

TITLE XV: LAND USAGE

Chapter

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PERMITS, AND REGULATIONS**
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CHAPTER 150: CONSTRUCTION AND HOUSING LICENSING, PERMITS, AND REGULATIONS

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§ 150.01 BUILDING CODE ADOPTED.

The Minnesota State Building Code (SBC) is hereby adopted by reference, including the following.

Chapter 1300 - Minnesota Building Code
Chapter 1301 - Building Official Certification
Chapter 1302 - State Building Construction Approvals
Chapter 1305 - Adoption of the Uniform Building Code including Appendix Chapters: (a) 3, Division I, Detention and Correctional Facilities; (b) 12, Division H, Sound Transmission Control; (c) 15 Reroofing; (d) 16, Division I, Snow load Design; (e) 29, Minimum Plumbing Fixtures; and (f) 31, Division n, Membrane Structures
Chapter 1307 - Elevators and Related Devices
Chapter 1315 - Adoption of the 1996 National Electrical Code
Chapter 1325 - Solar Energy Systems
Chapter 1330 - Fallout Shelters
Chapter 1335 - Flood-Proofing Regulations
Chapter 1340 - Facilities for the Handicapped
Chapter 1346 - Adoption of the 1997 Uniform Mechanical Code

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Chapter 1350 - Manufactured Homes
Chapter 1360 - Prefabricated Buildings
Chapter 1361 - Industrialized/Modular Buildings
Chapter 1370 - Storm Shelters
Chapter 4715 - Minnesota Plumbing Code
Chapters 7670, 7672, 7674, 7676, and 7678 - Minnesota Energy Code

(2005 Code, § 4.01)

§ 150.02 BUILDING PERMITS.

(A) *Permit requirement.* It is unlawful for any person to erect, construct, enlarge, alter, move, improve, remove, convert, or demolish any building or structure, or any part of portion thereof, without first obtaining a building permit from the city's Building Official.

(B) *Application.* The applicant shall first file an application for a building permit in writing on a form furnished by the city for that purpose. The information on the application shall be pertinent to the proposed work which is to be done. The Building Official may at his or her discretion require any additional information he or she feels necessary before issuing a permit.

(C) *Expiration.* Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The Building Official is authorized to grant, in writing, one or more extensions of time, for periods of not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

(2005 Code, § 4.02) Penalty, see § 150.99

§ 150.03 PERMIT FEES.

(A) Permit fees for construction shall be established and adopted by resolution of the City Council.

(B) In addition to the permit fee required by division (A) above, the applicant shall pay a surcharge to be remitted to the state's Department of Administration as prescribed by M.S. § 326B.148, as may be amended from time to time.

(2005 Code, § 4.03)

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§ 150.04 PERMITS AND SPECIAL REQUIREMENTS FOR MOVING BUILDINGS.

(A) *Application.* The application for a moving permit shall state the dimensions, weight, and approximate loaded height of the structure or building proposed to be moved, the places from which and to which it is to be moved, the route to be followed, the dates and times of moving and parking, the name and address of the mover, and the municipal utility and public property repairs or alterations that will be required by reason of such movement. All applications shall be referred to the Public Works and the Police Departments. No such permits shall be issued until route approval has been obtained from such departments.

(B) *Permits and fee.* The moving permit shall state the date or dates of moving, hours, routing, movement, or parking. Permits shall be issued only for moving buildings by building movers licensed by the state, except that a permit may be issued to a person moving a building which does not exceed 16 feet in width, 20 feet in length, and 14 feet in loaded height. All permit fees shall be paid in advance of issuance. It is unlawful for any person to move a building on any street without a moving permit from the city.

(C) *Denial of a permit.* Any permit under this section shall be denied upon a finding of any one of the following:

(1) The building is in such a state of deterioration or disrepair or is otherwise so structurally unsafe that it would constitute a danger to persons or property in the city;

(2) The building is structurally unsafe or unfit for the purpose for which moved, if the location to which the building is to be moved is in the city; or

(3) If the location to which the building is to be moved is in the city, the building is in substantial variance with either the established or the expected pattern of building development within the neighborhood to which the building is to be moved. Comparative age, bulk, architectural style, and quality of construction of both the building to be moved and the buildings existing in the neighborhood shall be considered in determining whether a building is in substantial variance.

