

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS; CONSTRUCTION

151. STREETS AND SIDEWALKS

152. SUBDIVISIONS AND ZONING

153. RIGHT-OF-WAY MANAGEMENT

CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION

Section

Hazardous Buildings

- 150.01 Summary of law
- 150.02 Structures to which subchapter applies
- 150.03 Conditions which define a “hazardous building”
- 150.04 Removal or repair
- 150.05 Uses of this subchapter’s provisions
- 150.06 Outline of procedure

HAZARDOUS BUILDINGS

§ 150.01 SUMMARY OF LAW.

(A) M.S. §§ 463.15 through 463.261, as they may be amended from time to time, sets out a procedure for the removal and repair of hazardous and dilapidated buildings and the filling of dangerous excavations. Under this statute, the council of a city or the town board of a town may, upon a proper finding, order the owner of a hazardous building to correct the hazardous condition or remove the structure. (**OWNER, OWNER OF RECORD** and **LIENHOLDER OF RECORD** mean a person having a right or interest in property to which this act applies and evidence of which is filed and recorded in the office of the register of deeds or registrar of titles in the county in which the property is situated (M.S. § 463.15, subd. 4, as it may be amended from time to time).) An order to that effect is issued to the owner and if it is not complied with, the municipality applies to the district court for enforcement. The owner may contest the order and, if he or she does, a trial is held as soon as possible at which the court upholds or dismisses the order. If the order is not contested, the court authorizes the municipality to proceed with the necessary repair or removal. The procedure for filling a dangerous excavation is similar; except that, the court proceedings are eliminated.

(B) Without this formality, the Council may, with the written consent of all owners or record, occupying tenants and all lienholders of record, remove or raze any building or repair it to correct a hazardous condition.

(C) The cost of removal when ordered by the court may be collected as a special assessment in a single installment. When removal occurs with written consent, the special assessment may be spread over a five-year period. So too may the cost of correcting a hazardous condition, whether the correction is court-ordered or undertaken with written consent. Use of the special assessment method of financing the cost of removal or rehabilitation is not required.

(D) As an alternative to condemnation of a hazardous building under the police power, the hazardous buildings law authorizes the governing body of a city to acquire through the use of eminent domain proceedings any hazardous building and the land on which it is located as well as any vacant or undeveloped land. The acquisition is declared by the law to be a public purpose (M.S. § 463.52, as it may be amended from time to time). Instead of acquiring the property to use for an authorized municipal purpose, the city may acquire the property, then transfer it to the local housing and redevelopment authority for rehabilitation and disposal under the Urban Homesteading Act, Laws 1974, Ch. 228, being 42 U.S.C. §§ 5301 et seq., amending various sections of the municipal housing and redevelopment act. Under the Urban Homesteading Act, the housing and redevelopment authority may itself, with approval of the Council, acquire by eminent domain proceedings buildings and improvements which are vacated and substandard, meaning that they are “dilapidated or obsolescent, faultily designed, lack adequate ventilation, light or sanitary facilities, or any combination of these or other factors that are detrimental to the safety or health of the community”. “Urban homesteading” involves the transfer of these dwellings at a substantially reduced price (as low as an amount in accordance with the current city fee schedule) to persons or families of low and moderate income who have either the financial ability or the building skills to bring the home into compliance with the applicable codes within a specified period of time.

(E) Since a hazardous building, like any other building may be acquired by eminent domain proceedings for any authorized municipal use, the provisions in the hazardous building law for acquisition of such a building by eminent domain proceeding are useful only where the city wishes to clear the land and keep it vacant or re-sell it or convey to the housing and redevelopment authority when the building is capable of rehabilitation by private persons under the urban homesteading provisions of the housing and redevelopment act or other authorization. Forms for acquisition of hazardous buildings under the eminent domain power are not included in this memorandum. But the forms in another League of Minnesota Cities memorandum, “Municipal Acquisition of Property by Right of Eminent Domain - Notes and Forms”, 190, may be easily adapted for the purpose.

(Ord. passed - -)

§ 150.02 STRUCTURES TO WHICH SUBCHAPTER APPLIES.

(A) The act defines a “hazardous building” as follows: “Hazardous building means any building which, because of inadequate maintenance, dilapidation, physical damage, unsanitary condition or abandonment, constitutes a fire hazard or a hazard to public safety or health.”

(B) It should be borne in mind that this statutory language only states standards that can be applied to specific situations, which in fact come within its meaning. In other words, the mere fact that a council

says a building is hazardous doesn't make it so, and the Council, together with its Attorney and its Building Inspector, must be prepared to substantiate its finding to the property owner and the court.

(C) While no precise guideline can be laid down as to what degree of neglect will bring a structure within the statutory definitions, the state's Supreme Court described such a building in a case upholding an order of the District Court to destroy a building. The following quotation from that case describes a building within the definition and suggests the type of facts that should be in an order for removal and in the record of any trial involving a contested order: "...that the building is unoccupied; that sections of the concrete are decayed and rotted; that the exterior siding is broken, deteriorated and fallen from place; that the cornice is rotted and collapsing; that there are large holes in the asphalt roof covering and there is evidence that the roof leaks; that there are large holes in the plaster finish of the walls and ceilings; that many of the window lights are broken and the sash damaged or destroyed; that the water traps of the wash basin and water closet are dry, resulting in open sewers; that the interior of this dwelling is littered with paper, lumber, wood lath, plaster and debris; that this building is a greater fire hazard due to the accumulation of flammable materials, due to the exposure of the wooden framing members caused by the missing plaster surfacing, and due to the fact that this building is open, vacant and unattended..."

(Ord. passed - -)

Statutory reference:

Ukkonen v. City of Minneapolis, 280 Minn. 494, 160 N.W. 2d 249 (1968)

§ 150.03 CONDITIONS WHICH DEFINE A "HAZARDOUS BUILDING".

These requirements are considered to be minimum and not exhaustive.

(A) *Emergency conditions.* When, in the opinion of the designated inspector(s), there imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the inspector(s) is hereby authorized and empowered to order and require the occupants to vacate the premises. The inspector(s) shall post at each entrance to a structure a notice reading as follows: "This Structure Is Unsafe and its Occupancy Has Been Prohibited by the City". It shall be unlawful for any person to enter the structure, except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

(B) *Exterior property areas.*

(1) *Sanitation.* All exterior property and premises shall be maintained in a clean, safe and sanitary condition, the occupant shall keep that part of the exterior property, which the occupant occupies or controls, in a clean and sanitary condition.

(2) *Grading and drainage.* All premises shall be graded and maintained to prevent the accumulation of stagnant water thereon or within any structure located thereon.

(3) *Accessory structures.* All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair. Any occupant shall not cause accessory structures to become structurally unsound or in disrepair.

(C) *Exterior structure.*

(1) *General.* The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

(2) *Structural members.* All structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads.

(3) *Foundation walls.* All foundation walls shall be kept in such condition so as to prevent the entry of rats or vermin. Breaks and cracks shall be kept in good repair so as not to affect the safety of the structure.

(4) *Exterior walls.* All exterior walls shall be free from holes, breaks and loose or rotting materials and maintained weather-proof and properly surface coated where required to prevent deterioration.

(5) *Roofs and drainage.* The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof water shall not be discharged in a manner that creates a public nuisance.

(6) *Overhang extensions.* All canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar overhang extensions shall be maintained in good repair and be properly anchored so as to be kept in a safe and sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

(7) *Chimneys and towers.* All chimneys, smoke stacks and similar appurtenances shall be maintained structurally safe and sound and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

(8) *Handrails.* Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(9) *Window and doorframes.* Every window, door and frame shall be kept in sound condition, good repair and as weather-tight as their design allows. All glazing materials shall be maintained free

from holes. One window in every habitable space, other than a fixed window, shall be operable and capable of being held in an operable position.

(D) *Interior structure.*

(1) *General.* The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Every occupant shall keep that part of the structure, which the occupant occupies or controls, in a clean and sanitary condition. Every owner of a structure containing two or more dwelling units shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

(2) *Structural members.* The supporting structural members of every structure shall be maintained structurally sound and be capable of supporting the imposed load.

(3) *Interior surfaces.* All interior surfaces, including windows and doors shall be maintained in good, clean and sanitary condition. Peeling paint, cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

(4) *Stairs and railings.* All interior stairs and railings shall be maintained in sound condition and good repair.

(E) *Plumbing facilities and fixtures.*

(1) *Responsibility.* The owner of the structure shall provide and maintain the plumbing facilities and fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any structure or premises which does not comply with the requirements of this subchapter.

(2) *General.* All plumbing fixtures shall be properly installed and maintained in working order and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which it is designed.

(3) *Fixtures.* Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which the water closet is located unless it is pre-existing or in separate rooms.

(4) *Connectivity.* All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be properly connected to either a public water system or to an approved private water system and supplied with hot or tempered and cold running water. All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system. Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

(F) *Mechanical and electrical requirements.*

(1) *Responsibility.* The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises which does not comply with the requirements.

(2) *Heating.* Every dwelling shall be provided with heating facilities capable of maintaining a room temperature of 70°F in all habitable rooms, bathrooms and toilet rooms based on the outside design temperature required for the locality by the Mechanical Code.

(3) *Fuel-burning equipment.* All fuel-burning equipment and appliances shall be connected to an approved chimney or vent. Flues shall be maintained and kept in good condition so as not to affect the health or safety of the occupants of the structure. All safety controls for fuel-burning equipment shall be maintained in effective operation. All required clearances to combustible materials shall be maintained.

(4) *Electrical facilities.* Every occupied building shall be provided with a properly maintained electrical system that was in compliance with requirements of the National Electrical Code at the time of installation. Any updating of electrical systems shall comply with the applicable standards in force at the time the changes occurred. Any and all substandard work shall be repaired to present day National Electrical Code standards.

(5) *Electrical system hazards.* Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient outlets, improper wiring or installation, deterioration or damage, the defects must be corrected to eliminate the hazard.

(Ord. passed - -)

§ 150.04 REMOVAL OR REPAIR.

(A) It should be noted carefully that the act speaks in terms of ordering the owner “to correct the hazardous condition of such building or to raze or remove the same”. Councils should be cautious not to order removal where the hazardous condition can be eliminated by repair. The court in the Ukkonen opinion noted with approval the lower court’s “caution and restraint in the enforcement of the statute’s drastic provisions”, where several extensions of time were granted to give the owner adequate opportunity to make repairs. In an earlier case dealing with a similar order by the state’s Fire Marshal, the Supreme Court said: “The law in question is drastic. It authorizes the destruction of property without compensation. The state, in the exercise of its police power, may do this, but the necessity for this sacrificing private property must clearly appear. The law itself holds out an alternative by which the owner may be directed to alter or repair so as to eliminate danger. When the police power of the state is exerted against property it is ordinarily to regulate its use, not to destroy it. Destroying or depriving the owner thereof is a last resort, unless the property is of such nature that its use or possession cannot be other than for evil. It was said in *York vs. Hargadine*, 142 Minn. 219, 171 N.W. 773, 3 A.L.R. 1627

(1919) that the fire marshal and the courts should exercise the power conferred by the law in question with great caution. Where repairs or alterations can be made lawfully upon a wooden building so as to eliminate the special dangers arising from its location and condition to surrounding property and to person, such repairs or alterations should be ordered rather than a tearing down of the building. The police power cannot be extended by the authority which is intrusted with its exercise to an arbitrary misuse of private rights. (Northwestern Telephone Exchange Co. v. City of Minneapolis, 81 Minn. 140, 83 N.W. 527, 86 N.W. 69, 53 L.R.A. 175 (1900).)”

(B) A municipal council using this statute may avoid controversy with the owner and possible litigation if this principle is observed.

(Ord. passed - -)

Statutory reference:

State Fire Marshal v. Fitzpatrick, 149 Minn. 203, 183 N.W. 141 (1921). The Hazardous Building Law follows the procedure embodied in the State Fire Marshal’s law quite closely, see M.S. § 73.09

§ 150.05 USES OF THIS SUBCHAPTER’S PROVISIONS.

There are two primary uses for the Hazardous Building Law:

(A) The removal or rehabilitation of the single isolated structure whose owners either cannot be found or will not comply with municipal requests for action. This is the typical situation in the smaller municipality. This statute gives municipal councils a direct summary method of proceeding that affords adequate protection to the property owner and the Council itself; and

(B) The systematic removal or rehabilitation of unsound structures from neighborhoods in order to prevent urban blight and decay. In larger cities the law can be used to arrest neighborhood deterioration by removing, on a selective basis, those structures which, if allowed to stand, would ultimately lead to conditions requiring full-scale renewal projects. Such a program can be made part of a Housing and Building Code enforcement program.

(Ord. passed - -)

§ 150.06 OUTLINE OF PROCEDURE.

The following actions are provided for in the statute relating to hazardous buildings.

(A) *Voluntary repair or removal.* The appropriate first action for a city to take is to seek the voluntary repair of the hazardous condition or removal of the building if repair is not suitable. If this cannot be done, the city may obtain the consent of all owners of record, occupying tenants and

lienholders of record and then correct the hazardous condition or remove the building. It may impose a special assessment payable in one to five years to defray the cost (M.S. §§ 463.151 and 463.21, as they may be amended from time to time). See Form No. B1 through B4.

