, no feedlot shall be located within 1,000 feet of a residential district;

(L) Sanitary landfills; provided that, no sanitary landfill shall be located within 1,000 feet of a residential district; and

(M) Any other use of similar character to those listed under permitted uses.  
(Prior Code, § 11.31)

## **§ 154.069 PERFORMANCE STANDARDS.**

### *(A) Height regulations.*

(1) The maximum height of all buildings shall not exceed two and one-half stories or 35 feet.

(2) This height limitation shall not apply to grain elevators, silos, windmills, elevator lags, cooling towers, water towers, chimneys and church spires.

### *(B) Front yard regulations.*

(1) The minimum setback shall be 40 feet from the right-of-way.

(2) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.

### *(C) Side and rear yard regulations.*

(1) Minimum side yard: 30 feet;

(2) Minimum rear yard: 50 feet; and

(3) Accessory buildings shall not be located nearer than ten feet from the side or rear yard



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**Zoning**

lot line or from the residential structure.

(D) *Lot width and depth regulations.* Minimum lot width: 150 feet.

(E) *Lot area regulations.* The minimum lot size shall be 11 acres.

(F) *Location of structures.* Structures shall be located on each lot as to permit resubdivision if and when central sewer and water systems become available.

(G) *General requirements.* Additional requirements for parking, signs, sewage systems and other regulations as set forth in §§ 154.210 through 154.240 and 154.255 through 154.266 of this chapter.

(Prior Code, § 11.31)

***SUBURBAN RESIDENTIAL DISTRICT (R-1)***

**§ 154.080 PURPOSE.**

(A) The major purpose of this district is to allow low-density single-family dwelling units in the developing portions of the city where city sewer and water is available.

(B) All dwelling units in a R-1 District shall be required to hook up to city sewers.  
(Prior Code, § 11.32)

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**Building Regulations; Construction**

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**Streets and Sidewalks**

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**Public and Private Property Maintenance**

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**Subdivisions**

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**Zoning**

**§ 154.081 PERMITTED USES.**

(A) One- and two-family residential dwellings;

(B) Public recreation including parks and playgrounds;

(C) Historic sites and structures;

(D) Public and parochial schools of general instruction;

(E) Signs, subject to standards in §§ 154.255 through 154.266 of this chapter;

(F) Essential services (telephone, telegraph and power lines and necessary appurtenant equipment and structures);

(G) Manufactured homes; and

(H) Churches, chapels, including parish house.

(Prior Code, § 11.32)

**§ 154.082 ACCESSORY USES.**

Any incidental structure or buildings necessary to the conduct of a permitted use, including private garages, carports, screen houses, swimming pools and storage buildings for use of occupants of the principal structures.

(Prior Code, § 11.32)

**§ 154.083 CONDITIONAL USES.**

(A) Multi-family structures;

(B) Cemeteries, memorial gardens and funeral homes;

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(C) Boarding or rental of rooms with a maximum of two roomers for each residential dwelling;

(D) Bed and breakfast;

(E) Home occupations;

(F) City buildings and structures including police and fire station, libraries, museums and art galleries;

(G) Nursing homes, hospitals and sanatoria;

(H) Replacement of existing mobile home;

(I) Water supply buildings and reservoirs, elevated tanks and public swimming pools;

(J) Planned unit development (PUD);

(K) Zero-lot-line homes with either detached or common walls;

(L) Professional offices;

(M) Any other use of the same character or those listed as permitted uses;

(N) Gardening and farming for the propagation of plants only; and

(O) Semi-private recreation areas, clubs, lodges and centers, including country clubs, swimming pools and golf courses, but not including such uses as camping area, miniature golf courses or practice driving tees which are operated for commercial purposes.

(Prior Code, § 11.32) (Ord. 177, effective 6-19-1986)

**§ 154.084 PERFORMANCE STANDARDS.**

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## **Building Regulations; Construction**

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### **Streets and Sidewalks**

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### **Public and Private Property Maintenance**

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### **Subdivisions**

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### **Zoning**

(A) *Height regulations.* The maximum height of all buildings shall not exceed two and one-half stories or 35 feet.

(B) *Front yard regulations.*

(1) The minimum setback shall be 25 feet from the right-of-way line; except that, where there are two or more structures on the same block, the front yard setback shall be the average of the adjacent blocks.

(2) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of the corner lot.

(C) *Side and rear yard regulations.* The minimum side yard shall be 10% of the building line width, but not less than seven and one-half feet; except that, driveways or other flat hard surfaced area is allowed a two-foot side and rear setback.

(D) *Lot area.* The minimum lot area shall be 9,000 square feet.

(E) *Lot width and depth regulations.*

(1) Minimum lot width: 75 feet; and

(2) Minimum lot depth: 120 feet.

(F) *Lot coverage.* The maximum lot coverage of all buildings including accessory buildings shall not exceed 50%.

(G) *General regulations.* Additional requirements for parking, signs, sewage systems and other regulations as set forth in §§ 154.210 through 154.240 and 154.255 through 154.266 of this chapter. (Prior Code, § 11.32)

## **URBAN RESIDENTIAL DISTRICT (R-2)**

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**Building Regulations; Construction**

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**Streets and Sidewalks**

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**Public and Private Property Maintenance**

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**Subdivisions**

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**Zoning**

**§ 154.095 PURPOSE.**

The major purpose of this district is to allow the continuation of existing residential development and infilling of existing lots in the older residential areas of the city where central sewer and water systems are available.

(Prior Code, § 11.33)

**§ 154.096 PERMITTED USES.**

Any permitted use allowed in the R-1 District.

(Prior Code, § 11.33)

**§ 154.097 ACCESSORY USES.**

Any accessory use permitted in the R-1 District.

(Prior Code, § 11.33)

**§ 154.098 CONDITIONAL USES.**

Any conditional uses permitted in the R-1 District.

(Prior Code, § 11.33)

**§ 154.099 PERFORMANCE STANDARDS.**

(A) *Height regulations.* The maximum height of all buildings shall not exceed two and one-half stories or 35 feet.

(B) *Front yard regulations.* The minimum setback shall be 25 feet from the right-of-way line; except that, where there are two or more structures on the same block, the front yard setback shall be

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**Building Regulations; Construction**

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**Zoning**

the average of the adjacent blocks.

(C) *Side and rear yard regulations.* The minimum side yard shall be 10% of the building line width, but not less than seven and one-half feet; except that, driveways and other flat hard surfaced areas are allowed a two-foot side and rear setback.

(D) *Lot area.* The minimum lot area shall be 6,000 square feet.

(E) *Lot width and depth regulations.*

(1) Minimum lot width: 50 feet; and

(2) Minimum lot depth: 120 feet.

(F) *Lot coverage.* The maximum lot coverage of all buildings including accessory buildings shall not exceed 50%.

(G) *General regulations.* Additional requirements for parking, signs, fencing, sewage systems and other items are set forth in §§ 154.210 through 154.240 and 154.255 through 154.266 of this chapter.

(Prior Code, § 11.33)

***MULTI-FAMILY RESIDENTIAL DISTRICT (R-3)***

**§ 154.110 PURPOSE.**

The purpose of this district is to allow low-density multi-family dwellings (up to 24 units per acre), including apartments and townhouses in appropriate areas of the city.

(Prior Code, § 11.34)

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**Building Regulations; Construction**

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**Streets and Sidewalks**

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**Public and Private Property Maintenance**

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**Subdivisions**

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**Zoning**

**§ 154.111 PERMITTED USES.**

(A) Duplexes;

(B) Townhouses;

(C) Apartments;

(D) Condominiums;

(E) Public recreation including parks and playgrounds;

(F) Signs, subject to standards in §§ 154.255 through 154.266 of this chapter;

(G) Essential services, including telephone, telegraph and power lines and necessary appurtenant equipment and structures;

(H) Churches, chapels, temples and synagogues; and

(I) Public and parochial schools of general instruction.

(Prior Code, § 11.34)

**§ 154.112 ACCESSORY USES.**

Any incidental structure or buildings necessary to the conduct of a permitted use including private garages, carports, screen houses, swimming pools and storage buildings for use of occupants of the principal structures.

(Prior Code, § 11.34)

**§ 154.113 CONDITIONAL USES.**

(A) Single-family residential units;

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**Building Regulations; Construction**

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**Streets and Sidewalks**

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**Public and Private Property Maintenance**

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**Subdivisions**

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**Zoning**

(B) Cemeteries, memorial gardens and funeral homes;

(C) Boarding or rental of rooms with a maximum of one roomer per unit;

(D) Home occupations;

(E) Funeral homes;

(F) Planned unit development (PUD);

(G) Nursing homes, hospitals and sanitarium;

(H) Manufactured/mobile home parks;

(I) Zero lot line homes with either detached or common walls;

(J) Any other use of the same character as those listed as permitted uses;

(K) Residential dwellings having an approved building permit prior to 10-1-1985. The conditional use shall cease if the building is destroyed by fire more than 50% of its market value as determined by the Building Inspector. If the building is modified to conform to this chapter, the conditional use permit shall expire; and

(L) Bed and breakfast.

(Prior Code, § 11.34) (Ord. 177, effective 6-19-1986; Ord. 180, effective 6-26-1986)

**§ 154.114 PERFORMANCE STANDARDS.**

(A) *Height regulations.* The maximum height of all buildings shall not exceed three stories or 40 feet.



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### **Streets and Sidewalks**

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## **Public and Private Property Maintenance**

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### **Subdivisions**

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## **Zoning**

(B) *Front yard regulations.* The minimum setback shall be 25 feet from the right-of-way line; except that, where there are two or more structures on the same block, the front yard setback shall be the average of the adjacent blocks.

(C) *Side and rear yard regulations.* The minimum side yard shall be 10% of the building line width, but not less than five feet.

(D) *Lot area and density standards.*

- (1) The minimum lot area for each multi-family dwelling shall be 10,000 square feet.
- (2) The minimum lot area for each townhouse development project shall be one acre.
- (3) The maximum density shall be 24 units per acre.

(E) *Minimum floor area.* Multi-family dwellings of three or more families.

- (1) Efficiency: 500 square feet;
- (2) One-bedroom: 600 square feet;
- (3) Two-bedroom: 750 square feet;
- (4) Three-bedroom: 960 square feet; and
- (5) Each additional bedroom shall require 250 square feet of additional minimum floor area.

(F) *Other specific requirements.* Other specific requirements for multi-family dwelling units are set forth in §§ 154.210 through 154.240 and 154.255 through 154.266 of this chapter.

(G) *General regulations.* Additional requirements for parking, signs, sewage systems and other items are set forth in §§ 154.210 through 154.240 and 154.255 through 154.266 of this chapter.  
(Prior Code, § 11.34)

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**Streets and Sidewalks**

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**Public and Private Property Maintenance**

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**Subdivisions**

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**Zoning**

***MOBILE/MANUFACTURED HOME PARK DISTRICT (R-4)***

**§ 154.125 PURPOSE.**

The purpose of this district is to allow mobile/manufactured home parks in appropriate areas of the city.  
(Prior Code, § 11.35)

**§ 154.126 PERMITTED USES.**

- (A) Mobile homes;
- (B) Community buildings;
- (C) Parks and recreation areas; and
- (D) Essential services, including telephone, telegraph and power lines.

(Prior Code, § 11.35)

**§ 154.127 ACCESSORY USES.**

Any incidental structure or buildings including carports, screen houses and storage buildings for use of occupants of the mobile home units.  
(Prior Code, § 11.35)

**§ 154.128 PERFORMANCE STANDARDS.**

- (A) *Minimum lot size.* The minimum lot size for each single wide mobile home unit shall be

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5,000 square feet.

(B) *Other standards.* Other specific standards and requirements are set forth in § 154.232 of this chapter.

(Prior Code, § 11.35) (Ord. 177, effective 6-19-1986)

***CENTRAL BUSINESS DISTRICT (C-1)***

**§ 154.140 PURPOSE.**

The purpose of this district is to encourage the continuation of a viable downtown area by allowing retail, service, office and entertainment facilities as well as public and semi-public uses. In addition, residential uses will be allowed to locate above the commercial establishments.

(Prior Code, § 11.40)

**§ 154.141 PERMITTED USES.**

(A) Commercial establishments offering merchandise or services to the general public in return for compensation. The establishment to include, but not be limited to, the following:

(1) Retail establishments such as groceries, bakery, department stores, hardware, drug, clothing and furniture stores;

(2) Personal services such as laundry, barber, shoe repair shop and photography studios;

(3) Restaurants, cafés and supper clubs;

(4) Professional services such as medical and dental clinics, architects and attorneys offices;

(5) Repair services such as jewelry, radio and television repair shops and auto repair;

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(6) Banks, finance, insurance and real estate services;

(7) Entertainment and amusement services such as motion picture theaters, bowling alleys, art galleries; and

(8) Lodging services such as hotel and motel.

(B) Public and semi-public buildings such as a post office, City Hall, fire and police stations;

(C) Private clubs;

(D) Hospitals and medical centers;

(E) Automobile parking lots, parking garages, bus stations;

(F) Automobile and implement sales and service; and

(G) Essential services (telephone, telegraph and power lines).

(Prior Code, § 11.40)

### **§ 154.142 ACCESSORY USES.**

Uses incidental to the principal uses such as off-street parking and loading and unloading areas, storage of merchandise.