(B) *Order for repair or removal.*

(1) If voluntary repair or removal of a building is impractical, the Council may order the owner of record to correct the hazardous condition or remove the building (M.S. § 463.16, as it may be amended from time to time). The order must be specific as to the grounds, repairs to be made, if any, and a reasonable time for compliance in addition to other required information (M.S. § 463.17, subd. 1, as it may be amended from time to time). The order must be served upon the parties in interest (M.S. § 463.17, subd. 2, as it may be amended from time to time) and filed with proof of service with the Clerk of District Court (M.S. § 463.17, subd. 3, as it may be amended from time to time). See Form No. C1.

(2) (a) If an excavation is hazardous, the Council orders the excavation to be filled or protected or, in the alternative, that erection of a building begin forthwith if the excavation is for building purposes.

(b) If the owner fails to comply with the order within 15 days after service upon him or her, the Council causes the excavation to be filled to grade or protected and the cost charged against the property as provided in the case of hazardous building (M.S. § 463.25, as it may be amended from time to time).

(c) As the term is used here, a **HAZARDOUS EXCAVATION** is one which is left open for more than six months without proceeding with erection of a building, or an excavation or basement which is not filled to grade or otherwise protected after a building is destroyed or removed.

(d) District Court action is not required in the case of excavations. See Form No. D1 through D5.

(C) *District Court action.*

(1) The city files a notice of lis pendens. See Form No. C2.

(2) If no answer to the order is served, the city may move the district court for enforcement of the order (M.S. § 463.19, as it may be amended from time to time). See Form No. C2 through C4.

(3) If an answer is served, the action is tried in district court. The action has priority over all pending civil actions (M.S. §§ 463.18 and 463.20, as they may be amended from time to time).

(4) If the Council's order is sustained by the court, in its original or modified form, the court enters judgement and fixes a time after which the building is to be repaired or destroyed by the city (M.S. § 463.20, as it may be amended from time to time). See Form No. C5 through C7.

(5) If the Council's order is not sustained, the court annuls it and sets it aside.

(6) The city reports its expenses, with receipts from salvage, if any, credited against the expenses. The court then allows expenses as it sees fit, certifying any deficiency to the City Clerk-Administrator-Treasurer, who certifies the amount for collection with taxes against the property.
(Ord. passed - -)

CHAPTER 151: STREETS AND SIDEWALKS

Section

Snow and Ice Removal

- 151.01 Removal required
- 151.02 Property included
- 151.03 Removal by city
- 151.04 Assessment of cost

Street Excavations

- 151.15 Permit required
- 151.16 Application and regulations
- 151.17 Bond
- 151.18 Permit denial
- 151.19 General excavation regulations
- 151.20 Refilling excavations
- 151.21 Map of subsurface installations

Current Assessable Services

- 151.35 Definition
- 151.36 Snow, ice, dirt and rubbish
- 151.37 Weed elimination
- 151.38 Public health and safety hazards
- 151.39 Repair of sidewalks and alleys
- 151.40 Street sprinkling, street flushing, tree care and the like
- 151.41 Personal liability
- 151.42 Damage to public property
- 151.43 Assessment

Cross-reference:

Recreational Vehicles, see Ch. 71

Subdivisions and Zoning, see Ch. 152

Weeds, Grass and Troublesome Plants, see §§ 91.20 through 91.23

SNOW AND ICE REMOVAL**§ 151.01 REMOVAL REQUIRED.**

The owners of any buildings or property having sidewalks abutting their property or buildings and parallel to the street shall remove, or shall cause to be removed, all snow and ice from the sidewalk within 24 hours after its deposit thereon.

(Ord. passed 2-6-1967) Penalty, see § 10.99

§ 151.02 PROPERTY INCLUDED.

This subchapter is to include all sidewalks presently in the city and all sidewalks that will be built in the future and meet the description set forth in § 151.01 of this chapter.

(Ord. passed 2-6-1967)

§ 151.03 REMOVAL BY CITY.

In event of failure of an owner to comply with §§ 151.01 or 151.02 of this chapter, the Street Commissioner or authorized city employee shall have snow and ice removed from these sidewalks. He or she shall keep a record showing the cost of the snow and ice removal for each building or lot and deliver the information to the City Clerk-Administrator-Treasurer.

(Ord. passed 2-6-1967)

§ 151.04 ASSESSMENT OF COST.

The City Clerk-Administrator-Treasurer shall, upon direction of the City Council, extend cost of the snow and ice removal as a special tax against the lots or parcels of ground or buildings abutting the sidewalks cleared, and the tax shall be certified to the County Auditor for collection as other special taxes.

(Ord. passed 2-6-1967)

STREET EXCAVATIONS**§ 151.15 PERMIT REQUIRED.**

No person, except an authorized city employee or a contractor performing work under a contract with the city, shall make any excavation in a street, alley, sidewalk or public ground without first having secured a permit from the City Clerk-Administrator-Treasurer. The fee for the permit shall be an amount

in accordance with the current city fee schedule for each location covered by the permit, but no fee shall be required for an excavation made pursuant to a permit for sewer or water construction.

(Prior Code, § 301.01) Penalty, see § 10.99

§ 151.16 APPLICATION AND REGULATIONS.

The City Clerk-Administrator-Treasurer shall prepare any necessary application forms and permits required under § 151.15 of this chapter. The City Clerk-Administrator-Treasurer shall also prepare rules and regulations with respect to excavations as the Maintenance Department finds necessary to protect the public from injury, prevent damage to public or private property and minimize interference with the public use of streets, alleys, sidewalks and public grounds. Any person making an excavation covered by this subchapter shall comply with the rules and regulations.

(Prior Code, § 301.02)

§ 151.17 BOND.

(A) Any permittee, except a public utility corporation or a bonded plumber, shall file with the City Clerk-Administrator-Treasurer a certified check in the amount of an amount in accordance with the current city fee schedule, conditioned that the permittee will:

(1) Perform work in connection with the excavation in accordance with applicable ordinances and regulations;

(2) Indemnify the city and hold it harmless from all damage caused in the execution of the work; and

(3) Pay all costs and damages suffered by the city by reason of applicable ordinances and regulations or because of negligence in the execution of the work.

(B) The bond shall be approved as to form and legality by the City Attorney. Any permittee, except a public utility corporation, shall furnish proof that the permittee has in existence an insurance policy protecting him, her or it from liability to the public, including the city, to an amount equal to the maximum claim the city might be required to pay under M.S. Ch. 466, as it may be amended from time to time.

(Prior Code, § 301.03)

§ 151.18 PERMIT DENIAL.

Failure to comply with the conditions of this subchapter shall be grounds for denial of future permits.

(Prior Code, § 301.04)

§ 151.19 GENERAL EXCAVATION REGULATIONS.

Street openings shall be made in a matter that will cause the least inconvenience to the public. Provision shall be made for the passage of water along the gutters and at least one-half of the traveled portion of the street shall be left open and in good condition for the safe passage of vehicles. Open excavations shall be guarded with substantial barriers and marked with red flags and at night with red lights or flashing devices. Pipes or mains exposed to freezing temperatures shall be protected so as to prevent freezing. Any person responsible for exposing a city main or a pipe so that it might be damaged by freezing shall be liable to the city for all damages caused by the freezing and all damages sustained by others by the freezing for which the city may be liable.

(Prior Code, § 301.05) Penalty, see § 10.99

§ 151.20 REFILLING EXCAVATIONS.

Every street excavation shall be refilled as soon as possible after the work is completed and paving, sidewalks and appurtenances shall be replaced in at least as good condition as before the excavation to the satisfaction of the Street Committee. All dirt and debris shall be removed immediately. Any person who fails to comply with these requirements within 24 hours after notice from the city shall be liable to the city for the full cost incurred by the city in remedying the defect and restoring the street, sidewalk, alley or public ground to its proper condition. The cost shall be an obligation of the surety on the bond of the permittee.

(Prior Code, § 301.06) Penalty, see § 10.99

§ 151.21 MAP OF SUBSURFACE INSTALLATIONS.

The city's Maintenance Department shall maintain a map showing the location of all utility and other installations made beneath the surface of any public street, grounds or right-of-way. The information on the map shall be sufficiently complete and accurate to permit any one making an excavation in a public place having any underground installation and to properly locate any new underground facilities and shall be recorded on the map as soon as practicable upon the issuance of an excavation permit or the completion of a contract for the installation of city underground installations.

(Prior Code, § 301.07)

CURRENT ASSESSABLE SERVICES**§ 151.35 DEFINITION.**

The term ***CURRENT SERVICE***, as used in this subchapter, means one or more of the following: snow, ice or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to

sidewalks or from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in M.S. §§ 463.15 to 463.26, as they may be amended from time to time; installation or repair of water service lines (street sprinkling, street flushing, light street oiling or other dust treatment of streets; repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect-infected trees from the public streets) or private property; and the operation of a street lighting system.
(Prior Code, § 302.01)

§ 151.36 SNOW, ICE, DIRT AND RUBBISH.

(A) *Duty of owners and occupants.* The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians. No owner or occupant shall allow snow, ice, dirt or rubbish to remain on the walk longer than 12 hours after its deposit thereon.

(B) *Removal by city.* The Street Department shall remove from all public sidewalks all snow, ice, dirt and rubbish as soon as possible beginning 12 hours after any such matter has been deposited thereon or after the snow has ceased to fall. (He or she shall keep a record showing the cost of the removal adjacent to each separate lot and parcel and shall deliver the information to the City Clerk-Administrator-Treasurer for billing the owner.)
(Prior Code, § 302.02) Penalty, see § 10.99

§ 151.37 WEED ELIMINATION.

(A) *Weeds as a nuisance.* Any weeds, whether noxious as defined by law or not, growing upon any lot or parcel of land outside the traveled portion of any street or alley in the city to a greater height than ten inches or which have gone or are about to go to seed are a nuisance. The owner and the occupant shall abate or prevent the nuisance on the property and on land outside the traveled portion of the street or alley abutting on the property.

(B) *Notice.* On or before June 1 of each year, and at such other times as ordered by resolution of the Council, the City Clerk-Administrator-Treasurer shall publish once in the official newspaper a notice directing owners and occupants of property within the city to destroy all weeds declared by division (A) above to be a nuisance and stating that, if not so destroyed within ten days after publication of the notice, the weeds will be destroyed by the Street Department at the expense of the owner and that, if not paid, the charge for the work will be made a special assessment against the property concerned.
(Prior Code, § 302.03) Penalty, see § 10.99

§ 151.38 PUBLIC HEALTH AND SAFETY HAZARDS.

When the city removes or eliminates public health or safety hazards from private property under city ordinance, the administrative officer responsible for doing the work shall keep record of the cost of the

removal or elimination against the parcel of property affected and annually deliver the information to the City Clerk-Administrator-Treasurer.

(Prior Code, § 302.04)

§ 151.39 REPAIR OF SIDEWALKS AND ALLEYS.

(A) *Duty of owner.* The owner of any property within the city abutting a public sidewalk or alley shall keep the sidewalk or alley in repair and safe for pedestrians. Repairs shall be made in accordance with specifications approved by the Council.

(B) *Inspections; notice.* The Street Committee shall make inspections as are necessary to determine that public sidewalks and alleys within the city are kept in repair and safe for pedestrians or vehicles. If it finds that any sidewalks or alley abutting on private property is unsafe and in need of repairs, it shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property or the occupant, if the owner does not reside within the city or cannot be found therein ordering the owner to have the sidewalk or alley repaired and made safe within 30 days and stating that, if the owner fails to do so, the Street Department will do so on behalf of the city. The expense thereof must be paid by the owner and, if unpaid, it will be made a special assessment against the property concerned.

(C) *Repair by the city.* If the sidewalk or alley is not repaired within 30 days after receipt of the notice, the Street Committee shall report the facts to the Council and the Council shall order the Street Department to repair the sidewalks or alley and make it safe or order the work done by contract in accordance with law. The City Clerk-Administrator-Treasurer shall keep a record of the total cost of the repair attributable to each lot or parcel of property.

(Prior Code, § 302.05) Penalty, see § 10.99

§ 151.40 STREET SPRINKLING, STREET FLUSHING, TREE CARE AND THE LIKE.

The Council shall, each year, determine what streets and alleys shall be sprinkled or flushed, oiled or given other dust treatment during the year and the kind of work to be done on each. The Council shall also determine from time to time the streets on which trees shall be trimmed and care for, the kind of work to be done and what unsound trees shall be removed.

(Prior Code, § 302.06)

§ 151.41 PERSONAL LIABILITY.

The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of the service. As soon as the service has been completed and the cost determined, the City Clerk-Administrator-Treasurer, or other designated officials, shall prepare a bill

and mail it to the owner and, thereupon, the amount shall be immediately due and payable at the office of the City Clerk-Administrator-Treasurer.

(Prior Code, § 302.07)

§ 151.42 DAMAGE TO PUBLIC PROPERTY.

Any person driving any vehicle, equipment, object or contrivance upon any street, road, highway or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of the vehicle, equipment or object or contrivance; or as a result of operating, driving or moving any vehicle, equipment, object or contrivance weighing in excess of the maximum weight permitted by statute or this code. When the driver is not the owner of the vehicle, equipment or object, but is so operating the same, then the owner and the driver shall be jointly and severally liable for any damage. Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien under state statutes.

(Prior Code, § 302.08)

§ 151.43 ASSESSMENT.