(Prior Code, § 11.40)

### **§ 154.143 CONDITIONAL USES.**

(A) Apartments; provided, they are located above the first floor level;

(B) Auto body shops and service stations;

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(C) On and off-sale liquor establishments;

(D) Printing shops that require direct contact with the public;

(E) Wholesaling; and

(F) Other uses which, in the opinion of the Planning Commission and Council, is of the same general character as the permitted uses and which will not be detrimental to the Central Business District.

(Prior Code, § 11.40)

## **§ 154.144 PERFORMANCE STANDARDS.**

(A) *Height regulations.* The maximum height of any building shall be three stories or 40 feet.

(B) *Front yard regulations.*

(1) There shall be a front yard setback having a depth of not less than ten feet, except in a block where two or more structures having been built facing the same street, the setback for the remaining lots in that block fronting on the same street shall be determined by the average setback of existing buildings. The doors must be recessed so as not to swing out into the sidewalk.

(2) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.

(C) *Side and rear yard regulations.*

(1) *Side yard.* Minimum side yard shall be ten feet or 10% of lot width, except for replacement of existing structures that currently have a zero lot line. No building shall be located within 50 feet of any side lot line abutting a lot in any residential district.

(2) *Rear yard.* The minimum rear yard shall be 25 feet.

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(D) *Lot area.* Lot area restrictions: none.

(E) *Screening and fencing.* The city may require the screening or fencing of commercial uses on side and rear yards which face the residential districts.

(F) *General regulations.* Requirements for signs, parking, shopping centers and other regulations are set forth in §§ 154.210 through 154.240 and 154.255 through 154.266 of this chapter.

(Prior Code, § 11.40)

***HIGHWAY COMMERCIAL DISTRICT (C-2)***

**§ 154.155 PURPOSE.**

This district is established to accommodate the type of businesses that are oriented to the traveling public or require highway access. To minimize unmanageable strip development, these districts should only allow the type of businesses that absolutely require highway access and exposure.

(Prior Code, § 11.41) (Ord. 177, effective 6-19-1986)

**§ 154.156 PERMITTED USES.**

(A) Farm implement dealers;

(B) Recreation equipment sales;

(C) Motels and hotels;

(D) Auto service stations;

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(E) Seasonal produce stand;

(F) Auto sales lot;

(G) Cafés, restaurants and drive-in restaurants;

(H) Bait and sporting goods shops; and

(I) Essential services (telephone, telegraph and power lines).

(Prior Code, § 11.41) (Ord. 177, effective 6-19-1986)

**§ 154.157 ACCESSORY USES.**

The same accessory uses as permitted in the C-1 District.

(Prior Code, § 11.41) (Ord. 177, effective 6-19-1986)

**§ 154.158 CONDITIONAL USES.**

(A) Mobile home sales;

(B) Offices and other highway businesses, which in the opinion of the Planning Commission and Council, will not have a detrimental effect on the Highway Commercial District; and

(C) Replacement, repair and remodeling of existing dwelling.

(Prior Code, § 11.41) (Ord. 177, effective 6-19-1986; Ord. 5, effective 4-9-1990)

**§ 154.159 PERFORMANCE STANDARDS.**

(A) *Height regulations.* The maximum height of all buildings shall not exceed three stories or 40 feet.

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(B) *Front yard regulations.* The minimum front yard setback shall be 30 feet from the street right-of-way.

(C) *Side and rear yard regulations.*

(1) Minimum side yard: 20 feet;

(2) Minimum rear yard: 35 feet; and

(3) No building shall be located closer than 50 feet from any residential district.

(D) *Screening and fencing.* The city may require the screening or fencing of commercial side and rear yards which abut a residential district.

(E) *General standards.* Other standards and regulations related to parking, signs and the like are set forth in §§ 154.210 through 154.240 and 154.255 through 154.266 of this chapter. (Prior Code, § 11.41) (Ord. 177, effective 6-19-1986)

***INDUSTRIAL DISTRICT (I-1)***

**§ 154.170 PURPOSE.**

This district is intended to provide for industrial uses that may also be suitably located in areas of relatively close proximity to non-industrial development. As such, industries that pose problems of air or noise pollution will be restricted from this district. (Prior Code, § 11.50) (Ord. 177, effective 6-19-1986)

**§ 154.171 PERMITTED USES.**



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(A) Wholesale business establishments;

(B) Warehouse; packing and crating establishment; truck yard and terminal;

(C) Contractors' shops, roofing, electrical, paperhanging, ventilating, welding, upholstering, fencing, building;

(D) Storage yards for building material, coal, wood and ice;

(E) Laboratories for research and quality control;

(F) Public and public utility uses;

(G) The manufacture, compounding, processing, packing or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceutical, toiletries and food products, except the rendering of fats and oils;

(H) The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas;

(I) The manufacture of boats, cameras, electrical appliances, radio and television receivers, musical instruments, medical appliances and photographic equipment, except film;

(J) The manufacture of sporting and athletic equipment, small tools, toys, children's vehicles, caskets and burial vaults;

(K) Trade schools;

(L) Offices;

(M) Animal clinics; and

(N) Essential services (telephone, telegraph and power lines).

(Prior Code, § 11.50) (Ord. 177, effective 6-19-1986)

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**§ 154.172 ACCESSORY USES.**

(A) Off-street parking, storage garage and buildings and loading as regulated in this chapter;

(B) Building temporarily located for purposes of construction; and

(C) Essential security and safety facilities as approved by the Council.

(Prior Code, § 11.50) (Ord. 177, effective 6-19-1986)

**§ 154.173 CONDITIONAL USES.**

(A) Dwellings for watchmen or custodians of industrially used property only;

(B) Outdoor storage of vehicles or materials or open sales lot;

(C) Restaurants, lunch counters, confectioneries to serve the employees of the district;

(D) Mining and extraction;

(E) Manufacturing, refining and processing of chemicals;

(F) Auto reduction yards and recycling centers; and

(G) Sanitary landfills.

(Prior Code, § 11.50) (Ord. 177, effective 6-19-1986)

**§ 154.174 PROHIBITED USES.**

(A) Distillation of bone, coal, tar, petroleum, grain or wood;

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(B) Manufacturing or bulk storage of explosives;

(C) Fertilizer manufacturing, compost or storage processing of garbage, offal, dead animals, refuse or rancid fats;

(D) Livestock feeding yards or slaughterhouses or processing plants; and

(E) Any industry that creates an excessive odor, noise or air environmental pollution problem.  
(Prior Code, § 11.50) (Ord. 177, effective 6-19-1986)

**§ 154.175 PERFORMANCE STANDARDS.**

(A) *Height regulations.* No building shall hereafter be erected or structurally altered to exceed four stories or 45 feet in height.

(B) *Front yard regulations.*

(1) The minimum front yard setback shall be 30 feet from the right-of-way line.

(2) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No building shall project beyond the front yard of either road.

(C) *Side and rear yard.* The minimum side yard shall be 20 feet and rear yard 35 feet; except that, no building shall be located closer than 50 feet from a residential district.

(D) *Lot area.* The minimum lot area shall be 15,000 square feet.

(E) *Screening and fencing.* The city may require the screening or fencing of commercial uses on side and rear yards which face the residential districts.

(F) *General regulations.* Requirements for signs, parking, shopping centers and other regulations are set forth in §§ 154.210 through 154.240 and 154.255 through 154.266 of this

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chapter.

(Prior Code, § 11.50) (Ord. 177, effective 6-19-1986)

***FLOODPLAIN DISTRICT (F)***

**§ 154.190 PURPOSE.**

The Floodplain District is created for the purpose of protecting the public health and safety and to minimize property damage and pollution from flood waters. The standards contained in this district have been incorporated from the model floodplain ordinance developed by the Department of Natural Resources (DNR) in conformance with the Floodplain Zoning Act.

(Prior Code, § 11.60) (Ord. 177, effective 6-19-1986)

**§ 154.191 GENERAL PROVISIONS.**

(A) *Lands to which this section applies.* The subchapter shall apply to all lands within the jurisdiction of the city shown on the Official Zoning Map as being located within the boundaries of the Floodway or Flood Fringe Districts.

(B) *Regulatory flood protection elevation.* The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood, plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

(C) *Warning and disclaimer of liability.* This subchapter does not imply that areas outside the floodplain districts or land uses permitted within the districts will be free from flooding or flood damages. This subchapter shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this subchapter or any administrative decision lawfully made thereunder.

(Prior Code, § 11.60) (Ord. 177, effective 6-19-1986)

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### **§ 154.192 ESTABLISHMENT OF ZONING DISTRICTS.**

(A) The floodplain areas within the jurisdiction of this subchapter are hereby divided into two districts: Floodway District (FW); and Flood Fringe District (FF).

(1) *Floodway District.* The Floodway District shall include those areas designated as floodway in the Flood Insurance Study.

(2) *Flood Fringe District.* The Flood Fringe District shall include those areas designated as floodway fringe in the Flood Insurance Study.

(B) The boundaries of these districts shall be shown on the Official Zoning Map. Within these districts, all uses not allowed as permitted uses or permissible as conditional uses shall be prohibited.

(C) No new structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this code. Within the Floodway and Flood Fringe Districts, all uses not listed as permitted uses or conditional uses in §§ 154.193 and 154.194 of this chapter shall be prohibited. In addition, a caution is provided here that:

(1) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this chapter and specifically § 154.197 of this chapter;

(2) Modifications, additions, structural alterations or repairs after damage to existing non-conforming structures and non-conforming uses of structures or land are regulated by the general provision of this chapter and specifically § 154.005 of this chapter; and

(3) The applicant shall be required to submit certification by a registered professional engineer, registered architect or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this chapter. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.

(Prior Code, § 11.60) (Ord. 177, effective 6-19-1986; Ord. 2, effective 5-22-1989)

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### **§ 154.193 FLOODWAY DISTRICT (FW).**

(A) *Permitted uses.* The following uses have a low flood damage potential and do not obstruct flood flows. These uses shall be permitted within the Floodway District to the extent that they are not prohibited by any other city code provision and provided they do not require structures, fill or storage of materials or equipment. In addition, no use shall adversely affect the capacity of the channels or floodway or any tributary to the main stream or of any drainage ditch or any other facility or system:

(1) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting;

(2) Industrial-commercial uses such as loading areas, parking areas and airport landing strips;

(3) Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas and single or multiple purpose recreational trails; and

(4) Residential uses such as lawns, gardens, parking areas and play areas.

(B) *Conditional uses.* The following open space uses require accessory structures (temporary or permanent), fill or storage of materials or equipment. These uses may be permitted in the Floodway District only after the issuance of a conditional use permit as provided in § 154.024 of this chapter. These uses are also subject to the provision of division (C) below, which applies to all floodway conditional uses:

(1) Structures accessory to open space uses;

(2) Placement of fill;

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(3) Extraction of sand, gravel and other materials;

(4) Marinas, boat rentals, docks, piers, wharves and water control structures;

(5) Railroads, streets, bridges, utility transmission lines and pipelines;

(6) Storage yards for equipment, machinery or materials;

(7) Other uses similar in nature to uses described in division (A) above and this division (B);

(8) Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium-type campgrounds, subject to the exemptions and provisions of § 154.197 of this chapter; and

(9) Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event.

#### *(C) Standards for floodway conditional uses.*

(1) *All uses.* No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use which, acting alone or in combination with existing or reasonably anticipated future uses, adversely affects the capacity of the floodway or increases flood heights. In addition, all floodway conditional uses shall be subject to the standards contained in § 154.199 of this chapter and the following standards.

(2) *Fill.* Any fill deposited in the floodway shall be no more than the minimum amount necessary to conduct a conditional use listed in § 154.199 of this chapter. Generally, fill shall be limited to that needed to grade or landscape for that use and shall not in any way obstruct the flow of flood waters. Spoil from dredging or sand and gravel operations shall not be deposited in the floodway unless it can be done in accordance with division (C)(1) above. Fill shall be protected from

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erosion by vegetative cover.

(3) *Accessory uses.* Accessory structures (temporary or permanent) permitted as conditional uses:

(a) Accessory structures shall not be designed for human habitation;

(b) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:

1. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and

2. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(c) Accessory structures shall be elevated on fill or structurally dry flood-proofed in accordance with the FP-1 or FP-2 flood-proofing classifications in the state's Building Code. As an alternative, an accessory structure may be flood-proofed to the FP-3 or FP-4 flood-proofing classification in the state's Building Code; provided that, the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size and, for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood-proofed accessory structures must meet the following additional standards, as appropriate.

1. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls.

2. Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation on property flood-proofed.

(4) *Storage of materials and equipment.* The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited. Storage of other materials or equipment may be allowed if readily removable from the



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area within the time available after a flood warning and in accordance with a plan approved by the governing body.

(5) *Structural works for flood control.* Levees, dikes and floodwalls shall not be constructed within the limits of the Floodway District. Other structural works for flood control such as dams and channel enlargements that will change the course, current or cross-section of a public water shall be subject to the provisions of M.S. Ch. 103G, as it may be amended from time to time.