On or before September 1 of each year, the City Clerk-Administrator-Treasurer shall list the total unpaid charges for each type of current service against each separate lot or parcel to which they are attributable under this subchapter. The Council may then spread the charges against property benefitted as a special assessment under M.S. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the Council may determine in each case.

(Prior Code, § 302.09)

CHAPTER 152: SUBDIVISIONS AND ZONING

Section

General Provisions

- 152.001 Statutory authorization
- 152.002 Jurisdiction
- 152.003 Enforcement
- 152.004 Interpretation
- 152.005 Severability; validity
- 152.006 Abrogation and greater restrictions
- 152.007 Definitions

Administration Generally

- 152.020 Permits
- 152.021 Certificate of zoning compliance
- 152.022 Variances
- 152.023 Notifications to Department of Natural Resources

Variances, Appeals, Conditional Uses and Amendments

- 152.035 Generally
- 152.036 Procedures
- 152.037 Findings of fact
- 152.038 Variances; conditions for granting
- 152.039 Application guidelines
- 152.040 Amendments
- 152.041 Lapses
- 152.042 Certified copies required
- 152.043 Appeals

Land Use Districts

- 152.055 District descriptions
- 152.056 Annexations and detachments
- 152.057 Land use district boundaries

Parkers Prairie - Land Usage

- 152.058 District regulations generally
- 152.059 Use and degrading of inconsistent land use districts

R-1, Single-Family Residential District

- 152.070 Permitted uses
- 152.071 Conditional uses
- 152.072 Lot requirements

R-2, Medium Density Residential District

- 152.085 Permitted uses
- 152.086 Conditional uses
- 152.087 Lot requirements

R-3, High Density Residential District

- 152.100 Purpose
- 152.101 Permitted uses
- 152.102 Conditional uses
- 152.103 Lot requirements

C, Commercial District

- 152.115 Purpose
- 152.116 Permitted uses
- 152.117 Conditional uses
- 152.118 Lot requirements

I, Industrial District

- 152.130 Purpose
- 152.131 Permitted uses
- 152.132 Conditional uses
- 152.133 Lot requirements

O, Open Development District

- 152.145 Purpose
- 152.146 Permitted uses
- 152.147 Conditional uses
- 152.148 Lot requirements

Shoreland District

- 152.160 Shoreland classification system
- 152.161 Permitted uses
- 152.162 Conditional uses
- 152.163 Lot area and water supply/sanitary provisions
- 152.164 Additional special provisions
- 152.165 Placement, design and height of structures
- 152.166 Design criteria for structures
- 152.167 Shoreland alterations
- 152.168 Vegetation alterations
- 152.169 Topographic alterations; grading and filling
- 152.170 Placement and design of roads, driveways and parking areas
- 152.171 Storm water management
- 152.172 Agricultural and forest management areas
- 152.173 Procedures and review for conditional uses

Residential Planned Unit Developments in Shorelands (PUDs)

- 152.185 Types of permissible PUDs
- 152.186 Processing PUDs
- 152.187 Application for PUDs
- 152.188 Site “suitable area” evaluation
- 152.189 Residential PUD density evaluation
- 152.190 Maintenance and design criteria
- 152.191 Conversions

Non-Conformances

- 152.205 Continuances
- 152.206 Construction on non-conforming lots of records
- 152.207 Additions/expansions to non-conforming structures
- 152.208 Non-conforming use of land
- 152.209 Non-conforming sewage treatment systems

Water Supply and Sewage Treatment

- 152.220 Water supply
- 152.221 Sewage treatment
- 152.222 Licensing requirements

Parkers Prairie - Land Usage***Signs***

- 152.235 Purpose
- 152.236 Prohibited signs
- 152.237 Sign permits; conditional use permits
- 152.238 Exemptions

Subdivisions and Platting

- 152.250 Land suitability
- 152.251 Consistency with other controls
- 152.252 Information requirements
- 152.253 Dedications
- 152.254 Platting
- 152.255 Safe routes to school

Supplementary Regulations

- 152.270 Off-street parking and loading
- 152.271 Yard storage
- 152.272 Refuse
- 152.273 Fences
- 152.274 Temporary family health care dwellings

Manufactured Home Park Requirements

- 152.290 Purpose
- 152.291 Requirements
- 152.292 Design standards
- 152.293 Setbacks
- 152.294 Parking
- 152.295 Utilities
- 152.296 Streets
- 152.297 Buffer area
- 152.298 Recreation
- 152.299 Lighting
- 152.300 Skirting
- 152.301 Storm shelters

- 152.999 Penalty

GENERAL PROVISIONS

§ 152.001 STATUTORY AUTHORIZATION.

(A) This chapter is adopted pursuant to the authorization and policies contained in M.S. Ch. 103G, as it may be amended from time to time, Minn. Regs. parts 6120.2500 through 6120.3900, as they may be amended from time to time and the planning and zoning enabling legislation in M.S. Ch. 462, as it may be amended from time to time.

(B) (1) The uncontrolled use of lands of the city affects the public health, safety and general welfare not only by contributing to pollution of ground and surface waters, but also impairing the local tax base.

(2) Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of lands. The legislature of the state has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the land and thus preserve and enhance the quality of waters, conserve economic and natural environmental values of land and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the community of the city.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.002 JURISDICTION.

(A) The provisions of this chapter shall apply to all zoning use districts in the city limits.

(B) The use of lands, public waters, the size and shape of lots, the use, size, type and location of structures on lots, the installation and maintenance of water supply and waste treatment system, the grading and filling of any shoreland area, the cutting of shoreland vegetation and the subdivision of land shall be in full compliance with the terms of this chapter and other applicable regulations.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.003 ENFORCEMENT.

(A) The City Clerk-Administrator-Treasurer is responsible for the administration and enforcement of this chapter.

(B) Any violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable, as defined by law.

(C) Violations of this chapter can occur regardless of whether or not a permit is required for a regulated activity pursuant to § 152.020 of this chapter.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.004 INTERPRETATION.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.005 SEVERABILITY; VALIDITY.

(A) If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

(B) Should a court of competent jurisdiction declare any part of this chapter to be invalid, the decision shall not affect the validity of the remainder.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.006 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.007 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. For the purpose of this chapter, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

ABANDONED MOTOR VEHICLE. A motor vehicle as defined in M.S. § 169.011, as it may be amended from time to time, that:

- (1) Has remained for a period of more than 48 hours on public property illegally;

(2) Has remained for a period of more than 48 hours on public property and is lacking vital component parts such that it is in an inoperable condition;

(3) Has remained for a period of more than 48 hours on private property without the consent of the person in control of the property;

(4) Has remained for a period of more than 48 hours on private property, with or without the consent of the person in control of the property which is in an inoperable condition such that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building; or

(5) Has been voluntarily surrendered by its owner to a unit of government or person duly licensed pursuant to M.S. § 168B.10, as it may be amended from time to time, and these regulations; except that, a classic car or pioneer car, as defined by statute, shall not be considered an abandoned motor vehicle within the meaning of these regulations.

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

ADVERTISING SIGNS. A billboard, poster panel board, painted bulletin board or other communicative device which is used to advertise products, goods and/or services which are not exclusively related to the premise on which the sign is located.

AGRICULTURE. The use of the land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce; provided, however, that, the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.

AGRICULTURAL BUILDING OR STRUCTURE. An agricultural building or structure shall imply any building or structure existing or erected on land used principally for agricultural purposes, with the exception of dwelling units.

ALLEY. A public right-of-way which affords secondary access to abutting property.

ANIMAL FEEDLOT. A lot or building or a group of lots or buildings intended for the confined feeding, breeding, raising or holding of animals.

APARTMENT. A room or suite of rooms which is designed for, intended for or occupied as a residence, and is equipped with cooking facilities.

AUTOMOBILE WRECKING OR JUNK YARD. A place where two or more vehicles not in running condition and/or not currently licensed, or parts thereof, are stored in the open and are not being restored to operation, or any land, buildings or structure used for wrecking or storing of the motor vehicles or

parts thereof, and including any commercial salvaging and scavenging of any goods, articles or merchandise.

BLOCK. The property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets or railroad right-of-way or unsubdivided acreage.

BLUFF. A topographic feature such as a hill, cliff or embankment having the following characteristics (an area with an average slope of less than 18% over a distance of 50 feet or more shall not be considered part of the **BLUFF**):

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

BLUFF IMPACT ZONE. A bluff and land located within 20 feet from the top of a bluff.

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

BUFFER. An unused parcel of land between adjoining property and kept in a sightly manner.

BUILDING. Any structure which is built for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

BUILDING HEIGHT. The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or highest gable of a pitched or hipped roof.

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

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

COMMISSIONER. The Commissioner of the Department of Natural Resources.

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

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

DWELLING, SINGLE-FAMILY. A free standing (detached) structure designed for, or occupied by, one family only. A **SINGLE-FAMILY DWELLING** must be a minimum of 24 feet wide.

DWELLING, TWO-FAMILY. A residence designed for, or occupied by two families only with separate housekeeping and cooking facilities for each. The residence must be attached and be a minimum of 24 feet wide.

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

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

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

ESSENTIAL SERVICES. Overhead or underground electrical, gas, steam or water transmission or distribution systems and structures of 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 and accessories connecting therewith, but not including buildings. For the purposes of this chapter, the word “building” does not include “structures” for **ESSENTIAL SERVICES**.

EXTRACTIVE USE. The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals and peat not regulated under M.S. §§ 93.44 to 93.51, as they may be amended from time to time.

FAMILY. One or more persons occupying a single housekeeping unit and using common cooking facilities; provided that, unless all members are related by blood or marriage, no such **FAMILY** shall contain over four persons.

FENCE. A barrier made of posts and wire or boards, intended to prevent intrusion or escape of property or beautification purposes.

FOREST LAND CONVERSION. The clear cutting of forest lands to prepare for a new land use other than reestablishment of a subsequent forest land.

GARBAGE. Discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

GUEST COTTAGE. A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

HARDSHIP. The same as that term is defined in M.S. Ch. 462, as it may be amended from time to time.

HOME OCCUPATION. Any use customarily conducted entirely within a dwelling and carried on by the inhabitants herein, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

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

INTENSIVE VEGETATION CLEARING. The complete removal of trees or shrubs in a contiguous patch, strip, row or block.

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

LOT AREA. The gross area of a horizontal plane bounded by the front, side and rear lot lines.

LOT CORNER. A lot situated at the junction or abutting on two or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is 135 degrees.

LOT DEPTH. The horizontal distance between the front lot line and the rear lot line of a lot, measured within the lot lines.

LOT FRONT. The boundary abutting a public road right-of-way.

LOT LINE. A property boundary of any lot held in separate ownership; except that where any portion of the lot extends into the abutting alley or street, the ***LOT LINE*** shall be deemed to be the street or alley line.

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

MANUFACTURED HOME COURT. A parcel of land under single ownership which has been planned and improved for the placement of manufactured homes.

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

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

ON-SITE PARKING SPACE. A parking space that comprises not less than 180 square feet of parking, plus necessary maneuvering space. Space for maneuvering incidental to parking or unparking shall be accessible from a public way.

OPEN BURNING. Burning of any matter whereby the resultant combustion products are emitted directly to the open atmosphere without passing through an adequate stack, duct or chimney.

PUBLIC WATERS. Any waters as defined in M.S. § 103G.005, as it may be amended from time to time.

REFUSE. Solid waste, including garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, market and industrial solid waste, and including sewage treatment waste which are in solid form.

RESIDENTIAL PLANNED UNIT DEVELOPMENT. A use where the nature of residency is non-transient and the major or primary focus of the development is not service-oriented. For example, townhouses and full fee ownership residences would be considered as **RESIDENTIAL PLANNED UNIT DEVELOPMENTS**. To qualify as a **RESIDENTIAL PLANNED UNIT DEVELOPMENT**, a development must contain at least five dwelling units or sites.

SEMI-PUBLIC USE. The use of land by a private, non-profit organization to provide a public service that is ordinarily open to some persons outside the regular consistency of the organization.

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

SETBACK. The minimum horizontal distance between a structure, sewage treatment system or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line or other facility.

SEWAGE TREATMENT. A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Minn. Rules Ch. 7080, as it may be amended from time to time or current sanitation codes.

SEWER SYSTEM. Pipelines or conduits, pumping stations and force main, and all other construction, devices, appliances or appurtenances used for conducting sewage or industrial waste or other waste to a point of ultimate disposal.

SHORE IMPACT ZONE. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the structure setback.

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

SIGNIFICANT HISTORIC SITE. Any archaeological site, standing structure or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of M.S. § 307.08, as it may be amended from time to time. A **HISTORIC SITE** meets these criteria if it is presently listed on either register or if it is determined to meet qualifications for listing after review by the State Archaeologist or the Director of the state's Historical Society. All unplatted cemeteries are automatically considered to be **SIGNIFICANT HISTORIC SITE**.

STEEP SLOPE. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this chapter. Where specific information is not available, **STEEP SLOPES** are lands having average slopes over 12%, as measured over horizontal distances of 50 feet or more, that are not bluffs.

STRUCTURE. Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles and other supporting facilities.

SUBDIVISION. Land that is divided for the purpose of sale, rent or lease, including planned unit developments.

SURFACE WATER-ORIENTED COMMERCIAL USE. The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts and restaurants with transient docking facilities are examples of such use.

TOE OF THE BLUFF. The lower point of a 50-foot segment with an average slope exceeding 18%.