(6) *Conditional uses.* All floodway conditional uses shall be subject to the procedures and standards contained in § 154.194 of this chapter.  
(Prior Code, § 11.60) (Ord. 177, effective 6-19-1986; Ord. 2, effective 5-22-1989)

#### **§ 154.194 FLOOD FRINGE DISTRICT (FF).**

(A) *Permitted uses.* No use shall be permitted which will adversely affect the capacity of the channels of floodways or any tributary to the main stream, of any drainage ditch or any other drainage facility or system. Any use permitted in § 154.193 of this chapter is permitted in the Flood Fringe District.

(B) *Conditional uses.* Other uses are permitted only upon application to the Zoning Administrator and the issuance of a conditional use permit as provided in § 154.024 of this chapter and subject to the following provisions.

(1) *Residence.* Where existing streets, utilities, and small lot sizes preclude the use of fill, other methods of elevating the first floor (including basements) above the regulatory flood protection elevation may be authorized; provided that, the residence is flood-proofed in accordance with the state's Building Code.

(2) *Non-residential structures.* Commercial, manufacturing and industrial structures shall ordinarily be elevated on fill so that their first floor (including basements) is above the regulatory flood protection elevation, but may in special circumstances be flood-proofed in accordance with the state's Building Code. Structures that are not elevated to above the regulatory flood protection elevation shall be flood-proofed to FP-1 or FP-2 classification as defined by the state's Building Code. Structures flood-proofed to FP-3 or FP-4 classification shall not be permitted.

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#### *(C) Standards for flood fringe permitted uses.*

(1) All structures, including accessory structures, must be elevated on fill so that the lowest floor, including basement floor, is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot below the regulatory flood protection elevation, and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon.

(2) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood-proofed.

(3) The cumulative placement of fill where, at any one time, in excess of 1,000 cubic yards of fill is located on the parcel shall be allowed only as a conditional use, unless the fill is specifically intended to elevate a structure in accordance with division (C)(4) below.

(4) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

(5) The provisions in division (E)(5) below shall also apply.

#### *(D) Standards for flood fringe conditional uses.*

(1) (a) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls and the like or above-grade, enclosed areas such as crawl spaces or tuck-under garages. The base or floor of an enclosed area shall be considered above grade and not a structure's basement or lowest floor if:

1. The enclosed area is above grade on at least one side of the structure;
2. Is designed to internally flood and is constructed with flood-resistant materials;

and

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3. Is used solely for parking of vehicles, building access or storage.

(b) The above-noted alternative elevation methods are subject to the following additional standards.

1. *Design and certification.* The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the state's Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

2. *Specific standards for above-grade and enclosed areas.* Above-grade, fully enclosed areas such as crawl spaces or tuck-under garages must be designed to internally flood, and the design plans must stipulate:
  - a. The minimum area of openings in the walls where internal flooding is to be used as a flood-proofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of the openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices; provided that, they permit the automatic entry and exit of flood waters; and
  - b. The enclosed area will be designed of flood-resistant materials in accordance with the FP-3 and FP-4 classifications in the state's Building Code and shall be used solely for building access, parking of vehicles or storage.

- (2) Basements/cellars, as defined in this chapter, shall be subject to the following.

- (a) Residential basement/cellar construction shall not be allowed below the regulatory flood protection elevation.

- (b) Non-residential basements/cellars may be allowed below the regulatory flood protection elevation; provided that, the basement/cellar is structurally dry flood-proofed in accordance with division (D)(3) below.

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(3) All areas of non-residential structures, including basements/cellars, to be placed below the regulatory flood protection elevation shall be flood-proofed in accordance with the structurally dry flood-proofing classifications in the state's Building Code. Structurally dry flood-proofing must meet the FP-1 or FP-2 flood-proofing classifications in the state's Building Code, and this shall require making the structure water-tight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood-proofed to the FP-3 or FP-4 classifications shall not be permitted.

(4) When, at any one time, more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads dredge spoil disposal or construction of flood-control works, an erosion/sedimentation control plan must be submitted. The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the governing body. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

(5) (a) The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited.

(b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

(6) The provisions in division (E) below shall also apply.

#### *(E) Standards for all flood fringe uses.*

(1) *General.* All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood

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warning time and local flood emergency response procedures exist.

(2) *Commercial uses.* Accessory land uses, such as yards, railroad tracks and parking lots, may be at elevations lower than the regulatory flood protection elevation. However, a permit for the facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

(3) *Manufacturing and industrial uses.* Measures shall be taken to minimize interference with normal plant operations, especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in division (E)(2) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.

(4) *Fill.* Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(5) *Hydraulic capacity.* Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limits have not been specified on the Official Zoning Map.

(6) *Manufactured homes.* All manufactured homes (mobile homes) must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(Prior Code, § 11.60) (Ord. 177, effective 6-19-1986; Ord. 2, effective 5-22-1989)

**Building Regulations; Construction****Streets and Sidewalks****Public and Private Property Maintenance****Subdivisions****Zoning****§ 154.195 SUBDIVISIONS.**

(A) *Review criteria.* No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the floodplain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this chapter and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the floodplain, the floodway and flood fringe boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

(B) *Removal of special flood hazard area designation.* The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporated specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.  
(Prior Code, § 11.60) (Ord. 177, effective 6-19-1986; Ord. 2, effective 5-22-1989)

**§ 154.196 PUBLIC UTILITIES, RAILROADS, ROADS AND BRIDGES.**

(A) *Public utilities.* All public utilities and facilities such as gas, electrical, sewer and water supply systems to be located in the floodplain shall be flood-proofed in accordance with the state's Building Code or elevated to above the regulatory flood protection elevation.

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(B) *Public transportation facilities.* Railroad tracks, roads and bridges to be located within the floodplain shall comply with §§ 154.193 and 154.194 of this chapter. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where the facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

(Prior Code, § 11.60) (Ord. 177, effective 6-19-1986; Ord. 2, effective 5-22-1989)

## **§ 154.197 MOBILE HOMES AND MOBILE HOME PARKS; PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES.**

(A) New mobile home parks and expansions to existing mobile home parks shall be subject to the provisions placed on subdivisions by § 154.232 of this chapter.

(B) The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with § 154.194 of this chapter. If vehicular road access for preexisting mobile home parks is not provided in accordance with division (D)(1) below, then replacement mobile homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the City Council.

(C) All mobile homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(D) Travel trailers and travel vehicles that do not meet the exemption criteria specified below shall be subject to the provisions of this chapter and specifically spelled out in divisions (D)(3) and (D)(4) below.

(1) *Exemption.* Travel trailers and travel vehicles are exempt from the provisions of this chapter if they are placed in any of the areas listed in division (D)(2) below and, further, they meet

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the following criteria:

(a) Have current licenses required for highway use;

(b) Are highway ready, meaning on wheels for the internal jacking system, are attached to the site only by quick-disconnect-type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural-type additions attached to it; and

(c) The travel trailer or travel vehicle and associated use must be permissible in any preexisting, underlying zoning use district.

(2) *Exemptions for travel/recreational vehicles.* Areas exempted for placement of travel/recreational vehicles:

(a) Individual lots or parcels of record;

(b) Existing commercial recreational vehicle parks or campgrounds; and

(c) Existing condominium-type associations.

(3) *Losing exemption.* Travel trailers and travel vehicles exempted in division (D)(1) above lose this exemption when development occurs on the parcel exceeding \$1,000 for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood-proofing requirements and the use of land restrictions specified in §§ 154.193 and 154.194 of this chapter.

(4) *New vehicles.* New commercial travel trailer or travel vehicle parks or campgrounds and new residential-type subdivisions and condominium associations and the expansion of any existing similar use exceeding five units or dwelling sites shall be subject to the following.

(a) Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts; provided that, the trailer and vehicle and its contents are placed



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on fill above the regulatory flood protection elevation and proper elevation road access to the site exists in accordance with division (D)(1) above. Any fill placed in a floodway for the purpose of elevating a travel trailer shall be subject to the requirements of § 154.193 of this chapter.

(b) All new or replacement travel trailers or travel vehicles not meeting the criteria of division (D)(4)(a) above may, as an alternative, be allowed a conditional use if in accordance with the following provisions and the conditional use provisions in §§ 154.193 and 154.194 of this chapter. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. The plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with division (D)(1) above.

(Prior Code, § 11.60) (Ord. 177, effective 6-19-1986; Ord. 2, effective 5-22-1989)

### **§ 154.198 CONDITIONAL USE PERMITS.**

Any use requiring a conditional use permit may be allowed only upon application to the Zoning Administrator following the procedures set forth in § 154.024 of this chapter.

#### *(A) Information required by the applicant.*

(1) Upon receipt of any application for a conditional use permit for a use within the General Floodplain District, the applicant shall be required to furnish such of the following information as is deemed necessary for the determination of the regulatory flood protection elevation and whether the proposed use is within the floodway or flood fringe:

(a) A typical valley cross-section showing the channel of the stream, elevation of land area adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development and high water information;

(b) Plans in triplicate drawn to scale showing the nature, location, dimensions and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing

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measures and the relationship of the above to the location of the stream channel;

(c) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development;

(d) Specifications for building constructed and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities; and

(e) Transmit one copy of the information described in this division (A)(1) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection and other technical matters.

(2) Factors for consideration in the issuance of a conditional use permit in addition to those set forth in § 154.024 of this chapter:

(a) The danger of life and property due to increased flood heights or velocities caused by encroachments;

(b) The danger that materials may be swept onto other lands or downstream to the injury of others;

(c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions;

(d) The susceptibility of the proposed facility and its content to flood damage and the effect of such damage on the individual owner;

(e) The requirements of the facility for a waterfront location;

(f) The availability of alternative locations not subject to flooding for the proposed use;

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(g) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

(h) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area;

(i) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site;

(k) The importance of the services provided by the proposed facility to the community; and

(l) Other factors which are relevant to the purposes of this chapter.

*(B) Conditions attached to conditional use permits.*

(1) Upon consideration of the factors listed above and the purposes of this subchapter, the Council may attach such conditions to the granting of conditional use permits as it deems necessary to further the purposes of this subchapter.

(2) Among such conditions, without limitation because of specific enumeration, may be included:

(a) Modification of waste disposal and water supply facilities;

(b) Limitations of period of use, occupancy and operation;

(c) Imposition of operational controls, sureties and deed restrictions;

(d) Requirements for construction of channel modifications, dikes, levees and other protective measures; and

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(e) Flood-proofing measures shall be designed consistent with the flood protection elevation for the particular areas, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces and other factors associated with the regulatory flood. The Council shall require that the applicant submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures may be required without limitation because of specific enumeration:

1. To resist flotation and lateral movement, either anchor or add mass or weight to structures;
2. Installation of water-tight doors, bulkheads and shutters or similar methods of construction to resist rupture or collapse caused by water pressure or floating debris;
3. Reinforcement of walls to resist water pressures;
4. Use of paints, membranes or mortars to reduce seepage of water through walls;
5. Construction of water supply and waste treatment systems to prevent the entrance of flood waters;
6. Install pumping facilities or comparable practices for sub-surface drainage systems for buildings to relieve external foundation wall and basement floor pressures as well as lower water levels in structures;
7. Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and storm water into the building or structures. Gravity drainage of basements may be eliminated by mechanical devices;
8. Location of all electrical equipment, circuits and installed electrical appliances in a manner which will assure they are not subject to flooding and provide protection from inundation by the regional flood;
9. Location of any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety and welfare above the flood protection elevation or provision of adequate flood-proofing to

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prevent flotation of storage containers, or damage to storage containers which could result in the escape of toxic materials into flood waters; and

10. All structures shall be constructed with the first floor elevations at or above the regulatory flood protection elevation. Any fill shall not be more than one foot below the same elevation for the particular area, and shall extend at least 15 feet beyond the limits of any structure or building erected thereon.

(Prior Code, § 11.60) (Ord. 177, effective 6-19-1986; Ord. 2, effective 5-22-1989)

**§ 154.199 GENERAL REGULATIONS.**

(A) The Zoning Administrator shall submit to the Commissioner of Natural Resources a copy of an application for a variance or conditional use permit pertaining to the floodplain district where a hearing is to be held to consider the application. The Commissioner of the DNR and the Corps of Engineers shall receive a copy of the application at least ten days in advance of the hearing. The notice shall specify the time, place and subject matter of the hearing and shall be accompanied by the supporting information necessary to indicate the nature and effect of the proposed use.

(B) A copy of all decisions granting a variance or a conditional use to the provisions of the Floodplain District shall be forwarded by the Zoning Administrator to the Commissioner of Natural Resources within ten days of the action.

(Prior Code, § 11.60) (Ord. 177, effective 6-19-1986; Ord. 2, effective 5-22-1989)

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***PERFORMANCE STANDARDS***

**§ 154.210 LOT AREA, WIDTH AND SETBACKS FOR LAND USE DISTRICTS.**

<i>Symbol</i>	<i>Use District</i>	<i>Lot Area</i>	<i>Lot Width</i>	<i>Front Yard Setback From Road Right-of-Way</i>	<i>Side Yard</i>	<i>Rear Yard</i>	<i>Height</i>
A	Agricultural	11 acres	150 ft.	40 ft.	30 ft.	50 ft.	2-1/2 stories, 35 ft. except for silos, grain elevators etc.
R-1	Suburban Residential	9,000 sq. ft.	75 ft.	25 ft. or same setback as existing bldgs.	10% of bldg. line width but not less than 7.5 ft.	30 ft.	2-1/2 stories, 35 ft.
R-2	Urban Residential	7,000 sq. ft.	50 ft.	Same as R-1 District	Same as R-1 District	30 ft.	2-1/2 stories, 35 ft.
R-3	Multi-Family Residential	10,000 - multi-family; 1 acre townhouse project	75 ft.	Same as R-1 District	10% of bldg. line width but not less than 5 ft.	30 ft.	3 stories, 40 ft.
R-4	Manufactured/ Mobile Home District	5,000 sq. ft.					

(Prior Code, Ch. 11 table)

**§ 154.211 PURPOSE.**

The performance standards established in this subchapter 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 environment. All future development in all districts shall be required to meet these standards and the standards shall also apply to existing development where so stated. Before any building permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to the performance standards. The developer or landowners shall supply data necessary to demonstrate the conformance. The data may include a description of equipment to be used, hours of operation, method of refuse disposal and type and location of exterior storage.

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(Prior Code, § 11.70)

**§ 154.212 SOLAR ENERGY SYSTEMS AND SOLAR AND EARTH-SHELTERED STRUCTURES.**

(A) Solar energy systems and solar and earth-sheltered structures shall be a permitted use in all districts; provided, the system is in compliance with minimum lot requirements and setbacks.

(B) Solar energy systems and solar and earth-sheltered structures may be exempted from setback, height and lot coverage restrictions in all districts by variance.

(C) In a residential district no owner, occupier or person in control of property shall allow vegetation or structures to be placed or planted so as to cast a shadow on a solar energy system which is greater than the shadow cast by a hypothetical wall ten feet high located along the boundary line of the property between the hours of 9:30 a.m. and 2:30 p.m., Central Standard Time, on December 21; provided, however, this standard shall not apply to vegetation or structures which casts a shadow upon the solar energy system at the time of installation of the solar energy system or to vegetation existing at the time of installation of the solar energy system. Violation of this standard shall constitute a private nuisance, and any owner or occupant whose solar energy system is shaded because of the violation, so that performance of the system is impaired, may have in tort for the damages sustained thereby and may have the nuisance abated.

(D) As a means of evidencing existing conditions, the owner of a solar energy system may file notarized photographs of the affected area within the city prior to installation of the system.

(Prior Code, § 11.70)

**§ 154.213 WIND ENERGY CONVERSION SYSTEM (WECS).**

(A) *Conditional use permit.* Each wind energy conversion system shall require a conditional use permit.

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(B) *Plans.* Each application for a conditional use permit shall be accompanied by a dimensional representation of the tower including the conversion system, base and footings and an accurate plan containing the following information:

- (1) Property lines;
- (2) Proposed location of tower on site;
- (3) Location of all existing structures on site;
- (4) All above ground utility lines;
- (5) All underground utility lines within a radius equal to the proposed WECS height; and
- (6) Boundaries of all adjacent utility easements or reversed areas.

(C) *WECS height.* The total height of the tower (including any portion of the rotor or axis extending above the tower) shall not exceed the horizontal distance between the base of the tower and the nearest lot line or building line. Except, the horizontal distance may extend beyond the nearest lot line or building line; provided, there are not overhead utility lines or easements therefor or if the abutting area is a public alleyway. Furthermore, the Council may allow the height requirements to be exceeded provided it is satisfied that the proposed structure will withstand the windloads in the area. As evidence of this, the Council shall require the following information:

- (1) Dimensional representation of the various structural components of the tower construction including the base and footings;
- (2) Design data which shall indicate basis of design, including manufacturer's dimensional drawings, installation and operation instructions; and
- (3) Certification by an independent registered professional engineer or sufficient to withstand wind load requirements for structures as established by provisions of the city code.

(D) *Tower access.* Climbing access to the WECS tower shall be limited either by means of a



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fence six feet high around the tower base with a locking portal, or by limiting tower climbing apparatus to no lower than 12 feet from the ground.

(E) *Wind access.*

(1) Contiguous property owners and planned developments may construct a WECS for their use in common.

(2) If property held by more than one single owner is used to meet the setback requirements, a site plan establishing easements or reserved areas must be submitted for approval.

(F) *Noise.* WECS operation shall not produce noise in excess of the limits established by state standards.

(G) *Limited use.* Wind energy conversion systems installed in accordance with the requirements of this section shall not generate power as a commercial enterprise as defined by the Public Utilities Commission.

(H) *Electromagnetic interference.* A WECS shall not be installed in any location along the major axis of an existing microwave communications link where the operation of the WECS is likely to produce an unacceptable level of electromagnetic interference with the possible effect on the microwave communications link of which is at a level satisfactory to the Zoning Administrator.

(I) *Airspace.* A WECS shall be located or installed in compliance with the regulations of the airport approach zones and federal aviation regulations for clearance around VOR and DVOR stations.

(J) *Interconnect.* A WECS, if interconnected to an electric utility distribution system, shall meet the interconnect requirements of the electric utility company. In any case, the interconnect shall include a manual disconnect which complies with the National Electric Code.

(K) *Codes.* Construction, design and installation of a WECS shall comply with all city code provisions, state and National Electrical Codes in effect at the time of installation.

(L) *Liability.* No building permit shall be issued for the construction of a WECS until and unless

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the applicant for the building permit deposits with the City Administrator a policy of liability insurance indemnifying applicant from liability for personal injury or property damage in the sum of at least \$1,000,00,000. The policy of insurance so deposited shall contain a clause obligating the company issuing the same to give at least 30 days' written notice to the city before cancellation thereof, the building permit to be automatically revoked upon the lapse or termination of the policy. (Prior Code, § 11.70)

#### **§ 154.214 EXTERIOR STORAGE.**

In residential districts, all materials and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining properties, except for the following in good order: laundry drying and recreational equipment; construction and landscaping materials and equipment currently being used on the premises; agricultural equipment and materials, if these are used or intended for use on the premises; off-street parking of passenger automobiles and pick-up trucks and fire wood. Boats and unoccupied campers, less than 25 feet in length, are permissible if stored on a hard surface. Existing uses shall comply with this provision within 12 months from the effective date of this chapter. In all new districts, the city may require a conditional use permit for any exterior storage if it is demonstrated that the storage is a hazard to the public health and safety or has a depreciating effect upon nearby property values, or impairs scenic views, or constitutes a threat to living amenities.

(Prior Code, § 11.70)

#### **§ 154.215 REFUSE.**

(A) In all districts, all waste material, debris, refuse or garbage shall be kept in an enclosed building or property contained in a closed container designed for such purposes, with the exception of crop residue. The owner of vacant land shall be responsible for keeping the land free of refuse. Existing uses shall comply with this provision within six months from the effective date of this chapter. Passenger vehicles and trucks in an inoperative state shall not be parked in residential districts for a period exceeding 14 days; *INOPERATIVE* shall mean incapable of movement under their own power and in need of repairs.

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(B) All exterior storage material not included as a permitted use, accessory use or conditional use, or otherwise permitted by provisions of this chapter, shall be considered as refuse. (Prior Code, § 11.70) Penalty, see § 154.999

#### **§ 154.216 GLARE.**

In all districts, any lighting used to illuminate an off-street parking area, sign or other structure, shall be arranged so as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public street shall not exceed one foot candle (meter reading) as measured from the centerline of the street. Any light or combination of lights which cast light on residential property shall not exceed 0.4 candles (meter reading) as measured from the property.

(Prior Code, § 11.70) Penalty, see § 154.999

#### **§ 154.217 BULK STORAGE (LIQUID).**

All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall require a conditional use permit in order that the Council may have assurance that fire, explosion or water or soil contamination hazards are not present (that would be detrimental to the public health, safety and general welfare). The Council may require the development of diking around the tanks. Diking shall be suitably sealed and shall hold a leakage capacity equal to 115% of the tank capacity. Any existing storage tank that, in the opinion of the Council, constitutes a hazard to the public safety shall discontinue operations within one year from the effective date of this chapter.

(Prior Code, § 11.70) Penalty, see § 154.999

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#### § 154.218 NUISANCES.

(A) *Nuisance characteristics.* No noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare, dust or other adverse influences shall be permitted in any district that will in any way have an objectionable effect upon adjacent or nearby property. All wastes in all districts shall be disposed of in a manner that is not dangerous to public health and safety, nor will damage public waste transmission or disposal facilities. The following standards apply to non-industrial districts.

(B) *Noise.*

(1) *Noise prohibited.* It is unlawful for any person to make, continue or cause to be made or continued, any noise in excess of the noise levels set forth unless noise be reasonably necessary to the preservation of life, health, safety or property.

(2) *Measurement of noise.* Any activity not expressly exempted by this section which creates or produces sound regardless of frequency exceeding the ambient noise levels at the property line of any property by more than six decibels above the ambient noise levels as designated in the following table at the time and place and for the duration then mentioned, shall be deemed to be a violation of this chapter, but any enumeration herein shall not be deemed to be exclusive.

	<i>I</i>	<i>II</i>	<i>III</i>
	<i>6:00 p.m. - 9:00 p.m. (Residential districts)</i>		
	<i>7:00 a.m. - 6:00 p.m. (all districts)</i>	<i>6:00 p.m. - 7:00 a.m. (all other districts)</i>	<i>9:00 p.m. - 7:00 a.m. (residential districts)</i>
<i>Duration of Sound</i>			
Less than 10 minutes	70 db	65 db	55 db
Between 10 minutes and 2 hours	60 db	55 db	45 db
In excess of 2 hours	50 db	45 db	40 db

(a) In determining whether a particular sound exceeds the maximum permissible sound level in the above table:

1. Sounds in excess of the residential district limitations as measured in a

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residential district are violative of this section whether the sound originates in a residential district or any other district; and

2. During all hours of Sundays and state and federal holidays, the maximum allowable decible levels for residential districts are as set forth in Column II of the table.

(b) 1. Sounds emanating from the operation of:

- a. Motor vehicles on a public highway;
- b. Aircraft;
- c. Outdoor implements such as power lawn mowers, snowblowers, power hedge clippers and power saws;
- d. Pile drivers or jackhammers and other construction equipment;
- e. Emergency equipment; and
- f. Trains are exempt from the provisions of this section, except during the hours of 9:00 p.m. to 7:00 a.m.

2. Sounds emanating from lawful and proper activities at school grounds, playgrounds, parks or places wherein athletic contests take place are exempt from the provisions of this chapter.

(C) *Vibration*. The following vibrations are prohibited:

(1) Any vibration discernible (beyond property line) to the human sense of feeling for three minutes or more duration in any one hour; and

(2) Any vibration resulting in any combination of amplitudes and frequencies beyond the “safe” range of most current standards of the United States Bureau of Mines on any structure.

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(D) *Toxic or noxious matter.* Any use shall be so operated so as not to discharge across the boundaries of any lot or through percolation into the atmosphere or the subsoil beyond the boundaries of the lot wherein the use is located, toxic or noxious matter in the concentration as to be detrimental to or endanger the public health, safety, comfort or welfare or cause injury or damage to property or business.

(E) *Air pollution.* Any use shall be so operated as to control the emission of smoke or particulate matter to the degree that it is not detrimental to or shall endanger the public health, safety, comfort or general welfare of the public. For the purpose of this chapter, the regulations and standards adopted by the state's Pollution Control Agency shall be employed.

(F) *Miscellaneous nuisances.*

(1) It is unlawful for any person to store or keep any vehicle of a type requiring a license to operate on the public highways; but, without a current license attached thereto, whether the vehicle be dismantled or not, outside of an enclosed building in the residential district.

(2) It is unlawful for any person to create or maintain a junkyard or vehicle dismantling yard, except as provided herein.

(3) The following are declared to be nuisances affecting public health or safety.

(a) The effluence from any cesspool, septic tank, drainfield or human sewage disposal system discharging upon the surface of the ground, or dumping the contents thereof at any place, except as authorized.

(b) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substance.

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(c) The ownership, possession or control of any unused refrigerator or other container, with doors which fasten automatically when closed, of sufficient size to retain any person, to be exposed and accessible to the public without removing the doors, lids, hinges or latches or providing locks to prevent access by the public.

(Prior Code, § 11.70) Penalty, see § 154.999

## **§ 154.219 LANDSCAPING AND SCREENING.**

### *(A) Landscaping.*

(1) In all districts where setbacks exist or are required, all developed uses shall provide a landscaped yard, including grass or decorative stones, or shrubs and trees, along all streets. This yard shall be kept clear of all structures, storage and off-street parking. Except for driveways, the yard shall extend along the entire frontage of the lot, and along both streets in the case of a corner lot; the yard shall have a depth of at least ten feet.

(2) In all districts, all structures and areas requiring landscaping and fences shall be maintained so as not be unsightly or present harmful health or safety conditions.

(3) All vacant lots, tracts or parcels shall be properly maintained in accordance with their natural or existing character.

### *(B) Screening.*

(1) The screening required in this section may consist of a fence, trees, shrubs and berm, but shall not extend within 15 feet of any street or driveway. The screening shall be placed along property lines or in case of screening along a street, 20 feet from the street right-of-way with landscaping between the screening and pavement. Planting of a type approved by the Council may also be required in addition to or in lieu of fencing.