TOP OF THE BLUFF. The higher point of a 50-foot segment with, an average slope exceeding 18%.

VARIANCE. The same as that term is defined or described in M.S. Ch. 462, as it may be amended from time to time.

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

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

YARD. An open space on the lot which is unoccupied and unobstructed from its lowest level to the sky. The **YARD** extends along the line at right angles to the lot line to a depth or width specified in the setback regulations for the use proposed.

YARD, FRONT. The portion of the yard on the same lot with the principal building located between the front line of the building and the front line and extending for the full width of the lot. The front lot line is conterminous with the right-of-way line of the public street which the lot abuts.

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.

YARD, SIDE. The yard extending along the side lot line between the front and rear yards. (Ord. passed 5-4-1992; Ord. passed 8-15-2005)

ADMINISTRATION GENERALLY

§ 152.020 PERMITS.

(A) A permit is required for the construction of buildings of more than 16 square feet in size or building additions (and including such related activities as constructions of decks, signs and fences), the installation and/or alteration of sewage treatment systems and those grading and filling activities of the Shoreland Use District not exempted by this chapter. Application for a permit shall be made to the City Clerk-Administrator-Treasurer on the forms provided. The application shall include the necessary information so that the City Clerk-Administrator-Treasurer can determine the site's suitability for the intended use and that compliant sewage treatment or sewer system will be provided. The fee charged for any permit or license shall be in accordance with the city's permit and license fee schedule.

(B) A permit authorizing an addition to an existing structure shall stipulate that an identified non-conforming sewage treatment system, as defined by § 152.209 of this chapter, shall be reconstructed or replaced in accordance with the provisions of this chapter if applicable.

(C) A fee payable to the city shall be required by the city before a permit for moving or erecting a building onto a tract may be issued.

(D) An approved conditional use permit is required by the city before a permit for moving a used building onto a tract may be issued.

(E) No contractor or individual shall perform work upon a project requiring a permit under this chapter unless the permit has been issued and until he or she has verified the accuracy of setback distances and building size.

(F) Before any permit is approved, the landowner at his, her or their own expense must identify all boundary lines of the property for which the permit is being applied for and submit a drawing to the City Clerk-Administrator-Treasurer showing the location existing buildings and improvements being proposed.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.021 CERTIFICATE OF ZONING COMPLIANCE.

The City Clerk-Administrator-Treasurer shall issue a certificate of zoning compliance for each activity requiring a permit as specified in § 152.020 of this chapter. This certificate will specify that the use of land conforms to the requirements of this chapter. Any use, arrangement or construction at variance with that authorized by permit shall be deemed a violation of this chapter and shall be punishable as provided in § 152.003 of this chapter.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.022 VARIANCES.

(A) Variances may only be granted in accordance with M.S. Ch. 462, as it may be amended from time to time, as applicable. A variance may not circumvent the general purposes and intent of this chapter. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the Board of Adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

(B) (1) The Board of Adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business.

(2) When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in

§ 152.023 of this chapter shall also include the Board of Adjustment's summary of the public record/testimony and the findings of facts and conclusion which supported the issuance of the variance.

(C) For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system, if applicable, is present for the intended use of the property. The variance, if issued, must require reconstruction of a non-conforming sewage treatment system. (Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.023 NOTIFICATIONS TO DEPARTMENT OF NATURAL RESOURCES.

(A) Copies of all notices of any public hearings to consider variances, amendments or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

(B) A copy of approved amendments and subdivisions/plats and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked within ten days of final action. (Ord. passed 5-4-1992; Ord. passed 8-15-2005)

VARIANCES, APPEALS, CONDITIONAL USES AND AMENDMENTS

§ 152.035 GENERALLY.

The City Council shall consider any requests for amendments and conditional use permits. The City Council shall serve as the Board of Adjustment and hear and decide any variance requests. The City Council shall hear and decide any appeals pursuant to this chapter where it is alleged that there is an error in any order, requirements, decisions or determination made by an administrative official in the enforcement of this chapter. (Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.036 PROCEDURES.

(A) Request for variances, appeals and amendments or conditional use permits, as provided within this chapter, shall be filed with the City Clerk-Administrator-Treasurer on an official application form. The application shall be accompanied by a fee, which shall not be refunded. Complimentary copies of detailed written and graphic materials fully explaining the proposed request shall also accompany the application. The City Clerk-Administrator-Treasurer shall refer the application, along with all related information, to the City Council for consideration at least ten days before the next regular meeting.

(B) The City Clerk-Administrator-Treasurer shall set a date for a public hearing. Notice of the hearing shall be published in the official newspaper of the municipality at least ten days prior to the date of the hearing. The notice shall also be mailed not less than ten days prior to date of hearing to all property owners of record, according to the County Auditor, within 350 feet of the property to which the request relates. A copy of the notice and a list of the property owners and addresses to which the notices were sent shall be attested to by the City Clerk-Administrator-Treasurer and made part of the official record. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this section has been made.

(C) The City Council shall consider the request and hold a public hearing at its next regular meeting unless the filing date falls within 15 days of the meeting; in which case, the request would be placed on the agenda and considered at the regular meeting following the next regular meeting. The City Clerk-Administrator-Treasurer shall refer the application, along with all related information, to the City Council for consideration. The applicant or a representative of the applicant shall appear before the City Council in order to answer questions concerning the proposed request.

(D) The City Clerk-Administrator-Treasurer and City Council shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors; the information to be declared necessary to establish performance conditions in relation to all pertinent sections of this chapter.

(E) Within 60 days from the date of the completed application, the City Council shall either:

(1) Approve or disapprove the request; or

(2) Approve the request with modifications, alterations or differing conditions. The modifications, alterations or differing conditions shall be in writing and made part of the Council's record.

(F) Approval of the request shall require passage by a majority vote of the full City Council. The City Clerk-Administrator-Treasurer shall notify the applicant of the Council's action in writing.

(G) The decisions of the City Council shall be final subject to judicial review.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.037 FINDING OF FACTS.

In considering all requests for variances, appeals, amendments or conditional use permits, the Council's judgments shall be based upon, but not limited to the following factors:

(A) Relationship to the city's ordinance;

- (B) The geographical area involved;
- (C) The character of the surrounding area;
- (D) The availability and design capacities of existing or proposed utilities;
- (E) Whether a request will tend to or actually depreciate the surrounding area;
- (F) Whether the request will place an undue financial burden on the city;
- (G) Whether the request will impair an adequate supply of light and air to adjacent property;
- (H) Whether the request will unreasonably increase the congestion in the public right-of-way;
- (I) Whether the request will increase the danger of fire or endanger the public safety; and
- (J) Whether the request is consistent with the spirit and intent of the chapter.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.038 VARIANCES; CONDITIONS FOR GRANTING.

(A) When a variance from the standards set forth in this chapter is authorized, the person(s) seeking the variance may apply for a variance pursuant to § 152.036(B) of this chapter. As required by M.S. § 462.357, subd. 6(2), as it may be amended from time to time, a variance shall only be permitted when: it is in harmony with the general purposes and intent of this chapter; it is consistent with any Comprehensive Plan adopted by the city; and, only when the applicant for the variance establishes that there are practical difficulties in complying with this chapter.

(B) For these purposes, *PRACTICAL DIFFICULTIES* means that: the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005; Ord. 2018-04, passed 10-15-2018)

§ 152.039 APPLICATION GUIDELINES.

(A) In approving requests for variances, appeals, amendments or conditional use permits, the City Council may require certain conditions upon approval of the request.

- (B) The conditions for approval may include the following:

Parkers Prairie - Land Usage

- (1) The land area and setback requirements of the property containing such a use or activity shall be the minimum established for the district;
- (2) When abutting a residential district with a commercial use, the property shall be screened and landscaped in an appropriate manner;
- (3) Where applicable, all city, state and federal laws, regulations and ordinance shall be complied with and all necessary permits secured;
- (4) Adequate off-street parking and loading shall be provided in accordance with the request of the Council. The parking and loading shall be screened and landscaped from abutting residential uses;
- (5) The proposed water, sewer and other utilities shall be capable of accommodating the proposed use;
- (6) The street serving the use or activity is of sufficient design to accommodate the proposed use or activity, and the use or activity shall not generate additional traffic to create a nuisance or hazard to existing traffic or to surrounding land uses;
- (7) All access roads, driveways, parking areas and outside storage, service or sales areas shall be surfaced or grassed to control dust and drainage;
- (8) All open and outdoor storage, sales and services areas shall be screened for view from the public streets and from abutting residential uses or districts;
- (9) All lighting shall be designed as to have no direct source of light visible from adjacent residential areas or from the public streets;
- (10) The use or activity shall be properly drained to control surface water runoff;
- (11) The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or areas as to cause impairment in property values or constitute a blighting influence; and
- (12) All conditions pertaining to a specific request are subject to change when the Council, upon investigation, finds that the community safety, health, welfare and public betterment can be served as well or better by modifying the conditions.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.040 AMENDMENTS.

The City Council may, upon its own motion, initiate a request to amend the text or the district boundaries of this chapter. Any person owning real estate within the city may initiate a request to amend the district boundaries or text of this chapter so as to affect the real estate.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.041 LAPSES.

Whenever, within one year after granting a variance, appeal or conditional use permit, the work, as permitted by the variance, appeal or conditional use permit, shall not have been completed, then the variance, appeal or conditional use permit shall become null and void unless a petition for extension of time in which to complete the work has been granted by the City Council. The extension shall be requested in writing and filed with the City Clerk-Administrator-Treasurer at least 30 days before the expiration of the original variance, appeal or conditional use permit. There shall be no charge for the filing of the petition. The request for extension shall state facts showing a good attempt to complete the work permitted in the variance, appeal or conditional use permit. The petition shall be presented to the Council for a decision. The extension shall be allowed only once.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.042 CERTIFIED COPIES REQUIRED.

A certified copy of every ordinance, or amendment of the zoning ordinance, shall be filed with the Recorder's office of the county. Ordinances or amendments so filed pursuant to this subchapter do not constitute encumbrances on real property.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.043 APPEALS.

Appeals from any decision of the City Council may be taken by any person or persons, jointly or several aggrieved by any decision of the Council, the District Court of this jurisdiction. This appeal shall be made within 30 days of the decision of the City Council.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

*LAND USE DISTRICTS***§ 152.055 DISTRICT DESCRIPTIONS.**

(A) For the purposes of this chapter, the city is divided into land use districts as shown on the accompanying map entitled, “Official Parkers Prairie Zoning Map”, which is hereby made a part of this chapter.

(B) The land use districts are:

- (1) R-1, Single-Family Residential District;
- (2) R-2, Medium Density Residential District;
- (3) R-3, High Density Residential District;
- (4) C, Commercial;
- (5) I, Industrial District;
- (6) O, Open Development; and
- (7) S, Shoreland District

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 153.056 ANNEXATIONS AND DETACHMENTS.

In the event of changes in the city limits removing territory from the city, districts boundaries shall be construed as moving with city limits. In the event of annexation of new areas to the city, the areas shall be considered to be in the O District unless it is within 1,000 feet of shorelands or unless otherwise classified.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 153.057 LAND USE DISTRICT BOUNDARIES.

(A) Boundaries indicated as approximately following the centerlines of streets, highways, alleys or railroad lines shall be construed to follow the lines.

(B) Boundaries indicated as approximately following platted lot lines shall be construed as following the lot lines.

(C) Boundaries indicated as approximately following city limits shall be construed as following city limits.

(D) Shorelands Districts shall always be 1,000 feet of the ordinary high water level of lakes. (Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.058 DISTRICT REGULATIONS GENERALLY.

The regulations of this chapter within each district shall be minimum regulations and shall apply uniformly to each district, except as provided.

(A) No buildings, structure or land shall hereafter be used or occupied, and no building, structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered, except in conformity with all of the regulations herein specified for the district in which it is located.

(B) No building or structure shall hereafter be erected or altered, to exceed the height or bulk, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, to have a narrower or smaller rear yards, front yards, side yards or other open spaces, than herein required; nor in any manner contrary to the provisions of this chapter.

(C) No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements established by this chapter.

(D) No buildings or structures shall hereafter be erected or relocated to any property unless anchor bolts attach it, or some other recognized fastening system, to a footing, foundation or slab. For the purpose of this section, piers, tie downs, anchors, straps or strapping are not recognized fastening systems.

(E) Buildings or structures may hereafter be erected or relocated and secured to piers with tie downs, anchors, straps or strapping to any property designated and recognized by the city as a manufactured home park.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005; Ord. passed 10-20-1997)

§ 152.059 USE AND UPGRADING OF INCONSISTENT LAND USE DISTRICTS.

(A) (1) The land use districts adopted by this chapter in § 152.055(B) of this chapter, as they apply to each district, and their delineated boundaries on the official zoning map, are not consistent with the land use district designation criteria specified in §§ 152.055 through 152.059 of this chapter.

(2) These inconsistent land use districts designations may continue until revisions are proposed to change either the land use district designation within an existing land use district boundary shown on the official zoning map or to modify the boundary of an existing land use district shown on the official zoning map.

(B) When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply.

(1) The land use district boundaries and use provisions therein for all the districts areas within the jurisdiction of the ordinance of the district must be revised to make them substantially compatible with the framework of the land use district.

(2) When an interpretation question arises about whether a specific land use fits within a given “use” category, the interpretation shall be made by the Board of Adjustment. When a question arises as to whether a land use district’s boundaries are properly delineated on the official zoning map, this decision shall be made by the City Council.