(2) Screening shall be required in residential zones where:

(a) Any off-street parking area contains more than four parking spaces and is within 30

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feet of an adjoining residential zone; and/or

(b) Where the driveway to a parking area of more than six parking spaces is within 15 feet of an adjoining residential use or zone.

(3) Where any business or industry (structure, parking or storage) is located adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, parking lot or industry is located across the street from a residential zone, but not on that side of a business or industry considered to be the front.

(4) All exterior storage shall be screened. The exceptions are:

(a) Merchandise being displayed for sale; and

(b) Materials and equipment presently being used for construction on the premises.

(Prior Code, § 11.70)

**§ 154.220 PERMITTED ENCROACHMENTS.**

The following shall be considered as permitted encroachments on setback and height requirements, except as provided in this chapter. In any yard: posts; off-street open parking spaces; flues; leaders; sills; pilasters; lintels; cornices; eaves; gutters; awnings; open terraces; service station pump islands; open canopies; steps; chimneys; flag poles; ornamental features; open fire escapes; sidewalks and fences; and all other similar devices incidental and appurtenant to the principal structure, except as hereinafter amended.

(Prior Code, § 11.70)

**§ 154.221 ACCESSORY BUILDINGS AND STRUCTURES.**

(A) *In residential districts.*

(1) No accessory buildings on an internal lot may be located within seven and one-half feet



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of the side or rear lot lines or from the designated setback on a corner lot.

(2) No accessory building shall exceed the height of the principal building, except by conditional use permit.

(3) Detached utility shed attached to a principal structure separated from the principal structure by a wall may be permitted. If detached, they shall not be located closer than ten feet from the principal structure and must be located in the rear yard. A concrete slab or other suitable foundation shall be required. The sheds shall not be larger than 200 square feet in area and not exceed 15 feet in height.

(4) No private garage used or intended for the storage of passenger automobiles or motor vehicles, recreation vehicles, boats and the like shall exceed 1,000 square feet of gross area, nor shall any access door or other opening exceed the height of ten feet.

(5) Accessory buildings shall not occupy more than 25% of the rear yard.

(6) Garages shall not be located where the door is closer than 25 feet to the property line.

#### **(B) *In commercial and industrial districts.***

(1) No accessory building shall exceed the height of the principal building, except by conditional use permit.

(2) Accessory buildings may be located any place to the rear of the principal buildings, subject to the state's Building Code regulations, except where prohibited by other sections of this chapter.

(C) *In all districts.* Accessory buildings shall not be constructed prior to or in lieu of the principal building.

(Prior Code, § 11.70) Penalty, see § 154.999

## **§ 154.222 DWELLING UNITS PROHIBITED.**

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No cellar, garage, tent, trailer, recreational vehicles or accessory building shall be used as a permanent dwelling. The basement portion of a finished home or apartment may be used for normal eating and sleeping purposes provided it is properly damp-proofed, has suitable fire protection and exits and is otherwise approved by the Building Inspector.

(Prior Code, § 11.70) Penalty, see § 154.999

#### **§ 154.223 RELOCATING STRUCTURES.**

(A) *Permit required.* Every licensed house mover shall, in each and every instance, before raising, holding up or moving any building, obtain a conditional use permit from the Council. An application for the permit shall indicate the origin and destination of the building, the route over which it is to be moved and shall state the time in which the moving of the building shall be issued. The permit shall also indicate the location of the lot on which house is to be located, the dimensions of the lot and the proposed location of the structure on the lot along with setback distances. No permit to move a building shall be issued unless and until the following conditions are fully complied with and approved by the Council.

(1) The building to be moved must comply in all respects with the state's Building Code and other pertinent state rules and city code provisions.

(2) The lot on which the building is to be located must meet all the minimum dimensional requirements of the zoning district in which it is located.

(3) The building must be placed on the lot so as to meet all the front, side and rear yard requirements as set forth in this chapter.

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(B) *Electrical corrections requirements.* In every case in which a permit shall be issued as herein provided, for the removal required or the displacement of any overhead electrical or other wires, it shall be the duty of the person, association or corporation owning, operating or controlling the wires to remove or displace the same, so far as the same way may be necessary to effect the removal thereof, shall be authorized by the permit. The person to whom the permit shall have been issued shall notify the person, association or corporation owning, operating or controlling the wires to remove or displace the same to facilitate the removal of the wires sufficiently to allow the passage of the building along the street over which the wires are suspended. Any expenses incurred or to be incurred in the moving, removing or displacing of the wires shall be paid for by the person who makes the application for the permit.

(C) *Application procedure.*

(1) The Zoning Administrator shall submit the application to the Planning Commission for approval and recommendations to the Council at the next stated meeting of the Commission.

(2) The Planning Commission shall determine whether the application shall conform to the immediate surrounding community. The Planning Commission, in its discretion, shall call a public meeting of resident owners within a radius of 350 feet from subject property for owner's review of the proposed application. The Planning Commission will determine the application on its merits and make its recommendation to the Council.

(3) The Council shall take action to approve or disapprove the permit within 30 days after receiving the recommendations of the Planning Commission.

(Prior Code, § 11.70)

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**§ 154.224 SOIL EROSION AND SEDIMENTATION CONTROL.**

*(A) General standards.*

(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) Slopes over 18% in grade shall not be developed.

(3) Development on slopes with a grade between 12% and 18% shall be carefully reviewed to ensure that adequate measures have been taken to prevent erosion, sedimentation and structural damage.

(4) Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.

(5) Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time and no exposure shall exceed 60 days unless extended by the Council.

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

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(7) The natural drainage system shall be used as far as is feasible for storage and flow of runoff. Storm water drainage shall be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of storm water to marshlands or swamps shall be considered for existing or planned surface drainage. Marshlands and swamps used for storm water shall provide for natural or artificial water level control. Temporary storage areas or retention basins scattered throughout developed areas shall be encouraged to reduce peak flow, erosion damage and construction cost.

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

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

(1) No exposed slopes should be steeper in grade than four feet horizontal to one foot vertical.

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

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

(4) Exposed slopes shall be protected by whatever means will effectively prevent erosion considering the degree of the slope, soils, material and expected length of exposure. Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or

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temporary seedings of annual grasses. Mulch consists of hay, straw, wood chips, corn stalks, bark or other protective material. Mulch should be anchored to slopes with liquid asphalt, stakes and netting, or should 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 as effectively protect exposed slopes. (Prior Code, § 11.70) Penalty, see § 154.999

**§ 154.225 PRESERVATION OF NATURAL DRAINAGEWAYS.**

(A) *Waterways.*

(1) Every effort shall be made to retain the natural drainage systems in the city including existing wetlands and ponds. The natural drainage system shall be maintained by the city. Above-ground runoff disposal waterways may be constructed to augment the natural drainage system.

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

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

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

(5) The banks of the waterway should not exceed four feet horizontal to one foot vertical in gradient.

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

(7) The bend of the waterway should be protected with turf, sod or concrete. If turf or sod will not function properly, riprap may be used. Riprap shall consist of quarried limestone, fieldstone (if random riprap is used) or construction materials of concrete. The riprap shall be no smaller than two inches square, nor no larger than two feet square. Construction materials shall be used only in those areas where the waterway is not used as part of a recreation trial system.

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

#### **(B) *Sediment control of waterways.***

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

(2) Temporary pervious sediment traps could consist of a construction of bales of hay with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. The structures would serve as temporary sediment control features during the construction state of development. Development of housing and other structures shall be restricted from the area on either side of the waterway required to channel a 25-year storm.

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

(Prior Code, § 11.70) Penalty, see § 154.999

## **§ 154.226 TREE AND WOODLAND PRESERVATION.**

(A) Structures and other amenities shall be located in such a manner that the optimum number of trees shall be preserved.

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(B) Prior to the granting of a building permit, it shall be the duty of the person seeking the permit to demonstrate that there are no feasible or prudent alternatives to the cutting of trees on the site and that, if trees are cut, he or she will restore the density of trees to that which existed before development.

(C) Forestation, reforestation or landscaping shall utilize a variety of tree species and shall not utilize any species presently under disease epidemic. Species planted shall be hardy under local conditions and compatible with the local landscape.

(D) Development including grading and contouring shall take place in such a manner that the root zone aeration stability of existing trees shall not be affected and shall provide existing trees with a watering equal to one-half the crown area.

(E) Notwithstanding the above, the removal of trees seriously damaged by storms or other acts of God, or diseased trees shall not be prohibited.  
(Prior Code, § 11.70) Penalty, see § 154.999

## **§ 154.227 WETLAND PRESERVATION.**

(A) *General provisions.* To the extent possible, all wetlands including marshlands and swamps shall be retained in their natural state to serve as a storm water runoff basin and also as a wildlife habitat.

(B) *Discharges into wetlands.*

(1) No part of any sewage disposal system requiring on-land or in-ground disposal of waste shall be located closer than 150 feet from the normal high water mark unless it is proven by the applicant that no effluent will immediately or gradually reach the wetland because of existing physical characteristics of the site or the system.

(2) Organic and other waste which would normally be disposed of at a solid waste disposal site or which would normally be discharged into a sewage disposal system or sewer shall not be



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directly or indirectly discharged to the wetland.

(3) Storm water runoff from construction sites may be directed to the wetland only when substantially free of silt, debris and chemical pollutants and only at rates which will not disturb vegetation or increase turbidity.

*(C) Building constraints.*

(1) The lowest floor elevation of buildings if used for living quarters or work area shall be at least three feet above the seasonal high water level of the wetland.

(2) Development which will result in unusual road maintenance costs or utility line breakages due to solid limitations, including high frost action, shall not be permitted.

(3) The minimum setback for all buildings shall be 75 feet from the seasonal high water level of the wetland.

(Prior Code, § 11.70) Penalty, see § 154.999

**§ 154.228 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 (stop or yield signs), there shall be no obstruction to traffic visibility within the clear sight triangle which is formed by the intersection of the centerline of two intersecting streets and a straight line joining the two centerlines at points 55 feet distance from their point of intersection.

(B) *Intersections without traffic control.* 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 distant from their points of intersection. The distances from the points of intersection are specified in the following table for various speeds in miles an hour of enforced speed limit:

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<i>Distance Measurement for Clear Sight Triangle</i>	
<i>Miles Per Hour</i>	<i>Distance Measurement</i>
30	88 feet
40	120 feet
50	156 feet
55	174 feet

(Prior Code, § 11.70) Penalty, see § 154.999

**§ 154.229 VACATED STREETS.**

Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the vacated area shall not be affected by the procedure.  
(Prior Code, § 11.70)

**§ 154.230 ACCESS DRIVES AND ACCESS.**

(A) Access drives may be located adjacent to property lines; except that, they shall not be placed closer than two feet to any side or rear lot line. The number and types of access drives onto major streets may be controlled and limited by the Council in the interests of public safety and efficient traffic flow.

(B) Access drives onto county roads shall require a review by the County Engineer. The County Engineer shall determine the appropriate location, size and design of the access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.

(C) Access drives to principal structures which traverse wooded, steep or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. The Zoning Administrator shall review all access drives (driveways) for compliance with accepted community access drive standards. All driveways shall have a minimum width of ten feet with a road strength capable of supporting emergency and fire vehicles.

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(D) All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway, or an existing private roadway approved by the Council.

(Prior Code, § 11.70) Penalty, see § 154.999

**§ 154.231 PRIVATE SEWER SYSTEMS.**

The standards as found in the state's Pollution Control Agency's Standards for Sewage Treatment, 6 MCAR #4.8040, are hereby adopted by reference. 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.

(Prior Code, § 11.70)

**§ 154.232 MANUFACTURED AND MOBILE HOMES.**

Manufactured homes shall be permitted in all residential districts; provided, they meet the following standards:

(A) Exceeds 22 feet of width at the narrowest side;

(B) The dwelling is placed on a permanent foundation that is permanently screened from view and complies with the state's Building Code; and

(C) The skirting or screening must be made of a finished exterior masonry or stucco construction or must be of the same exterior material as the manufactured/mobile home.

(Prior Code, § 11.70) Penalty, see § 154.999

**§ 154.233 MOBILE AND MANUFACTURED HOME PARKS.**

(A) *Purpose.* It is the purpose of this section to permit the development of mobile/manufactured

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home parks in a manner that will promote and improve the general health, safety, convenience and welfare of the citizens by minimizing any adverse effects of the development.

(B) *Location.* A manufactured park or subdivision may be established in the R-2 Residential Districts.

(C) *Permit required.* A permit is required to establish and operate a manufactured home park within the city.

(D) *Application requirements and procedures.* All applications for a conditional use permit shall be submitted to the Zoning Administrator and approved by the Council following the procedures established in § 154.024 of this chapter. The application for a conditional use permit shall be accompanied by plans including the following information:

- (1) Location and size of manufactured home park;
- (2) Location, size and character of all manufactured home lots, manufactured home stands, storage areas, recreation areas, laundry drying areas, central refuse disposal, roadways, parking spaces and sites and all setback dimensions;
- (3) Detailed landscaping plans and specifications;
- (4) Location and width of sidewalks;
- (5) Plans for sanitary sewage disposal, surface drainage, water systems, electrical service, telephone service and gas service;
- (6) Plans for an overhead street lighting system shall be submitted for approval by the City Engineer;
- (7) The method of disposing of garbage and refuse;
- (8) Location and size of all streets abutting the manufactured home park and all driveways from such streets to the park;

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(9) Plans and specifications from all road construction within the park or directly related to park operation;

(10) Floor plans of all service buildings to be constructed within the manufactured home park; and

(11) Other information as may be required or requested by the Council.