(3) (a) When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question.

(b) The City Council will direct the City Clerk-Administrator-Treasurer to provide additional information for this district as is necessary to satisfy divisions (B)(1) and (B)(2) above.

(C) The City Council must make a detailed finding of fact and conclusion when taking final action that this revision, and the upgrading of any inconsistent land use district designations on said district, are consistent with the enumerated criteria and use provisions of §§ 152.055 through 152.059 of this chapter.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT

§ 152.070 PERMITTED USES.

The following are permitted uses in an R-1 District:

(A) Single-family dwellings;

(B) Public parks, playgrounds;

(C) Private garages and carports for licensed and operable cars and trucks not to exceed a gross capacity of 9,000 pounds. Private garages are intended for use to store the private passenger vehicles of the family resident upon the premises;

(D) Accessory buildings for storage of domestic supplies and non-commercial recreational equipment. One accessory structure per parcel is allowed;

(E) Private garages and accessory buildings must be sided and roofed with material that is harmonious with the material used on the residential structure;

(F) Pole buildings are not allowed; and

(G) Storage buildings of 100 square feet or less are exempt from the requirements of division (E) above.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.071 CONDITIONAL USES.

The following are conditional uses in an R-1 District only upon the issuance of a conditional use permit as specified in this chapter:

(A) Home occupations; provided that, the occupation are carried on in the main building; and, further that, not more than 25% of the floor space of the dwelling is used for the occupation, and that only articles made on the premises shall be sold on the premises and that no articles for sale shall be displayed so as to be visible from the street. Home day care providers shall be exempt from the floor space requirements of this subchapter; and

(B) Other uses of the same general character; provided, they are deemed fitting and compatible to the district by the City Council.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.072 LOT REQUIREMENTS.

The following minimum lot requirements shall apply to all single-family dwellings in the R-1 Zone.

(A) Each single-family dwelling together with its accessory buildings herein erected shall be located on a lot having an area of not less than 15,000 square feet and a width of not less than 100 feet and a depth of not less than 140 feet.

(B) A dwelling may be erected on a lot having less than the forgoing minimum areas and width; provided:

(1) It existed as a separate tract of land by virtue of a recorded plat or deed prior to the enactment of this chapter; and

(2) The tract is served by a city approved sewer and water system.

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

(D) All dwellings and accessory buildings on any lot shall not cover more than 30% of the lot.

Parkers Prairie - Land Usage

(E) No building shall be erected, reconstructed, altered or moved nearer to the street line on which it faces than the average setback observed by the buildings on the same side of the street of the same block. Further, no building shall be:

- (1) Closer than 15 feet from the right-of-way of a city street of existing lots and 30 feet from lots platted after the date of the adoption of this chapter;
- (2) Closer than ten feet from the right-of-way of an alley;
- (3) Closer than ten feet of a side property line;
- (4) Each lot shall have a rear yard of not less than 25 feet for the dwelling and not less than ten feet for garages and accessory buildings;
- (5) Closer than 50 feet from the right-of-way of a comity, county state aid or state highway;
- (6) Twenty-five feet in height; and
- (7) Constructed or moved on a parcel of land in which the main floor of the structure is less than 18 inches above street level which will allow for water runoff and therefore prevent flooding. (Ord. passed 5-4-1992; Ord. passed 1-11-1993; Ord. passed 5-19-1997; Ord. passed 8-15-2005)

R-2, MEDIUM DENSITY RESIDENTIAL DISTRICT**§ 152.085 PERMITTED USES.**

- (A) All permitted uses allowed in the R-1 District; and
- (B) Two-family dwelling units.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.086 CONDITIONAL USES.

The following are conditional uses in the R-2 District only upon the issuance of a conditional use permit as specified in this chapter:

- (A) All conditional uses in the R-1 District;
- (B) Conversion of single-family units into multiple family units;
- (C) Multiple-family dwelling structures containing not more than four units; and

(D) Other uses of the same general character; provided, they are deemed fitting and compatible to the district by the City Council.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.087 LOT REQUIREMENTS.

The following minimum lot requirements shall apply to all dwellings in the R-2 District.

(A) Each single and two family dwellings together with its accessory buildings here after erected shall be located on a lot having an area of not less than 15,000 square feet and width of not less than 100 feet and a depth of not less than 140 feet.

(B) All requirements of § 152.072 of this chapter shall apply to land within the R-2 District.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

R-3, HIGH DENSITY RESIDENTIAL DISTRICT

§ 152.100 PURPOSE.

The purpose of the R-3 High Density Residential District is to provide for medium to high density residential uses and directly related accessory uses.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.101 PERMITTED USES.

(A) Two family dwelling units;

(B) Residential planned unit developments; and

(C) Nursing homes.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.102 CONDITIONAL USES.

(A) All conditional uses in the R-2 District;

(B) Single-family dwelling units; and

(C) Manufactured home parks.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.103 LOT REQUIREMENTS.

(A) The following minimum lot requirements shall apply in the R-3 Zone:

- (1) Two-family unit: 5,000 square feet per unit;
- (2) Residential planned unit development: 5,000 square feet per unit;
- (3) Over three units: 4,000 square feet per unit;
- (4) Manufactured home: 4,000 square feet per unit; and
- (5) Nursing home: 2,000 square feet per unit.

(B) All requirements of §§ 152.070 through 152.072 of this chapter shall apply to land within the R-3 District.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

C, COMMERCIAL DISTRICT

§ 152.115 PURPOSE.

The purpose of the Commercial District is to provide for high density commercial activity within a compact area.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.116 PERMITTED USES.

- (A) All retail commercial activities;
 - (B) Medical, professional and other service related activities;
 - (C) Motels, hotels, restaurants and liquor establishments; and
 - (D) Adult uses and sexually-oriented businesses.
- (Ord. passed 5-4-1992; Ord. passed 8-15-2005; Ord. passed 8-15-2005)

§ 152.117 CONDITIONAL USES.

(A) Salvage/junk yards;

(B) Bed and breakfast; and

(C) Any legitimate business use; provided, it is the same general character as those listed under permitted uses; and, provided, it is deemed fitting and compatible to the district by the City Council and the City Council.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.118 LOT REQUIREMENTS.

(A) Lots served by central sewer: 15,000 square feet.

(B) Lots served by on-site sewer: 30,000 square

(C) Lot depth: 140 feet minimum.

(D) Lot width: 100 feet minimum.

(E) Setback requirements are to be set by the City Council on a case-by-case basis through a variance application.

(Ord. passed 5-4-1992; Ord. passed 1-11-1993; Ord. passed 8-15-2005)

I, INDUSTRIAL DISTRICT

§ 152.130 PURPOSE.

The purpose of the Industrial District is to establish and preserve areas for industrial and related uses of a nature that they do not create serious problems of compatibility with other kinds of land uses.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.131 PERMITTED USES.

Manufacturing, wholesaling and bulk storage plants.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.132 CONDITIONAL USES.

(A) Junk/salvage yards; and

(B) Any legitimate use; provided, it is of the same general character as those listed under permitted uses; and, provided, it is deemed fitting and compatible to the district by the City Council.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.133 LOT REQUIREMENTS.

(A) Lots served by central sewer: 15,000 square feet.

(B) Lots served by on-site sewer: 30,000 square feet.

(C) Lot depth: 140 feet minimum.

(D) Lot width: 100 feet minimum.

(E) All requirements of § 152.072 of this chapter.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

O, OPEN DEVELOPMENT DISTRICT**§ 152.145 PURPOSE.**

The purpose of the Open Development District is to allow for future planning of all lands in the city not classified. Land hereafter annexed shall become open development district, except if within 1,000 feet of a lake, and shall remain until rezoned by the City Council.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.146 PERMITTED USES.

(A) All uses permitted in the R-1 District; and

(B) Agriculture.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.147 CONDITIONAL USES.

Any legitimate use; provided, it is of the same general character as those listed under permitted uses; and, provided, it is deemed fitting and compatible to the district by the City Council.
 (Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.148 LOT REQUIREMENTS.

- (A) Lots served by central sewer: 15,000 square feet.
- (B) Lots served by on-site sewer: 30,000 square feet.
- (C) Lot depth: 140 feet minimum.
- (D) Lot width: 100 feet minimum.

(E) All requirements of § 152.072 of this chapter.
 (Ord. passed 5-4-1992; Ord. passed 8-15-2005)

SHORELAND DISTRICT

§ 152.160 SHORELAND CLASSIFICATION SYSTEM.

The public waters of the city have been classified below and are consistent with the criteria found in Minn. Regs. part 6120.3300, as it may be amended from time to time and the “Protected Waters Inventory Map for Otter Tail County, Minnesota”.

(A) The shoreland area for the waterbodies listed in division (B) below shall be as defined in § 152.007 of this chapter and as shown in the official zoning map.

(B) Lakes:

General Development Lakes	Protected Waters Inventory I.D. #
Adley	56-31
Natural Environment Lakes	Protected Waters Inventory I.D. #
Cora	56-23

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.161 PERMITTED USES.

- (A) Single-family dwellings (only one single-family dwelling per lot);
- (B) Two detached accessory structures of less than 576 square feet;
- (C) Agriculture, cropland and pasture; and
- (D) Forest management.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.162 CONDITIONAL USES.

- (A) Residential planned unit development; and
- (B) Parks.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.163 LOT AREA AND WATER SUPPLY/SANITARY PROVISIONS.

The lot area (in square feet) and lot width standards (in feet) for single residential lots created after the date of enactment of this chapter for the lake classifications are the following:

	<i>Riparian Lots</i>		<i>Non-Riparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
Unsewered Lakes				
General development	20,000	100	40,000	150
Natural environment	80,000	200	80,000	200
Sewered Lakes				
General development	20,000	100	15,000	100
Natural environment	40,000	150	20,000	125

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.164 ADDITIONAL SPECIAL PROVISIONS.

(A) Residential subdivisions with dwelling unit densities exceeding those in the tables in § 152.163 of this chapter can only be allowed if designed and approved as residential planned unit developments

under §§ 152.185 through 152.191 of this chapter. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line.

(B) The sewer lot area dimensions in § 152.163 of this chapter can only be used if publicly-owned sewer system service is available to the property.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.165 PLACEMENT, DESIGN AND HEIGHT OF STRUCTURES.

(A) *Placement of structures on lots.* When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level; provided, the proposed building site is not located in a shore impact zone or in a bluff impact zone.

(B) *Structure and on-site sewage system setback (feet) from ordinary high water level.*

<i>Class of Public Waters</i>	<i>Structure</i>		<i>Sewage Treatment System</i>
	<i>Unsewered</i>	<i>Sewered</i>	
Lakes			
Natural environment	150	150	150
General development	75	75	75

(C) *Additional structure setbacks.* The following additional structure setbacks apply, regardless of the classification of the waterbody.

<i>Setback From</i>	<i>Setback (in Feet)</i>
Right-of-way line of federal, state or county highway	50
Right-or-way line of town road, public street or other roads or streets not classified	30
Top of bluff	30
Unplatted cemetery	50

(D) *Bluff impact zones.* Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

(E) *Uses without water-oriented needs.* Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or if located on lots or parcels with public waters frontage,

must either be setback double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions. (Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.166 DESIGN CRITERIA FOR STRUCTURES.

(A) *High water elevations.* Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lower floor, including basement, is placed or flood-proofed must be determined as follows: for lakes, by placing the lowest floor at a level at least three feet above the highest known water level, whichever is higher.

(B) *Stairways, lifts and landings.* Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements.

(1) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for residential planned unit development.

(2) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for residential planned unit developments.

(3) Canopies or roofs are not allowed on stairways, lifts or landings.

(4) Stairways, lifts and landings may be either constructed above the ground on posts or pilings, or placed into the ground; provided, they are designed and built in a manner that ensures control of soil erosion.

(5) Stairways, lifts and landings must be located in the visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.

(6) Facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas; provided that, the dimensional and performance standards of divisions (B)(1) through (B)(5) above are complied with in addition to the requirements of M.S. Ch. 326B, as it may be amended from time to time.

(C) *Significant historic sites.* No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

(D) *Steep slopes.*

(1) The City Council must evaluate possible soil erosion impacts and developments visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures or other improvements on steep slopes.

(2) When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

(E) *Height of structures.* All structures in shoreland and residential districts, except churches and non-residential agriculture structures, must not exceed 25 feet in height.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.167 SHORELAND ALTERATIONS.

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping and protect fish and wildlife habitat.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.168 VEGETATION ALTERATIONS.

(A) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the constructions of roads and parking areas regulated by § 152.170 of this chapter are exempt from the vegetation alteration standards that follow.

(B) Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in § 152.172 of this chapter is allowed subject to the following standards.

(1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an approved by the City Council.

(2) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access areas; provided that:

(a) The screening of structures, vehicles or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced; and

(b) The above provisions are not applicable to the removal of trees, limbs or branches that are dead, diseased or pose safety hazards.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.169 TOPOGRAPHIC ALTERATIONS; GRADING AND FILLING.

(A) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems and driveways under validly issued constructions permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this subchapter must be incorporated into the issuance of permits for construction of structures, sewage treatment systems and driveways.

(B) Public roads and parking areas are regulated by § 152.170 of this chapter.