(E) *Construction and installation standards.* All manufactured homes within a park shall be subject to and meet the construction, plumbing, electrical and mechanical standards as prescribed by the state, U.S. Department of Housing and Urban Development, and the American National Standards Institute identified as ANSI A119.1 or the provisions of the National Fire Protection Association identified as NFPA 501B and any revisions thereto and shall be certified to these standards by a seal affixed to the manufactured home.

(F) *Performance standards for manufactured home parks.*

(1) All manufactured homes shall be properly connected to the city water system and sanitary sewer system in conformance to standards adopted by the state's Pollution Control Agency. All water and sewer systems shall be constructed in accordance with plans and specifications approved by the City Engineer.

(2) Each manufactured home park shall maintain a hard surfaced off-street overload parking lot for guests of occupants in the amount of one space for each five sites and located within 300 feet of the unit to be served.

(3) All utilities, such as sewer, water, fuel, electric, telephone and television antenna lead-ins, shall be buried to a depth specified by the City Engineer, and there shall be no overhead wires or support poles, except those essential for street or other lighting purposes. Plans for the disposal of surface storm water shall be approved by the City Engineer.

(4) A properly landscaped area shall be adequately maintained around each manufactured home park. All manufactured home parks adjacent to industrial, commercial or residential land uses shall be provided with screening, such as fences or natural growth, along the property boundary lines

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separating the park from the adjacent uses.

(5) Every structure in the manufactured home park shall be developed and maintained in a safe, approved and substantial manner. The exterior of every structure shall be kept in good repair. All of the structures must be constructed to meet existing city code provisions. Portable fire extinguishers rated for electrical and liquid fires shall be kept in all service buildings and other locations conveniently and readily accessible for use by all occupants.

(6) The area beneath all manufactured homes shall be enclosed with a material that shall be generally uniform through the entire manufactured home park; except that, such an enclosure must be so constructed that it is subject to reasonable inspection. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities and related manufactured home equipment.

(7) Each manufactured home park shall have an area or areas set aside for dead storage. Boats, boat trailers, hauling trailers and all other equipment not generally stored within the manufactured home or within the utility enclosure, that may be provided, shall be stored in a separate place provided by the park owner. This storage place shall be screened. The equipment shall not be stored upon a manufactured home lot which is occupied by a manufactured home nor upon the streets within the manufactured home park.

(8) Signs shall be limited to one nameplate or identification sign not to exceed 25 square feet, with lighting, height and location as approved by the Zoning Administrator and have a 15-foot setback from the front line.

(9) Each manufactured home park shall have at least 10% of the land area developed for recreational use. Development of the recreational land shall be approved by the Council and the cost and maintenance shall be at the owner/operator's expense.

(10) Each manufactured home park shall have one or more central community buildings to serve primarily as an emergency weather shelter which shall be provided with central heating which must be maintained in a safe, clean and sanitary condition. The buildings shall be adequately lighted during all hours of darkness and shall contain laundry washers, dryers and drying areas, public telephones and public mail boxes, in addition to public toilets and lavatory. For each 100 manufactured home lots or fractional part thereof, there shall be one flush toilet and one lavatory for each sex.

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(11) All structures being placed in the park shall require a permit.

*(G) Manufactured home park lots.*

(1) Each manufactured home site 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 ten feet from the side lot line, 20 feet between the front of the manufactured home and front lot line and 25 feet between the rear of the manufactured home and the rear lot lines.

(3) The area occupied by a manufactured home shall not exceed 50% of the total area of a manufactured home site; land may be occupied by a manufactured home, a vehicle, a building, a cabana, a ramada, a carport and awning, and storage closet. The yards shall be landscaped, except for necessary driveway and sidewalk needs which shall not exceed one-half the width of the site.

(4) Each manufactured home lot shall have hard-surfaced off-street parking space for at least two automobiles. Each space shall be ten feet by 20 feet minimum.

(5) No more than two motor vehicles shall be stored or kept on any manufactured home lot. No vehicle shall be dismantled, nor shall mechanical work, except a very minor repair nature be done on any vehicle on a manufactured home lot; nor shall any automotive 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.

(6) The corners of each manufactured home lot shall be clearly marked and each site shall be numbered.

(7) Each site shall be properly landscaped with at least one tree, hedges, grass, fences, windbreaks and the like.

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(H) *Manufactured home stands.* The area of the manufactured home stand shall be improved to provide adequate support for the placement and tiedown of the manufactured home, thereby securing the super-structure against uplift, sliding, rotation and over-turning.

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

(2) The manufactured home stand shall be provided with anchors and tie-downs, such as cast-in-place concrete foundations or runways, screw augers, arrowhead anchors or other devices providing for stability of the manufactured home.

(3) Anchors and tie-downs shall be placed at least at each corner of the manufactured home stand and each anchor shall be able to sustain a minimum tensile strength of 2,800 pounds or as approved by the current Minnesota Uniform Manufactured Home Standards Code, whichever is more restrictive.

(I) *Park management.*

(1) The person to whom a permit for a manufactured home park is issued shall operate the park in compliance with this chapter and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair in a clean and sanitary condition.

(2) The park management 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 present at all times and is responsible for the maintenance of the park at all times.

(4) Each park shall have an office for the use of the operator distinctly marked "OFFICE" 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



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manufactured home site shall be identified by number and letter also.

(6) The limits of each manufactured home lot shall be clearly marked on the ground by permanent flush stakes, markers or other suitable means, the lot limits shall be approximately the same as shown on the accepted basis.

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

(8) No public address or loudspeaker system shall be permitted.

(9) Dogs and animals shall not be permitted to run at large within the manufactured home park.

(10) It is unlawful for any person to erect, place construct, reconstruct, relocate, alter, maintain, use or occupy a cabana or structure in a manufactured home park without the written consent of the owner or operator of the manufactured home park.

(11) The park management shall provide for the weekly collection and disposal of garbage, waste and trash as approved by the city.

(Prior Code, § 11.70) Penalty, see § 154.999

## **§ 154.234 RECREATION VEHICLES, BOATS, CAMPERS AND EQUIPMENT.**

(A) *Location.* Recreation vehicles shall not be parked or occupied on the premises of any occupied dwelling or any residential lot; except, the parking of one vehicle in the rear yard of any district may be allowed; provided that, no permanent living quarters (occupancy exceeding ten days) shall be maintained or business practiced in the vehicle.

(B) *Public property.* Recreation trailers, boats, campers or associated equipment shall not be allowed on any public property overnight, except in those public areas specifically designed for

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overnight stops or en-route stops. Camping of trailers in authorized areas shall not exceed ten consecutive days or nights.

(C) *Construction use.* A trailer or mobile home may be allowed as a conditional use in any district where the trailer is used as an office connected with construction where a permit has been granted for the construction work. The conditional use permit shall be issued for a period not exceeding 108 days.

(Prior Code, § 11.70) Penalty, see § 154.999

## **§ 154.235 APARTMENTS, TOWNHOUSES AND OTHER MULTI-FAMILY STRUCTURES.**

All multi-family structures allowed in the R-1, R-2 and R-3 Districts shall be subject to the following standards.

(A) *Standards for multi-family buildings.* All requests for building or conditional use permit shall be accompanied by a series of site plans and data showing:

(1) Building locations, dimensions and elevations, all signs, structures, entry areas, storage sites and other structural improvements to the site;

(2) Circulation plans for both pedestrian and vehicular and traffic;

(3) Fences and screening devices;

(4) Solid waste disposal provisions and facilities;

(5) Storm drainage plans;

(6) Firefighting and other public safety facilities and provisions such as hydrant locations and fire lanes;

(7) Data pertaining to numbers of dwelling units, size, lot area, ratio and the like;

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(8) Exterior wall materials and design information;

(9) A minimum of a two-foot contour topographical map of the existing site;

(10) A grading plan illustrating the proposed grade changes from the original topographical map. All site area, when fully developed, shall be completely graded so as to adequately drain and dispose of all surface water, storm water and ground water in such a manner as to preclude large scale erosion, unwanted ponding and surface chemical runoff;

(11) A recreation plan illustrating in detail all recreational facilities and structures;

(12) A landscape plan. The site, when fully developed, shall be landscaped according to a plan approved by the Planning Commission. The landscaping plan shall specify the size, type and location of all trees and shrubbery and the location of all seeded and sodded areas; and

(13) A soil erosion control plan for the construction period. Areas within the construction zone shall be fenced with construction limit fencing as per the plan 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%.

(B) *Performance standards.* Same as those listed in the R-3 District.

(C) *Parking requirements.*

(1) One and one-half parking spaces per unit shall be provided on the same site as the dwelling unit. Each space shall not be less than nine feet wide and 20 feet in length, or as approved by the Zoning Administrator, and each space shall be served adequately with access drives.

(2) Parking spaces shall not be located within ten feet of the side or rear lot line.

(3) Bituminous concrete driveways and parking areas with concrete curbing shall be required.

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#### *(D) Landscape provisions.*

(1) The design shall make use of all land contained in the site. All of the site shall be related to the circulation, recreation, screening, building, storage, landscaping and the like, so that no portion of the site remains undeveloped.

(2) A minimum of 20% of the site shall be landscaped.

#### *(E) Screening.*

(1) Screening to a height of at least five feet shall be required where:

(a) Any off-street parking area contains more than six parking spaces and is within 30 feet of an adjoining residential zone; and

(b) Where the driveway to a parking area of more than six parking spaces is within 15 feet of an adjoining residential zone.

(2) All exterior storage shall be screened. The exterior storage screening required shall consist of a solid fence or wall not less than five feet high, but shall not extend within 15 feet of any street driveway or lot line.

(3) Sidewalks shall be provided from parking areas, loading zones and recreation areas to the entrance of the building.

(4) Outdoor swimming pools or other intensive recreation shall observe setbacks required for the principal structure.

(F) *Appearance.* All buildings within an apartment development shall be so planned that they have the equivalent of a front appearance of each exterior vertical surface.

#### *(G) General buildings or structural requirements.*

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(1) All multiple-family dwelling buildings shall be designed and constructed to have the equivalent of a front appearance on each exterior surface. All accessory or ancillary buildings, including garages, shall be designed and constructed with the same facing materials as the principal building. The material shall be used in the same or better proportions as used on the principal building.

(2) Each multiple-family dwelling development containing more than four dwelling units shall include a play area, part of which shall be a paved surface.

(3) Any blighting or deteriorating aspects of the multiple-family dwelling development shall be placed or absorbed by the site itself, rather than by neighboring residential uses. This provision particularly applies to the location of parking areas.

(4) The design shall make use of all land contained in the site. All of the site shall be related to the multiple-family use, either parking, circulation, recreation, landscaping, screening, building, storage and the like, so that no portion remains undeveloped.

(5) Except with townhouses and multiple-family dwellings of four or less units, no exterior trash or garbage disposal or storage shall be permitted. In the case of row housing and multiple-family dwellings of four units or less, there shall be no exterior incineration and all storage shall be completely enclosed by walls and roof.

(Prior Code, § 11.70) Penalty, see § 154.999

## **§ 154.236 AUTO SERVICE STATION STANDARDS.**

(A) *Lot size.* A service station site shall be a minimum of 20,000 square feet in size.

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

(C) *Curb and gutters.* Concrete curbs and gutters shall be installed on all streets giving access to

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the station. There shall be a six-inch curb along all interior driveways.

(D) *Fencing and screening.* When adjacent to residential property, there shall be a screening fence. When adjacent to commercial property, there shall be a bumper-type fence about 18 inches high between the station and the adjacent commercial property.

(E) *Vehicles.* No vehicles shall be parked on the premises other than those utilized by employees or awaiting service. No vehicle shall be parked or be waiting service longer than 15 days.

(F) *Exterior storage.* Exterior storage besides vehicles shall be limited to service equipment and items offered for sale and those items listed in division (I) below. Exterior storage of items offered for sale shall be within yard setback requirements and shall be located in containers such as the racks, metal trays and similar structures designed to display merchandise.

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

(H) *Architecture.* The station and other buildings shall be of a design that is compatible with the surroundings.

(I) *Outdoor displays.* The storage of used tires, batteries and other such items for sale outside the building shall be controlled; the items shall be displayed in specially designated containers and be limited to one or two areas well back from the street right-of-way line. Junk cars, empty cans and other unsightly materials will not be permitted in an area subject to public view.

(J) *Lighting.* Lights shall be designed and placed in a manner as to direct the light away from residential areas.

(K) *Other activities.*

(1) Business activities not listed in the definition of service stations and not incidental to the station are not permitted on the premises of a service station unless a conditional use permit is obtained specifically for the business. The activities include, but are not limited to, the following:

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- (a) Automatic car and truck wash;
- (b) Rental of vehicles, equipment or trailers; and
- (c) General retail sales.

(2) Gas pumps located at and a part of other types of business establishments shall require a conditional use permit.

(Prior Code, § 11.70) Penalty, see § 154.999

#### **§ 154.237 DRIVE-IN BUSINESS STANDARDS.**

The following standards shall apply to drive-in businesses in all districts.

##### *(A) Design standards.*

(1) The entire area of any drive-in business shall have a drainage system approved by the City Engineer.

(2) The entire area other than that occupied by structures or planting shall be surfaced with a hard surface material which will control dust and drainage.

(3) A fence or screen of acceptable design not over six feet in height or less than four feet shall be constructed along the property line abutting a residential district and the fence or screen shall be adequately maintained.

##### *(B) General.*

(1) Any drive-in business serving food or beverages may also provide, in addition to vehicular service areas, indoor food and beverage service seating area.

(2) The hours of operation shall be set forth as a condition of any building permit for

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drive-in business.

(3) Each drive-in business serving food may have outside seating.

(4) Each food or beverage drive-in business shall place refuse receptacles at all exits as well as one refuse receptacle per ten vehicle parking spaces within the parking area.

(5) Electronic devices such as loudspeakers, automobile service order devices, drive-in theater car speakers and similar instruments shall not be located within 300 feet of any residential dwelling unit.

(6) No service shall be rendered, deliveries made or sales conducted within the required front yard; customers served in vehicles shall be parked to the sides and/or rear of the principal structure.

*(C) Locations.*

(1) No drive-in business shall be located within 200 feet of a public or parochial school or church.

(2) No drive-in business shall be located such that it may increase traffic volumes on nearby residential streets.

(3) No drive-in shall be located on any street other than one designated as a thoroughfare or business service road in the policies plan.

*(D) Site plan.*

(1) The site plan shall clearly indicate suitable storage containers for all waste material. All commercial refuse containers shall be screened.

(2) A landscaping plan shall be included and shall set forth complete specifications for plant materials and other features.



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(3) Adequate area shall be designated for snow storage such that clear visibility shall be maintained from the property to any public street.

(4) The design of any structure shall be compatible with other structures in the surrounding area.

(Prior Code, § 11.70) Penalty, see § 154.999

#### **§ 154.238 AGRICULTURAL OPERATIONS.**

(A) All farms in existence on the effective date of this chapter within the city limits shall be a permitted use where the operator can conduct a farming operation. However, all regulations contained in these performance standards shall apply to all changes of the farming operation which will cause all or part of the area to become more intensively used or more urban in character. Any structure exceeding \$500 in value to be erected on a farm shall require a building permit and conform to all requirements of the state's Building Code.

(B) The Council may require any farm operator to secure a conditional use permit to expand or intensify the operations in the event of the following:

(1) The farm is adjacent to, or within 400 feet of any dwelling unit and may be detrimental to living conditions by creating safety hazards or by emitting noise, odor, vibrations or similar nuisances; and

(2) The farming operations are so intensive as to constitute an industrial type use consisting of the compounding, processing and packaging of products for wholesale or retail trade.

(Prior Code, § 11.70) Penalty, see § 154.999

#### **§ 154.239 HOME OCCUPATIONS.**

(A) *General.* Home occupations shall be allowed as a conditional use in all residential districts subject to the following standards.

(1) No more than 25% of the gross floor area of the structures including accessory

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buildings shall be used for this purpose.

(2) Only articles made or originating on the premises shall be sold on the premises, unless the articles are incidental to permitted commercial service.

(3) No articles for sale shall be displayed so as to be visible from any street.

(4) No person is employed other than a member of the household residing on the premises.

(5) No mechanical or electrical equipment is used if the operation of the equipment interferes unreasonably with the desired quiet residential environment of the neighborhood or if the health and safety of the residents is endangered.

(6) No outside storage of materials shall be allowed.

(7) Conducting of the home occupation shall result in no change of outside appearance of the building.

(8) Signs, not exceeding two square feet shall be allowed on the premises.

(9) The home occupation shall conform to the standards in the state’s Building Code and the state’s Fire Code.

(B) *Retail sales.* Home occupations allowing retail sales or employment of persons other than the members of the household residing on the premises may be permitted to conditional use permit if the following conditions are met.

(1) The occupation is carried on in the principal building.

(2) Not more than 25% of the gross floor area of the structures including accessory buildings shall be used for this purpose.

(3) No articles for sale shall be displayed so as to be visible from any street.

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(4) No mechanical or electrical equipment is used if the operation of the equipment interferes unreasonably with the desired residential environment of the neighborhood or if the health and safety of the residents is endangered.

(5) The occupation does not generate more than two vehicles at one time.

(6) The occupation must provide off-street parking.

(Prior Code, § 11.70) (Ord. 177, effective 6-19-1986) Penalty, see § 154.999

#### **§ 154.240 BED AND BREAKFASTS.**

Bed and breakfast establishments allowed as a conditional use in residential zones may be permitted by conditional use permit if the following conditions are met.

(A) The owner or operator shall reside on the property or submit a management plan for approval as part of the conditional use permit.

(B) The establishment shall conform with state's Health and Building Code requirements.

(C) The only meal served to guests shall be breakfast and only guests shall be served.

(D) The facility shall be limited to five guest rooms or a maximum guest capacity of ten.

(E) Guests shall not stay for more than 14 days within any 90-day period.

(F) A minimum of one off-street parking space for each guest room and two off-street parking spaces for the resident or manager.

(G) On-premises advertising for any bed and breakfast facility located in any residential zone shall be limited to either one wall sign or a one- or two-sided free-standing sign not more than two square feet in area per sign face. The content of any such sign shall be limited to identifying not more than the name and address of the facility. No sign shall be internally illuminated.

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(H) No cooking or cooking facilities shall be allowed or provided in the guests rooms.

(I) The facility shall have historical or architectural significance.

(Prior Code, § 11.70) (Ord. 180, effective 6-26-1986) Penalty, see § 154.999

***SIGNS***

**§ 154.255 STATEMENT OF PURPOSE.**

The purpose of this subchapter is to protect and promote the general welfare, health, safety and order within the city through the establishment of a comprehensive and impartial series of standards, regulations and procedures governing the erection, use and/or display of devices, signs or symbols serving as visual communicative media. The provisions of the subchapter are intended to encourage creativity, a reasonable degree of a freedom of choice and an opportunity for effective communication, while at the same time assuring that the public is not endangered, annoyed or distracted by the unsafe, disorderly, indiscriminate or excessive use of communicative facilities.

(Prior Code, § 11.70)

**§ 154.256 DEFINITIONS.**

The definitions set forth in this section are intended to define the numerous variety of signs which are to be regulated by this section. It is possible that certain signs will fall under more than one of these definitions. In those instances, compliance with the regulations for each type of sign definition that applies will be required. For the purpose of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

***BILLBOARD.*** Any non-governmental sign or other communicative device used to advertise products, goods, services, ideas or non-commercial speech which are not exclusively related to the premises or owner of the property on which the sign or device is located.

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**BUSINESS SIGN.** A sign which advertises the name of the business, its products, goods or services made and/or sold on the premises.

**CANOPY SIGN.** Any sign made part of or attached to any protective covering attached to a building or structure. Marquees shall not be considered **CANOPIES**.

**FLASHING SIGN.** An illuminated sign on which the light or illumination is not stationary or constant in intensity and/or color at all times when the sign is in use. Signs which utilize the reflection and/or refraction of light will also be considered **FLASHING SIGNS**.

**ILLUMINATED SIGN.** Any sign which has characters, letters, figures, designs or outlines illuminated by lights or luminous tubes.

**INCIDENTAL SIGN.** A sign, generally informational, that has a purpose secondary to the use of the property on which it is located, such as “no parking”, “entrance”, “loading only”, “telephone” and other similar directives. No sign with a commercial message visible from a position off of the property on which it is located shall be considered **INCIDENTAL**.

**MARQUEE SIGN.** A permanent roof-like structure extending from part or all of a building face over a public right-of-way and constructed of some durable material such as metal, glass or plastic.

**MESSAGE BOARD SIGN.** A sign or other communicative device which may or may not be permanent in nature for the purposes of communicating changing messages through time.

**MISCELLANEOUS SIGN.** A sign or other communicative device of a miscellaneous character intended to be displayed for an indeterminate period of time which cannot be defined by any other provision of this section.

**PROJECTING SIGN.** A sign, other than a wall sign, which is perpendicular to and projects from a building, is supported by a wall or awning of a building or structure, where the leading edge extends or hangs more than 12 inches beyond the surface of the building or structure.

**PYLON SIGN.** A free-standing sign and sign structure erected upon one or more pylons or posts which is in excess of ten feet in height.

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**SIGN.** Any communicative device, name, identification, description, display or illustration used to direct attention to an object, place, activity, person, institution, date, organization or business which is affixed to or represented directly upon an awning, canopy, marquee, building, structure, post, pole or piece of land.

**WALL SIGN.** Any sign that shall be affixed parallel to the wall or painted or printed on the wall of any building or structure in such a manner as to read parallel to the wall on which it is mounted; provided, however, the **WALL SIGN** shall not project above the top of the wall or beyond the end of the building or structure. For the purposes of this section, any sign display surface that is affixed flat against the surface of a roof top shall be considered a **WALL SIGN**. Any sign that is affixed to the building marquee, canopy or awning shall be considered a **WALL SIGN**.

**WINDOW SIGN.** Any sign, picture, symbol or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window or upon the window.

(Prior Code, § 11.70)

#### **§ 154.257 PERMIT REQUIRED.**

Except as otherwise provided in this section, no person shall erect, install, repair, alter or relocate any sign within the city, as defined herein, without first having been issued an appropriate permit therefor and having paid the appropriate permit fee as established by resolution of the City Council.

(Prior Code, § 11.70)

#### **§ 154.258 APPLICATION.**

Each application for a permit under this subchapter shall be submitted to the Zoning Administrator on forms provided by the city and shall include, but not be limited to, the following

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information:

(A) The name of the person, firm, corporation, association or group erecting the structure;

(B) Name, address and telephone number of the person who owns the property where the sign is to be erected, installed, repaired, altered or relocated;

(C) A fully completed building permit application;

(D) The location of the building, structure and/or property to which or upon which, the sign is to be attached or erected, installed, repaired, altered or relocated;

(E) The position of the sign in relation to buildings or structures and related details;

(F) At the request of the Zoning Administrator, two blueprints or ink drawings of the plans and specifications for the sign, the exact location of where it is to be erected, installed, repaired, altered or relocated, its method of construction and/or method of attachment to a building or in the ground; and

(G) Other information as the Zoning Administrator requires to show full compliance with this and other city ordinances. If the work authorized under a permit has not been completed within six months after the date of its issuance, the permit shall become null and void.

(Prior Code, § 11.70)

**§ 154.259 PERMIT APPROVAL, DENIAL OR APPEAL.**

After an application is submitted, the Zoning Administrator shall review the application using the design standards set forth herein. The Zoning Administrator shall determine if the application requires a permit and/or formal review of the Planning and Zoning Commission and City Council. If all the design standards and provisions of this chapter are met, the Zoning Administrator may approve the permit without the review of the Planning Commission and City Council. If any of the provisions of the city code are not met, the Zoning Administrator shall deny the permit and give reasons for the denial to the applicant in writing. The applicant may appeal the Zoning

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Administrator's decision to the Planning and Zoning Commission. After hearing the appeal at a public meeting, the Planning and Zoning Commission shall recommend to City Council whether to approve, modify or deny the application.

(Prior Code, § 11.70)

#### **§ 154.260 DESIGN STANDARDS.**

(A) *Signs requiring permit.* Business signs located in agricultural, commercial or industrial districts require a permit prior to their installation. Business signs located in residential districts require a conditional use permit and must follow the procedures set forth in § 154.024 of this chapter and are subject to standards set forth in § 154.239 of this chapter. Business signs are limited to two per property and are further limited by type as described below. The signs shall meet the setback requirements established for the use and shall conform to the following standards.

(1) Billboard signs must not exceed 400 square feet in size or be installed at a height greater than 25 feet. Billboard signs are limited to one per property. No billboard sign will be allowed to be erected within 500 feet of another billboard sign. Billboard signs are only allowed in the C1 (Downtown Commercial) District and C2 (Highway Commercial) District.

(2) Canopy signs must not exceed a combined total of 100 square feet per building or structure or be installed at a height greater than 25 feet.

(3) Illuminated signs are allowable provided all other provisions of this section are met.

(4) Marquee signs shall not exceed a combined total of 100 square feet per building or structure in size and shall not be installed at a height greater than 25 feet.

(5) One message board sign shall not exceed 50 square feet in size and shall not be installed at a height greater than 25 feet. Up to two more additional message board signs may be installed per property, but those additional signs cannot be larger than 20 square feet in size or installed at a height greater than 25 feet.

(6) Projecting signs shall not exceed 25 square feet in size and shall not be installed at a



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height greater than 25 feet. Projecting signs are limited to one per property.

(7) Pylon signs shall not exceed 250 square feet in size and shall not be installed at a height greater than 25 feet. Pylon signs are limited to one per property.

(8) Wall signs shall not exceed 100 square feet in size and shall not be installed at a height greater than 25 feet. Any number of wall signs are permitted on a property; provided, the wall signs do not cover more than 50% of the wall area they are affixed to.