(C) Notwithstanding divisions (A) and (B) above, a grading and filling permit will be required for:

(1) The movement of more than ten cubic yards of material on steep slopes or within shore and bluff impact zones;

(2) The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones;

(3) The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals;

(a) Grading or filling in any Type 2, 3, 4, 5, 6, 7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland*:

1. Sediment and pollutant trapping and retention;
2. Storage of surface runoff to prevent or reduce flood damage;
3. Fish and wildlife habitat;
4. Recreational use;
5. Shoreline and bank stabilization; and

6. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals or others.

(b) *This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews or approvals by other local, state or federal agencies, such as a watershed district, the state's Department of Natural Resources or the United States Army Corps of Engineers. The applicant will be also advised.

(4) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;

(5) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;

(6) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;

(7) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;

(8) Fill or excavated material must not be placed in a manner that creates an unstable slope;

(9) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of more than 30% or greater;

(10) Fill or excavated material must not be placed in bluff impact zones;

(11) Any alteration below the ordinary high water level of public waters must first be authorized by the Commissioner under M.S. § 103G.005, as it may be amended from time to time;

(12) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

(13) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slopes does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.

(D) (1) Excavation where the intended purpose is connection to a public water, such as boat slips, canals, lagoons and harbors, must be controlled by local shoreland controls.

(2) Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.170 PLACEMENT AND DESIGN OF ROADS, DRIVEWAYS AND PARKING AREAS.

(A) (1) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters.

(2) Documentation must be provided by qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

(B) Roads, driveways and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas and must be designed to minimize adverse impacts.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.171 STORM WATER MANAGEMENT.

The following general and specific standards shall apply.

(A) *General standards.*

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

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

(3) When development density, topographic features and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basin, skimming devices, dikes, waterways and ponds may be used. Preference must be infiltration rather than buried pipes and man made materials and facilities.

(B) *Specific standards.*

(1) Impervious surface coverage of lots must not exceed 25% of the lot area.

(2) When constructed facilities are used for storm water management, documentation must be provided by qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

(3) New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solid and skimming of surface debris before discharge.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.172 AGRICULTURE AND FOREST MANAGEMENT AREAS.

(A) (1) General cultivation farming, grazing, nurseries, horticulture, truck farming, sodding farming and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (resource management systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency.

(2) The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

(B) Animal feedlots must meet the following standards.

(1) New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 500 feet from the ordinary high water level of all public waters basins.

(2) Modifications or expansions to existing feedlots that are located within 500 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

(3) Feedlots shall be in compliance with MPCA Rules 7020.0200 through 7020.1800, as they may be amended from time to time.

(C) The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the state's "Non-Point Assessment - Forestry" and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota".
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.173 PROCEDURES AND REVIEW FOR CONDITIONAL USES.

(A) Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures and criteria and condition for review of conditional uses established community-wide.

(B) The following additional evaluation criteria and conditions apply within shoreland areas:

(1) *Evaluation criteria.* A thorough evaluation of the waterbody and the topographic, vegetation and soils conditions on the site must be made to ensure:

(a) The prevention of soil erosion or other possible pollution of public waters, both during and after construction;

(b) The visibility of structures and other facilities as viewed from public waters is limited;

(c) The site is adequate for water supply and on-site sewage treatment; and

(d) The types, uses and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

(2) *Conditions attached to conditional use permits.* The City Council, upon consideration of the criteria listed above and the purposes of this chapter, shall attach such conditions to the issuance of the conditional use permits as is deems necessary to fulfill the purposes of this chapter. The conditions may include, but are not limited to, the following:

(a) Increased setbacks from the ordinary high water level;

(b) Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and

(c) Special provisions for the location, design and use of structure, sewage treatment systems, watercraft launching and docking area and vehicle parking areas.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

RESIDENTIAL PLANNED UNIT DEVELOPMENTS IN SHORELANDS (PUDs)

§ 152.185 TYPES OF PERMISSIBLE PUDS.

Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites or conversions of existing buildings and land.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.186 PROCESSING PUDS.

Planned unit developments must be processed as a conditional use. Approval cannot occur until the environmental review process (EAW/EIS) is complete.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.187 APPLICATION FOR PUDS.

The applicant for a PUD must submit the following documents prior to final action being taken on the application request:

(A) A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and

water supply systems (where public systems will not be provided), and topographic contours at ten-foot intervals or less;

(B) A property owners association agreement with mandatory membership, and in accordance with the requirements of § 152.190(B) of this chapter;

(C) Deed restrictions, covenants, permanent easements or other instruments that:

(1) Properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft; and

(2) Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in § 152.190 of this chapter.

(D) When necessary, a master plan/drawing describing the project and the floor plan for all structures to be occupied; and

(E) Those additional documents as requested by the City Clerk-Administrator-Treasurer that are necessary to explain how the PUD will be designed and will function.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.188 SITE “SUITABLE AREA” EVALUATION.

Proposed new or expansions to existing residential planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/ dwelling site density evaluation in § 152.189 of this chapter.

(A) A proposed new or existing residential planned unit development must contain a tract of land of two and one-half acres or larger and contain a minimum of 300 feet of riparian shoreline.

(B) The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

<i>Shoreland Tier Dimensions</i>		
	<i>Sewered (feet)</i>	<i>Unsewered (feet)</i>
General development lakes		
First tier	200	200
Second and additional tiers	267	267

Parkers Prairie - Land Usage

<i>Shoreland Tier Dimensions</i>		
	<i>Sewered (feet)</i>	<i>Unsewered (feet)</i>
Natural environment lakes		
First tier	320	400
Second and additional tiers	387	467

(C) The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluff or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to residential planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.189 RESIDENTIAL PUD DENSITY EVALUATION.

The procedures for determining the base density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any other tier closer.

(A) The suitable area within each tier is divided by the single residential lot size for lakes. Proposed locations and numbers of dwellings units or sites for the residential planned unit developments are then compared with the tier, density and suitability analyses herein and the design criteria in § 152.190 of this chapter.

(B) The maximum allowable density shall be calculated by the following table:

	<i>Development Tier (Normal Platting)</i>	<i>Maximum Density Increase Within Each Tier (Percent)</i>
Riparian	50	1.5
Second	50	1.5
Third and beyond	100	2

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.190 MAINTENANCE AND DESIGN CRITERIA.

(A) *General.* Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity open spaces and for the continued existence and functioning of the development.

(B) *Open space preservation.* Deed restrictions, covenants, permanent easements, public dedication and acceptance or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protection:

- (1) Commercial uses prohibited;
 - (2) Vegetation and topographic alterations other than routine maintenance prohibited;
 - (3) Construction of additional buildings or storage of vehicles and other materials prohibited;
- and
- (4) Uncontrolled beaching of watercraft prohibited.

(C) *Development organization and functioning.* Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the following features:

- (1) Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;
- (2) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;
- (3) Assessments must be adjustable to accommodate changing conditions; and
- (4) The association must be responsible for insurance, taxes and maintenance of all commonly owned property and facilities.

(D) *Residential PUDs.* Residential planned unit developments must contain open space meeting all of the following criteria:

- (1) At least 50% of the total project area must be preserved as open space;
- (2) Dwelling units or sites, road rights-of-way or land covered by road surfaces, parking areas or structures, are developed areas and shall not be included in the computation of minimum open space;
- (3) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
- (4) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guest staying in dwelling units or sites and by the general public;
- (5) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;

(6) Open space must not include commercial uses;

(7) The appearance of open space areas, including topography, vegetation and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance or other equally effective and permanent means; and

(8) The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUDs, at least 50% of the shore impact zone area of existing developments and at least 70% of the shore impact zone of new developments must be preserved in its natural state.

(E) *Erosion control; storm water management.* Erosion control and storm water management plans must be developed and the PUD must:

(1) Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion controls plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and

(2) Be designed and constructed to effectively manage reasonably expected quantities and qualities of storm water runoff. Impervious surface coverage within any tier must not exceed 25% of the tier area.

(F) *Centralization and design.* Centralization and design of facilities and structures must be done according to the following standards.

(1) Planned unit developments must be connected to publicly-owned water supply and sewer systems, if available. On-site water and sewage treatment system must be centralized and designed and installed to meet or exceed applicable standards or rules of the state's Department of Health and §§ 152.220 through 152.222 of this chapter. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system.

(2) Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features and maximum height. Setbacks from the ordinary high water level must be increased in accordance with § 152.189 of this chapter for developments with density increased.

(3) Shore recreation facilities, including, but not limited to, swimming areas, docks and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to ground water and bedrock or other relevant factors. The number of spaces provided for

continuous beaching, mooring or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

(4) Structures, parking areas and other facilities must be treated to reduce visibility as viewed from public water and adjacent shorelands by vegetation, topography, increased setbacks, color or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.

(5) Accessory structures and facilities must meet the required principal structure setback and must be centralized.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.191 CONVERSIONS.

Conversion of existing resorts or other land uses and facilities may be allowed to be converted to residential planned unit developments if all of the following standards are met.

(A) Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

(B) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

(C) Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

(1) Removal of extraneous buildings, docks or other facilities that no longer need to be located in shore or bluff impact zones;

(2) Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and

(3) If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

(D) (1) Existing dwelling unit or dwelling site densities that exceed standards in § 152.189 of this chapter may be allowed to continue, but must not be allowed to be increased, either at the time of conversion or in the future.

(2) Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems or other means.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

NON-CONFORMANCES

§ 152.205 CONTINUANCES.

All legally established non-conformities as of the date of this chapter may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repairs after damage, discontinuance of use and intensification of use; except that, the following standards will also apply in shoreland areas.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.206 CONSTRUCTION ON NON-CONFORMING LOTS OF RECORD.

(A) Lots of record in the office of the County Recorder on the date of enactment of this chapter controls that do not meet the requirements of the land use district of this chapter may be allowed as building sites without variances from lot size requirements; provided, the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time and sewage treatment and setback requirements of this chapter are met.

(B) A variance from setback requirements must be obtained before any use, sewage treatment system or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

(C) (1) If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of the land use district of this chapter the lot must not be considered as a separate parcel of land for the purposes of sale or development.

(2) The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of the land use district of this chapter as much as possible.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.207 ADDITIONS/EXPANSIONS TO NON-CONFORMING STRUCTURES.

(A) All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height and other requirements of the land use district of this chapter. Any deviations from these requirements must be authorized by a variance, pursuant to § 152.022 of this chapter.

(B) Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level or property line of all of the following criteria and standards are met:

(1) The structure existed on the date the structure setbacks were established;

(2) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level or property line setback of the structure;

(3) The deck encroachment toward the ordinary high water level or property line does not exceed 15% of the existing setback of the structure from the ordinary high water level or property line or does not encroach closer than 30 feet, whichever is more restrictive; and

(4) The deck is constructed primarily of wood and is not roofed or screened.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.208 NON-CONFORMING USE OF LAND.

(A) Whenever a lawful non-conforming use of land is discontinued for a period of six months, any future use of land shall conform with the provisions of this chapter.

(B) When any lawful non-conforming use of land has been changed to a conforming use, it shall not be changed to any non-conforming use.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.209 NON-CONFORMING SEWAGE TREATMENT SYSTEMS.

(A) (1) A sewage treatment system not meeting the requirements of § 152.221 of this chapter must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property.

(2) For the purpose of this provision, a sewage treatment system shall not be considered non-conforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

(B) (1) The governing body of the city has, by formal resolution, notified the Commissioner of its program to identify non-conforming sewage treatment systems.

(2) The city will require upgrading or replacement of any non-conforming system identified by this program within a reasonable period of time which will not exceed two years.

(3) Sewage systems installed according to all applicable local shoreland management standards adopted under M.S. §§ 103G.245 et seq., as they may be amended from time to time, in effect at the time of installation may be considered as conforming unless they are determined to be pits, or other deep disposal methods, or systems with soil treatment area separation above ground water than required by the state's Pollution Control Agency's Minn. Rules Ch. 7080, as it may be amended from time to time for design of on-site sewage treatment systems, shall be considered non-conforming.

(C) The program used to identify non-conforming sewer systems by this chapter are on-site inspections and records review.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

WATER SUPPLY AND SEWAGE TREATMENT

§ 152.220 WATER SUPPLY.

Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the state's Department of Health and the state's Pollution Control Agency.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.221 SEWAGE TREATMENT.

(A) Any premises used for human occupancy must be provided with an adequate method of sewage treatment.

(B) Public-owned sewer systems must be used, where available.

(C) All private sewage treatment systems must meet or exceed the State Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled *Individual Sewage Treatment Standards*, Minn. Rules Chapter 7080, as it may be amended from time to time, a copy of which is hereby adopted by reference and declared to be a part of this chapter.

(D) On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in § 152.165(B) of this chapter.

(E) (1) All proposed sites for onsite sewage treatment systems shall be evaluated in accordance with the criteria in divisions (A) through (D) above. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

(2) Evaluation criteria:

- (a) Depth to the highest known or calculated ground water table;
- (b) Soil conditions, properties and permeability;
- (c) Slope; and
- (d) The existence of lowlands, local surface depressions.

(F) Non-conforming sewage treatment systems shall be regulated and upgraded in accordance with division (C) above.

(G) No installations, alterations, repairs or extensions shall be made until a permit is obtained for the installation, alteration, repairs or extensions from the city. The fee for the permit will be in accordance to the city's permit and license fee schedule.

(H) Application for permit shall be made in writing upon forms furnished by the city and shall be signed by the applicant or his or her agent.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.222 LICENSING REQUIREMENTS.