*(B) Signs requiring no permit.*

(1) During a state general election year, all non-commercial signs of any size may be posted from August 1 until ten days following the state general election, pursuant to M.S. § 211B.045, as it may be amended from time to time;

(2) During a non-state general election year, free-standing, temporary political signs may remain for a period of 110 calendar days;

(3) Incidental signs located on, above or beside entrances or exits to buildings or driveways or walkways which direct pedestrians and vehicle operators (“Exit Only”, “Employees Entrance”, “Rest Rooms” and the like); provided that, the signs are not more than five square feet in area apiece. No sign with a commercial message visible from a position off of the property on which it is located shall be considered incidental;

(4) Temporary signs denoting an architect, engineer, contractor, subdivision or supplier, when placed upon property where construction is occurring; provided that, each such sign is no more than 32 square feet in area at a height less than ten feet and is removed within 30 days after completion of the project or final inspection;

(5) Temporary advertising signs in commercial districts which are installed or displayed for a period of less than 14 calendar days;

(6) Memorial signs or tablets, names of building and the date of erection when cut into any masonry surface or when constructed of bronze or other non-combustible material and attached to a

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building; provided that, the signs are less than nine square feet in area;

(7) One identification sign for each premises, which shall not exceed five square feet in area per surface. Such a sign shall be constructed to have no more than two surfaces at a height of 15 feet or less and shall not contain any commercial advertising information;

(8) Traffic-control signs, municipal signs, legal notices and temporary “danger” or “emergency” signs;

(9) Real estate signs, on a temporary basis, for the purpose of selling or leasing individual buildings, lots or rental units; provided, these signs are not more than ten square feet in area and installed at a height less than ten feet. Such a sign shall be located on the premises involved and it shall be removed within 30 days of the closing or leasing;

(10) “Garage Sale”/“Open House” signs and other similar signs shall be allowed; provided, they do not obstruct any public right-of-way, do not exceed ten square feet in area and are located on the property on which they permission has been granted to advertise. The signs shall be not be allowed to be displayed for more than 48 hours; and

(11) Window signs do not require a permit provided they do not cover more than 25% of the area of the window surface to be used for the sign. Window signs which cover greater than 25% of the area of the window surface shall require formal review by the Planning and Zoning Commission and final approval by the City Council.

(C) *Miscellaneous signs.* Signs or other communicative devices of a miscellaneous character intended to be displayed for an indeterminate period of time or any sign which cannot be defined by any provisions of this section shall be deemed a miscellaneous sign. In residential districts, miscellaneous signs shall not exceed a total combined surface area of six square feet and shall not be installed at a height greater than eight feet. In agricultural, commercial and industrial districts, miscellaneous signs shall not exceed a total combined surface area of 100 square feet and shall not be installed at a height greater than 25 feet. All miscellaneous signs require formal review by the Planning and Zoning Commission and receive final approval by the City Council. The signs may be approved with conditions to be set by either the Planning and Zoning Commission, the City Council or both.

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(Prior Code, § 11.70)

#### **§ 154.261 MANUFACTURED STANDARDS.**

All signs, whether requiring a permit or not, shall comply with the following standards.

(A) Height regulations are measured from the lowest grade level where the sign is to be constructed to the uppermost portion of the sign.

(B) Size of signs are determined by measuring from the outermost limits of the sign structure and calculating the square footage.

(C) Setbacks for signs are as follows.

(1) Canopy signs are allowed to overhang a public right-of-way provided it does not overhang that portion of the right-of-way which is designed for vehicular traffic in the C1 (Downtown Commercial) District only. The signs shall not hang lower than seven feet in height.

(2) Incidental signs must be constructed within property lines.

(3) Marquee signs are allowed to overhang a public right-of-way; provided, it does not overhang that portion of the right-of-way which is designed for vehicular traffic in the C1 (Downtown Commercial) District only. The signs shall not hang lower than seven feet in height.

(4) Message board signs must be constructed within property lines.

(5) Projecting signs are allowed to overhang a public right-of-way provided it does not overhang that portion of the right-of-way which is designed for vehicular traffic in the C1 (Downtown Commercial) District only. The signs shall not hang lower than seven feet in height.

(6) Pylon signs shall not be constructed so that no part of the sign structure exists within ten feet of any public right-of-way or any other property line.

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(7) Wall signs are allowed to overhang a public right-of-way; provided, it does not overhang that portion of the right-of-way which is designed for vehicular traffic in the C1 (Downtown Commercial) District only. The signs shall not hang lower than seven feet in height. (Prior Code, § 11.70)

**§ 154.262 PROHIBITED SIGNS.**

(A) In a location which would interfere with the view of any traveler on any roadway of approaching vehicles or of traffic-control devices on signs for a distance of up to 320 feet;

(B) On rocks, trees or other perennial plants on public property, on any traffic-control devices or on any utility pole;

(C) Containing a rotating beam or beams of light resembling those as used on an emergency vehicle;

(D) Which simulates any official, directional or warning sign erected or maintained by an official unit of government or which incorporates or makes use of light simulating or resembling traffic signals or control signals;

(E) Which casts a distracting or confusing ray or light onto or visible from a public roadway. Flashing signs are covered by this provision;

(F) Which interferes with public utility facilities or the maintenance thereof;

(G) Which obstructs any window, door, fire escape, stairway or opening essential to the provisions of light, air, ingress or egress from any building;

(H) Which contains more than three surface areas or facings; and

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(I) Within the right-of-way of any public road, except as erected or approved by an official unit of government for the direction of traffic or necessary public information.  
(Prior Code, § 11.70)

#### **§ 154.263 NON-CONFORMING SIGNS.**

Signs lawfully existing on the effective date of this chapter may be continued although the use, size or location does not conform with the provisions of this chapter. These signs shall be deemed a legal non-conforming sign and governed per § 154.005 of this chapter.  
(Prior Code, § 11.70)

#### **§ 154.264 SIGN MAINTENANCE.**

(A) *Painting.* The owner of any sign shall be required to have any sign properly painted, as needed (to be determined by the Zoning Administrator), or at least every two years, including all parts and supports of the sign, unless the supports are galvanized or otherwise treated to prevent rust or rot.

(B) *Area around sign.* The owner, or lessee of any sign shall keep the grass, weeds or other growth cut and the area free from refuse between the sign and the right-of-way and also for a six-foot radius measured from all edges of the sign structure.  
(Prior Code, § 11.70)

#### **§ 154.265 OBSOLETE SIGNS.**

Any signs which no longer advertise a bona fide business or a product sold shall be taken down, erased and/or removed by the owner, agent or person having the beneficial use of the building or property upon which the sign may be found within 14 calendar days after receiving written notice from the City Council.  
(Prior Code, § 11.70)

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**§ 154.266 UNSAFE OR DANGEROUS SIGN ABATEMENT.**

Any sign, which, in the opinion of the Building Inspector or Zoning Administrator, becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety, or has been erected without the necessary permits or is maintained in violation of this chapter, the sign shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or property upon which the sign is located within 14 calendar days after written notification by the Zoning Administrator. If, within 14 calendar days after the date of the notice, the person responsible fails to remove the sign or alter it to comply with the provisions of M.S. §§ 463.16 et seq., as they may be amended from time to time, the cost of an abatement, including administrative expenses and reasonable attorneys' fees may be levied as a special assessment against the property upon which the sign is located.

(Prior Code, § 11.70) (Ord. 27, effective 2-5-2001)

***PARKING AND LOADING***

**§ 154.280 SURFACING AND DRAINAGE.**

Off-street parking areas, except for single-family residences, shall be paved with portland cement concrete or plant mixed bituminous surface. The areas shall be so graded and drained as to dispose of all surface water accumulation within the area. Open sales lots for cars, trucks and other equipment shall also be graded, drained and paved, but the interior landscaping is not required.

(Prior Code, § 11.70)

**§ 154.281 LOCATION.**

All accessory off-street parking facilities required herein shall be located as follows:

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

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served;

(B) Spaces accessory to the multiple-family dwellings on the same lot as the principal use served or within 300 feet of the main entrance to the principal building served;

(C) There shall be no off-street parking space within 20 feet of any street right-of-way; and

(D) No off-street open space parking area containing more than four parking spaces shall be located closer than 20 feet from an adjacent lot zoned or used for residential purposes.

(Prior Code, § 11.70)

**§ 154.282 GENERAL PROVISIONS.**

(A) Access drives may be placed adjacent to property lines; except that, drives consisting of crushed rock or other non-finished surfacing shall be no closer than five feet to any side or rear lot line.

(B) Each parking space shall not be less than nine feet wide and 20 feet in length.

(C) When required, accessory off-street parking facilities are provided elsewhere than on the lot in which the principal use served is located, they shall be in the same ownership or control, either by deed or long-term lease, as the property occupied by the principal use, and the owner of the principal use shall file a recordable document with the Council requiring the owner and his or her heirs and assigns to maintain the required number of off-street spaces during the existence of the principal use.

(D) Required off-street parking space in any district shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable or for sale or rent.

(E) Parking shall not be allowed in areas not designated for off-street parking.

(Prior Code, § 11.70) Penalty, see § 154.999

**§ 154.283 DESIGN AND MAINTENANCE OF OFF-STREET PARKING AREAS.**

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

(B) All open off-street parking areas designed to have head-in parking along the property line shall provide a bumper curb not less than five feet from the side property line or a guard of normal bumper height not less than three feet from the side property line.

(C) When a required off-street parking space for six or more is located adjacent to a residential district, a fence approved by the Building Inspector shall be erected along the residential district property line.

(D) It shall be the joint and several responsibility of the operator and owner of the principal use, uses and/or building to maintain, in a neat and adequate manner, the parking space accessways, landscaping and required fences.

(E) A parking space shall not be less than 300 square feet per vehicle of standing and maneuvering area.

(Prior Code, § 11.70) Penalty, see § 154.999

**§ 154.284 PARKING IN PUBLIC STREETS AND RESIDENTIAL AREAS.**

Parking in public streets and residential areas shall be subject to the standards set forth in Title VII of this code of ordinances.

(Prior Code, § 11.70)

**§ 154.285 OFF-STREET SPACES REQUIRED.**

One space equals 180 square feet.

Automobile service station	At least 2 off-street parking spaces, plus 4 off-street parking spaces for
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	each service stall
Bowling alley	6 spaces for each alley, plus additional spaces as may be required herein for related uses such as a restaurant
Business and professional offices	1 space for each 200 sq. ft. of gross floor area.
Churches	Spaces equal in number to 1/3 of the capacity in persons of the main sanctuary or auditorium, plus provisions for supplementary parking space needs for other portions of the church facilities as determined by final site and building plans when reviewed by the Planning Commission.
Drive-in food establishment	1 space for each 15 sq. ft. of gross floor space in buildings allocated to drive-in operation
Hospital	At least 1 parking space for each 3 hospital beds, plus 1 space for each 4 employees, other than doctors, plus 1 parking place for each resident and regular staff doctor
Hotel or motel	1 space per rental unit, plus 1 space per full-time employee.
Industrial, warehouse, storage, handling of bulk goods	At least 1 space for each employee on maximum shift or 1 space for each 2,000 sq. ft. of gross floor area, whichever is larger
Medical and dental clinics	5 spaces per doctor or dentist, plus 1 space for each employee
Multiple dwellings	1-1/2 spaces per dwelling unit
One- and two-family residences	2 spaces per dwelling unit
Restaurants, cafes, bars	At least 1 space for each 3 seats based on capacity design
Retail store	At least 1 off-street parking space for each 250 sq. ft. of gross floor area
Schools	
Elementary schools	2 spaces for each classroom
High school	At least 1 parking space for each 4 students based on design capacity, plus 1 additional space for each classroom
Colleges	At least 1 space for every 2 employees, plus 1 space for every car permitted to students by the college
Theaters, auditoriums, mortuaries, stadiums, arenas, dance halls and other places of assembly	Spaces equal in number to 1/3 of the capacity in persons

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Undertaking establishments	8 spaces for each chapel or parlor plus 1 space for each funeral vehicle maintained on the premises. Aisle space shall also be provided for the street of making up a funeral procession
Uses not specifically noted	As determined by the Council following review by the Planning Commission

(Prior Code, § 11.70)

**§ 154.286 OFF-STREET LOADING AND UNLOADING AREAS.**

(A) *Location.* All required loading berths shall be off-street and shall be located on the same lot as the building or use to be served. A loading berth shall be located at least 25 feet from the intersection of two street rights-of-way 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 not be less than 12 feet in width, 50 feet in length and 14 feet in height, exclusive of aisle and maneuvering space.

(C) *Required loading spaces.* Determined by the Council following review by the Planning Commission.

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

(E) *Surfacing.* All loading berths and accessways shall be improved with a durable material to control the dust and drainage.

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

(G) *Provision.* In connection with any structure which is to be erected or substantially altered,

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and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided off-street loading space.

(H) *Noise*. Where noise from loading or unloading activity is audible in a residential district, the activity shall terminate between the hours of 7:00 p.m. and 7:00 a.m., except for the loading and unloading of grain.

(Prior Code, § 11.70) Penalty, see § 154.999

**§ 154.999 PENALTY.**

Every person violates a section, division, paragraph or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful and, upon conviction thereof, shall be punished as for a misdemeanor, except as otherwise stated in specific provisions hereof.

(Prior Code, § 11.70) (Ord. 177, effective 6-19-1986)