(A) No person shall install, alter, repair or extend a sewer system in the city limits without first obtaining a license from the city for the activity and pay a fee in accordance with the city's permit and license fee schedule.

(B) Part of the requirements for obtaining a license for installing, altering, repairing or extending of on-site sewage treatment systems shall be certification by the state's Pollution Control Agency for the installation of on-site sewage treatment systems.

(C) No parts of a sewer system whether an on-site system or a sewer line hooked to the municipal sewer system shall be covered until inspected and approved by the city's Maintenance Supervisor or his or her agent.

(D) It shall be the City Maintenance Supervisor's duty to keep complete records of all installations, alterations, repairs or extensions of any sewer line or onsite systems within the city limits.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

*SIGNS***§ 152.235 PURPOSE.**

The purpose of this subchapter is to regulate the location, size and placement of signs to enable the public to locate goods and services, to prevent hazards to life and property and to assure the continued attractiveness of the city.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.236 PROHIBITED SIGNS.

No sign shall be erected or maintained:

(A) In a location which would interfere with the view of any traveler on any street;

(B) On rocks, trees or utility poles;

(C) Containing a rotating beam resembling an emergency vehicle;

(D) Which interferes with public utility facilities or the maintenance;

(E) Which is structurally unsafe, in disrepair or abandoned; and/or

(F) In residential districts or shoreland districts.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.237 SIGN PERMITS; CONDITIONAL USE PERMITS.

(A) No sign shall be erected or maintained without first securing a sign permit from the City Clerk-Administrator-Treasurer and paying a permit fee according the city's permit and license fee schedule.

(B) Any person wishing to erect a sign that is not specifically allowed by this chapter may submit a conditional use permit application to the City Council for its review.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.238 EXEMPTIONS.

The following signs shall be exempt from the provisions of this chapter; provided, they are located on the property, and do not contain a total surface of more than 12 square feet:

(A) For sale or rent signs; and

(B) Temporary garage sale signs.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

SUBDIVISIONS AND PLATTING

§ 152.250 LAND SUITABILITY.

Each lot created through subdivision, including planned unit developments authorized under §§ 152.185 through 152.191 of this chapter, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the city shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply of sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites or any other feature of the natural land likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the community.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.251 CONSISTENCY WITH OTHER CONTROLS.

Subdivisions must conform to all official controls of the city. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly-owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with §§ 152.220 through 152.222 of this chapter can be provided for every lot. Each lot shall meet minimum lot size and dimensional requirements of each land use district, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.252 INFORMATION REQUIREMENTS.

(A) Sufficient information must be submitted by the applicant for the community to make a determination of land suitability.

(B) The information shall include at least the following:

(1) Topographic contours at ten-foot intervals or less from United States Geological Survey Maps or more accurate sources, showing limiting site characteristics;

(2) The surface water features required in M.S. § 505.02, subd. 1, as it may be amended from time to time, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

(3) Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests or other methods;

(4) Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments and aquatic vegetation; and proposed methods for controlling storm water runoff and erosion, both during and after construction activities;

(5) Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and

(6) A line or contour representing the ordinary high water level, the “toe” and the “top” of bluffs and the minimum building setback distances from the top of the bluff and the lake.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.253 DEDICATIONS.

When a land or easement dedication is a condition of subdivision approval, the approval must provide easement over natural drainage or ponding areas for management of storm water and significant wetlands.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.254 PLATTING.

(A) All subdivisions that create five or more lots or parcels that are two and one-half acres of less in size shall be processed as a plat in accordance with M.S. Ch. 505, as it may be amended from time to time.

(B) No permits for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.255 SAFE ROUTES TO SCHOOLS.

Any subdivision authorized by the city shall include safe routes to schools infrastructure pursuant to M.S. § 174.40, subd. 4a, as the same may be amended from time to time.
(Ord. 2019-02, passed 4-15-2019)

SUPPLEMENTARY REGULATIONS

§ 152.270 OFF-STREET PARKING AND LOADING.

To be determined by the City Council on a case-by-case basis.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.271 YARD STORAGE.

In all zoning districts, all material and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties or public road, except for the following:

(A) Recreational equipment being temporarily used or stored on the premises; and

(B) Operable passenger vehicles provided they can be legally driven upon any highway.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.272 REFUSE.

(A) In all zoning use districts, all waste material, debris, discarded or inoperative machines shall be enclosed in a building. The owner of vacant land shall be responsible for keeping such land free of refuse.

(B) Any inoperative automobile, truck or other machinery shall be kept in an enclosed building. This provision shall include, but not be limited to, auto salvage yard.

(C) Any inoperative automobile, truck or equipment not so screened shall be deemed abandoned and shall be ordered removed within a specified time by the city.

(D) All garbage shall be kept in a closed container until it is delivered to an approved final disposal site or picked up a the garbage service contractor.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005) Penalty, see § 152.999

§ 152.273 FENCES.

(A) *Purpose.* The purpose of this section shall be to provide for the public health, safety and general welfare of the community and its people through the regulation offenses in the city, to prevent fences from being erected that would be a hazard to the public or an unreasonable interference with the use and enjoyment of neighboring property and to ensure that fences are compatible with existing uses and other zoning restrictions.

(B) *Fence permits.*

(1) *Fence permit required.* Effective and after the effective date hereof, no fence, as defined in § 152.007 of this chapter, shall be constructed without a permit.

(2) *Permit fees.* A fee as set forth from time to time by City Council resolution shall be charged for a permit issued under this section for new fences, as well as the replacement of fences in the same location.

(3) *Application requirements.* An application for a fence permit shall describe in reasonable detail the style and type offense, the type of materials, the height of the fence and the location of the fence in relation to the property line and any existing structures on the property. The application for the required fence permit shall be accompanied by a certificate of survey or other drawing, sketch or map clearly describing the location of the proposed fence in relation to the property line and any existing structures on the property. Verification of property lines by the applicant shall be required. The application shall also include any signed consents of adjoining property owners for boundary line fences as described in division (C)(2) below.

(4) *Applicant responsibility for compliance.* It shall be the applicant's responsibility to ensure that any fence is constructed in compliance with this chapter. If a fence, as constructed, does not comply with this chapter, any permit issued therefor shall be revoked, and the City Council may order that the non-compliant fence be modified, removed or relocated or that the property owner take such other action as the City Council deems appropriate under the circumstances.

(C) *General provisions.*

(1) In all residential land use districts, a fence not exceeding six feet in height may be erected in the rear yard and side yard areas up to the nearest front corner of the principal building. In residential districts, a fence not exceeding four feet in height may be erected in the front yard, subject to the provisions in division (C)(4) below. In the event that a deck or porch is located on the front of the structure, the six-foot tall fence section located along the side lot line(s) shall terminate at the front corner of the principal building as opposed to the front of the porch/deck addition.

(2) In all zoning districts a fence constructed of maintenance-free materials, or capable of being maintained from within the perimeter of the fence, may be constructed on the side or rear yard property line (a boundary line fence); provided that, the adjoining property owner provides signed consent to placement of the fence on the boundary line. Any such consent shall be binding on successor adjoining

property owners; provided that, the fence is not removed, relocated or substantially altered. A boundary line fence to which the adjoining property owner has not consented and any fence requiring maintenance from outside the perimeter of the fence shall be installed or constructed no closer than two feet from the side or rear yard property line.

(3) On riparian (lakeshore) lots, a fence not exceeding four feet in height may be erected on the side lot lines behind (landward) the line drawn across the line of the principal building nearest the ordinary high water line of the lake. No fence shall be placed within any structure setback area established by the city's zoning ordinances.

(4) Fences shall not be permitted within any right-of-way, clear view triangle area, within the site visibility area adjacent to railroads or below the 100-year floodplain of any lake, river or wetland. For the purposes of this chapter, the term **CLEAR VIEW TRIANGLE AREA** shall mean the triangular area formed by connecting the following three points: the point of intersection of the curb lines extended of intersecting streets, and a point on each curb line 30 feet from the aforementioned point of intersection. If there are no curbs, the edge of the traveled portion of the street shall be used instead of the curb line.

(5) If the fence is located along a boundary between two properties, both sides of the fence shall be well maintained by the owner of the fence. It shall not be a trespass for the fence owner to enter onto the adjoining property for the sole purpose of maintaining the fence, so long as the fence owner gives at least 48 hours' advance notice of the entry, the fence owner's presence on the adjoining property is limited to only the time and space reasonably needed for maintenance, and the fence owner's maintenance activities do not unreasonably disturb or intrude upon the adjoining property owner's privacy or peaceful use and enjoyment of his, her or their property.

(6) All posts and supporting structures of a fence shall face inward towards the property on which the fence is constructed. All posts and supporting structures shall be located entirely upon the fence owner's property.

(7) Barbed wire and electrified fences shall be prohibited in all zoning districts with the exception of essential service structures; provided, a conditional use permit is obtained.

(8) Fences shall be residential in nature, such as chain link, wrought iron, vinyl or board and picket.

(9) Wood, plastic, vinyl or other type of slats when used in combination with chain link fencing shall not be permitted within business or industrial districts.

(10) Corn cribbing and similar mesh (snow) fences shall be prohibited in the residential zoning districts of the city during the months of April through October for any purpose other than marking areas for tree preservation as part of an approved plan.

(11) Fences up to ten feet in height may be permitted to enclose public tennis courts or as back stops for public athletic fields; provided, all other requirements of this section are met. A conditional use permit shall be required for fences taller than ten feet for private courts or athletic fields.

(12) Fences which include a security gate at a point where access is provided to the property and principal building may be approved if necessary and appropriate as part of a site plan review.

(13) No fence shall obstruct natural drainage. No fence shall be placed within an easement that obstructs or impedes the free flow of surface water from or in any drainage easements.

(14) Ornamental and/or privacy fences, not designed or serving as a boundary or partition fence and enclosing only a limited portion (25% or less) of a side yard, rear yard or front yard, are allowed without requiring a permit. Ornamental fences includes such things as split rail, picket and brick wall fences, but not such things as chain link fences. The maximum allowed height for an ornamental brick wall is three feet, for a split rail, picket or wrought iron fence four feet, and for a privacy fence around a patio, hot tub, pool and the like, six feet.

(D) *Non-conforming uses.* It is the intent of this section to allow the continuation of such non-conforming fences until they are discontinued as provided herein. However, it is not the intent of this section to encourage the survival of non-conforming fences and such fences that are declared to be incompatible with permitted fences within the city. The fences shall be regulated by the following provisions.

(1) An existing fence not allowed by this section, except when required by law or ordinance, shall not be enlarged, extended, reconstructed or structurally altered unless the fence is changed to fully comply with the requirements of this section.

(2) Maintenance of a non-conforming fence will be allowed when this includes necessary repair and incidental alterations which do not expand or intensify the non-conformity.

(E) *Variances.*

(1) Any person desiring to construct a fence that does not meet the standards set forth herein may apply for a variance pursuant to § 152.036 of this chapter. As required by M.S. § 462.357, subd. 6(2), as it may be amended from time to time, a variance shall only be permitted when: it is in harmony with the general purposes and intent of the ordinance; it is consistent with any comprehensive plan adopted by the city; and, only when the applicant for the variance establishes that there are practical difficulties in complying with this chapter.

(2) For these purposes, **PRACTICAL DIFFICULTIES** means that: the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

(F) *Enforcement.* This section shall be enforced pursuant to § 152.999 of this chapter. (Ord. passed 5-4-1992; Ord. passed 8-15-2005; Ord. 2018-05, passed 10-15-2018)

§ 152.274 TEMPORARY FAMILY HEALTH CARE DWELLINGS.

(A) Pursuant to authority granted by M.S. § 462.3593, subd. 9, as it may be amended from time to time, the city opts out of the requirements of M.S. § 462.3593, as it may be amended from time to time, which defines and regulates temporary family health care dwellings.

(B) This section shall be effective immediately upon its passage and publication. (Ord. passed 2016-01, passed 10-17-2016)

MANUFACTURED HOME PARK REQUIREMENTS

§ 152.290 PURPOSE.

The purpose of this subchapter is to provide for manufactured home uses in an appropriate, safe, sanitary and attractive environment. (Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.291 REQUIREMENTS.

All manufactured home parks shall obtain a conditional use permit from the city prior to their existence. (Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.292 DESIGN STANDARDS.

Each site shall contain at least 4,000 square feet of land area for the exclusive use of the occupant, with a width of no less than 40 feet and a depth of no less than 100 feet. (Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.293 SETBACKS.

(A) No unit shall be parked closer than five feet to its side lot lines nor closer than 20 feet to its front lot line, or ten feet to its rear lot line.

(B) No unit or building shall be located within 30 feet of the exterior boundary of any manufactured home court.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005) Penalty, see § 152.999

§ 152.294 PARKING.

(A) Each manufactured home site shall have off-street parking space of two automobiles.

(B) Each manufactured home park shall maintain an off-street parking lot for guest of occupants in the amount of one space for each five home sites.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.295 UTILITIES.

(A) All manufactured home parks shall be connected to a public water and sanitary sewer system or private water system and sewer system approved by the State Department of Health.

(B) All installations for disposal of surface storm water must be approved by the State Department of Health and the Planning Commission.

(C) All utility connections shall be as approved by the city.

(D) All utilities shall be underground. There shall be no overhead wires or supporting poles except those essential for street lights or other purposes.

(E) The method of garbage, waste, and trash disposal must be approved by the city.

(F) Owner shall pay any required sewer connection fees to the city.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005) Penalty, see § 152.999

§ 152.296 STREETS.

All streets shall be hard surfaced and a minimum of 32 feet in width.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.297 BUFFER AREA.

A green belt, at least 20 feet in width shall be located along all boundaries of the park, except where it is crossed by driveways, streets and roads.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.298 RECREATION.

All manufactured home parks shall have at least 10% of the land areas developed for recreational uses such as tennis courts, children play equipment and the like. This space shall be maintained by the owner/operator of the manufactured home park and at his or her expense.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.299 LIGHTING.

Artificial light shall be maintained during all hours of darkness in all buildings containing recreational, laundry equipment and the like.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.300 SKIRTING.

All manufactured homes placed upon any lot shall either be placed upon a permanent foundation or must use permanent skirting between the floor level and the ground level. Skirting shall be of a material and color that is compatible with the exterior of the house. In any event, tarpaper, cardboard, hay or straw shall not be used for skirting or enclosing the area to skirted.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.301 STORM SHELTERS.

In all manufactured home parks a plan for sheltering, or the safe evacuation to a safe place of shelter of the residents of the park in times of severe weather conditions such as tornadoes and high winds, shall be developed by the park owner. The plan shall be developed with the assistance and approval of the City Council, and shall be posted at a conspicuous locations through out the park. Approval of a plan by the city shall not be grounds for action against the city.

(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

§ 152.999 PENALTY.

(A) This chapter shall be administered and enforced by the city or its agent.

(B) Any person who lawfully violates any of the terms and provisions of this chapter shall be charged with a misdemeanor punishable by a fine of an amount in accordance with the current city fee schedule, or 90 days in jail or both. Each day that a violation continues shall constitute a separate offense.

(C) In the event of a violation or a threaten violation of this chapter, the City Council, or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate the violations or threatened violation, and it shall be the duty of the City Clerk-Administrator-Treasurer to institute the actions.

(D) Any taxpayer or taxpayers of the city may institute mandamus proceeding in District Court to compel specific performance by the proper officials of any duty required by this chapter.
(Ord. passed 5-4-1992; Ord. passed 8-15-2005)

CHAPTER 153: RIGHT-OF-WAY MANAGEMENT

Section

- 153.01 Election to manage the public right-of-way
- 153.02 Definitions
- 153.03 Permit requirement
- 153.04 Permit applications
- 153.05 Issuance of permit; conditions
- 153.06 Permit fees
- 153.07 Right-of-way patching and restoration
- 153.08 Supplementary applications
- 153.09 Denial of permit
- 153.10 Installation requirements
- 153.11 Inspection
- 153.12 Work done without a permit
- 153.13 Supplementary notification
- 153.14 Revocation of permits
- 153.15 Mapping data
- 153.16 Location of facilities
- 153.17 Damage to other facilities
- 153.18 Right-of-way vacation
- 153.19 Indemnification and liability
- 153.20 Abandoned facilities
- 153.21 Appeal
- 153.22 Reservation of regulatory and police powers

§ 153.01 ELECTION TO MANAGE THE PUBLIC RIGHT-OF-WAY.

In accordance with the authority granted to the city under state and federal statutory, administrative and common law, the city hereby elects pursuant to this chapter to manage rights-of-way within its jurisdiction.

§ 153.02 DEFINITIONS.

The definitions included in M.S. § 237.162, Minn. Rules 7819.0100 subps. 1 through 23 and Minn. Rules 7560.0100 subps. 1 through 12, as they may be amended from time to time, are hereby adopted by reference and are incorporated into this chapter as if set out in full.

§ 153.03 PERMIT REQUIREMENT.

(A) *Permit required.* Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate permit from the city.

(1) *Excavation permit.* An excavation permit is required to excavate that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

(2) *Obstruction permit.* An obstruction permit is required to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

(B) *Permit extensions.* No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and a new permit or permit extension is granted.

(C) *Delay penalty.* In accordance with Minn. Rule 7819.1000 subp. 3, as it may be amended from time to time, and notwithstanding division (B) of this section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by City Council resolution.

(D) *Permit display.* Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the Director. Penalty, see § 153.99

§ 153.04 PERMIT APPLICATIONS.

Application for a permit shall contain and will be considered complete only upon compliance with the requirements of the following provisions:

(A) Submission of a completed permit application form, including all required attachments, scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities, and the following information:

(1) Each permittee's name, Gopher One-Call registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers;

(2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current

information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

(3) A certificate of insurance or self-insurance:

(a) Verifying that an insurance policy has been issued to the permittee by an insurance company licensed to do business in the state, or a form of self insurance acceptable to the Director;

(b) Verifying that the permittee is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right-of-way by the permittee, its officers, agents, employees and permittees, and placement and use of facilities and equipment in the right-of-way by the permittee, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;

(c) Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;

(d) Requiring that the Director be notified 30 days in advance of cancellation of the policy or material modification of a coverage term;

(e) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the Director in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter;

(f) The city may require a copy of the actual insurance policies;

(g) If the person is a corporation, a copy of the certificate required to be filed under M.S. § 300.06, as it may be amended from time to time, as recorded and certified to by the Secretary of State; and

(h) A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have such certificate from said commission or other state or federal agency.

(B) Payment of money due the city for:

(1) Permit fees, estimated restoration costs and other management costs;

(2) Prior obstructions or excavations;

(3) Any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city; and

(4) Franchise fees or other charges, if applicable.

§ 153.05 ISSUANCE OF PERMIT; CONDITIONS.

(A) *Permit issuance.* If the applicant has satisfied the requirements of this chapter, the Director shall issue a permit.

(B) *Conditions.* The Director may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use. In addition, a permittee shall comply with all requirements of local, state and federal laws, including but not limited to M.S. §§ 216D.01 through 216D.09 (Gopher One Call Excavation Notice System), as it may be amended from time to time and Minn. Rules Chapter 7560 , as it may be amended from time to time.

(C) *Trenchless excavation.* As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in M.S. Ch. 216D and Minn. Rules Chapter 7560, as they may be amended from time to time, and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the city.

§ 153.06 PERMIT FEES.

(A) *Generally.* The city shall establish an excavation permit fee in an amount sufficient to recover the following costs:

- (1) The city management costs; and
- (2) Degradation costs, if applicable.

(B) *Obstruction permit fee.* The city shall establish the obstruction permit fee and shall be in an amount sufficient to recover the city management costs.

(C) *Payment of permit fees.* No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow applicant to pay such fees within 30 days of billing.

(D) *Non-refundable.* Permit fees that were paid for a permit that the Director has revoked for a breach as stated in § 153.21 of this chapter are not refundable.

(E) *Application to franchises.* Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

(F) *Permit fees.* All permit fees shall be established consistent with the provisions of Minn. Rule 7819.100, as it may be amended from time to time.

§ 153.07 RIGHT-OF-WAY PATCHING AND RESTORATION.

(A) *Timing.* The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonable or unreasonable under § 153.15 of this chapter.

(B) *Patch and restoration.* Permittee shall patch its own work. The city may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.

(1) *City restoration.* If the city restores the right-of-way, permittee shall pay the costs thereof within 30 days of billing. If following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, all costs associated with having to correct the defective work.

(2) *Permittee restoration.* If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minn. Rules 7819.3000, as it may be amended from time to time.

(3) *Degradation fee in lieu of restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

(C) *Standards.* The permittee shall perform patching and restoration according to the standards and with the materials specified by the city and shall comply with Minn. Rule 7819.1100, as it may be amended from time to time.

(D) *Duty to correct defects.* The permittee shall correct defects in patching, or restoration performed by permittee or its agents. Permittee upon notification from the Director, correct all restoration work to the extent necessary, using the method required by the Director. Said work shall be completed within five calendar days of the receipt of the notice from the Director, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under § 153.15 of this chapter.

(E) *Failure to restore.* If the permittee fails to restore the right-of-way in the manner and to the condition required by the Director, or fails to satisfactorily and timely complete all restoration required by the Director, the Director at its option may do such work. In that event the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

§ 153.08 SUPPLEMENTARY APPLICATIONS.

(A) *Limitation on area.* A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area make application for a permit extension and pay any additional fees required thereby, and be granted a new permit or permit extension.

(B) *Limitation on dates.* A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

§ 153.09 DENIAL OF PERMIT.

The city may deny a permit for failure to meet the requirements and conditions of this chapter or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

§ 153.10 INSTALLATION REQUIREMENTS.

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. Rules 7819.1100, as it may be amended from time to time, and other applicable local requirements, in so far as they are not inconsistent with the M.S. §§ 237.162 and 237.163, as they may be amended from time to time.

§ 153.11 INSPECTION.

(A) *Notice of completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minn. Rules 7819.1300, as it may be amended from time to time.

(B) *Site inspection.* Permittee shall make the work-site available to city personnel and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(C) *Authority of Director.*

(1) At the time of inspection, the Director may order the immediate cessation of any work, which poses a serious threat to the life, health, safety or well-being of the public.

(2) The Director may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the Director that the violation has been corrected. If such proof has not been presented within the required time, the Director may revoke the permit pursuant to § 153.21 of this chapter.

§ 153.12 WORK DONE WITHOUT A PERMIT.

(A) Emergency situations.

(1) Each person with facilities in the right-of-way shall immediately notify the city of any event regarding its facilities that it considers being an emergency. The owner of the facilities may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency the owner shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

(2) If the city becomes aware of an emergency regarding facilities, the city will attempt to contact the local representative of each facility owner affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the person whose facilities occasioned the emergency.

(B) Non-emergency situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit, and as a penalty pay double the normal fee for said permit, pay double all the other fees required by this code, deposit with the city the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this chapter.

§ 153.13 SUPPLEMENTARY NOTIFICATION.

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the Director of the accurate information as soon as this information is known.

§ 153.14 REVOCATION OF PERMITS.

(A) Substantial breach. The city reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

- (1) The violation of any material provision of the right-of-way permit;
- (2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
- (3) Any material misrepresentation of fact in the application for a right-of-way permit;
- (4) The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittees control; or
- (5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to § 153.18 of this chapter.

(B) *Written notice of breach.* If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the city shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations might be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

(C) *Response to notice of breach.* Within 24 hours of receiving notification of the breach, permittee shall provide the city with a plan, acceptable to the city, which will cure the breach. Permittee's failure to so contact the city, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

(D) *Reimbursement of city costs.* If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

§ 153.15 MAPPING DATA.

(A) *Information required.* Each permittee shall provide mapping information required by the city in accordance with Minn. Rules 7819.4000 and 7819.4100, as they may be amended from time to time.

(B) *Service laterals.* All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minn. Rules 7560.0150 subpart 2, as it may be amended from time to time, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals, and the service lateral vertical locations in those cases where the city reasonably requires it. Permittees or their subcontractors shall submit to the city evidence of the installed service lateral locations. Compliance with this division (B) of this section and with applicable Gopher State One Call law and Minnesota Rules governing service laterals installed after December 31, 2005, shall be a condition of any city approval necessary for payments to contractors working on a public improvement project including those under M.S. Ch. 429, as it may be amended from time to time, city approval of performance under development agreements, or other subdivision or site plan approval under M.S. Ch.

462, as it may be amended from time to time. The city shall reasonably determine the appropriate method of providing such information. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or for future permits to the offending permittee or its subcontractors.

§ 153.16 LOCATION OF FACILITIES.

(A) *Generally.* Placement, location, and relocation of facilities must comply with the act, with other applicable law, and with Minn. Rules 7819.3100, 7819.5000 and 7819.5100, as they may be amended from time to time, to the extent the rules do not limit authority otherwise available to cities.

(B) *Corridors.* The city may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

(C) *Limitation of space.* To protect health, safety, and welfare or when necessary to protect the right-of-way and its current use, the Director shall have the power to prohibit or Director shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

§ 153.17 DAMAGE TO OTHER FACILITIES.

When the city does work in the right-of-way and finds it necessary to maintain, support, or move facilities to protect it, the Director shall notify the local representative as early as is reasonably possible and placed as required. The costs associated therewith will be billed to that facility owner and must be paid within 30 days from the date of billing. Each facility owner shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each facility owner shall be responsible for the cost of repairing any damage to the facilities of another caused during the city's response to an emergency occasioned by that owner's facilities.

§ 153.18 RIGHT-OF-WAY VACATION.

If the city vacates a right-of-way that contains facilities, the facility owner's rights in the vacated right-of-way are governed by Minn. Rules 7819.3200, as it may be amended from time to time.

§ 153.19 INDEMNIFICATION AND LIABILITY.

By applying for and accepting a permit under this chapter, a permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. Rule 7819.1250, as it may be amended from time to time.

§ 153.20 ABANDONED FACILITIES.

Any person who has abandoned facilities in any right-of-way shall remove them from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless the Director waives this requirement.

§ 153.21 APPEAL.

A right-of-way user that has been denied registration; has been denied a permit; has had permit revoked; believes that the fees imposed are invalid; or disputes a determination of the city regarding § 153.23(B) of this chapter, may have the denial, revocation, fee imposition, or decision reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the city council affirming the denial, revocation, or fee imposition will be writing and supported by written findings establishing the reasonableness of the decision.

§ 153.22 RESERVATION OF REGULATORY AND POLICE POWERS.

A permittee's rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.