(2005 Code, § 4.04) Penalty, see § 150.99

§ 150.05 SPECIAL REQUIREMENTS FOR INSTALLATION AND REMOVAL OF MANUFACTURED HOMES.

(A) *Permit requirement.* Any person making the installation of a manufactured home shall, prior to installing a manufactured home for occupancy by any person or persons, obtain a permit with the provisions of this chapter and Chapter 153. Any person removing a manufactured home must obtain a permit in accordance with the provisions of this chapter.

(B) *Anchoring.* All manufactured homes must be anchored down in accordance with the standards set forth in the state's Building Code, Chapter 1350.

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(C) *Skirting*. All manufactured homes located in manufactured home parks must be skirted within 30 days from the time of installation. Skirting shall be made of weather resistant material and not more combustible than three-eighths inch exterior grade plywood. Untreated wood shall not be nearer than six inches to any earth, unless separated by three inches of metal or concrete; provided, however, when metal skirting is used, supporting members of untreated lumber shall be separated from the ground by not less than two inches. A minimum of 18 inches by 24 inches access must be provided. Ventilation openings shall be provided for each 25 linear feet of skirting. Each ventilation opening shall have a minimum net area of 36 square inches and shall be located within two feet of the external corners of the home and shall have a corrosion resistant louver or mesh cover. Manufacture in any area other than a manufactured home park shall follow the guidelines in § 153.18.

(D) *Utilities*. All water and sewer connections shall be inspected to ensure proper installation. Sewer and water connections must be inspected to ensure they are properly capped at the time a manufactured home is removed.

(E) *Fees and charges*. Inspection fees may be established by resolution of the Council.

(F) *Unlawful act*. It is unlawful for any person to remove or install a manufactured home without a permit as required by the terms of this section and/or § 153.18.

(2005 Code, § 4.05) Penalty, see § 150.99

§ 150.06 SPECIAL REQUIREMENTS FOR NEW CONSTRUCTION.

(A) *Private sewage disposal systems*. All buildings for which permits are issued after adoption of this section shall be connected to the city sewerage disposal system unless to do so would require the installation of a lift station; provided, however, that where, in the opinion of the Council, after published notice and hearing, such installation would be unduly burdensome, the installation of a private sewerage disposal system may be permitted if it complies in all respects with suggested standards published by the state.

(B) *Roof and surface water, sump pumps, and other natural precipitation*. No water from the roof, surface, sump pump, or other natural precipitation shall be discharged into the sanitary sewerage system from a building for which a permit is issued after adoption of this section.

(2005 Code, § 4.30) Penalty, see § 150.99

§ 150.07 CONSTRUCTION IN OR UPON HERITAGE PRESERVATION SITES.

(A) *Definition*. The term **HERITAGE PRESERVATION SITE**, as used in this section, means any area, place, building, object, district, or structure which has been duly designated as such pursuant to the provisions of the city code.

(B) *Permits*. Unless specifically permitted by this section, and notwithstanding any other provision of this chapter, no construction in a heritage preservation site shall be commenced by the city or any

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other person without a special permit after consideration by the Heritage Preservation Commission. **CONSTRUCTION** for the purpose of this section, shall include building, moving a building or structure, moving soil or changing the natural terrain, demolition of a building or structure, remodeling, or repairing, including painting, a building or structure that will change the exterior appearance; provided, that the Building Official may approve the repair and issue the permit where there exists immediate danger of injury to persons or property, in which case he or she shall forthwith notify the Heritage Preservation Commission of the fact and circumstances constituting the danger and issuance of the permit.

(C) *Application and plans.* The application shall be accompanied by detailed plans of the proposed work. The application shall be reviewed for its conformity with the overall preservation plan (if any) for the district, site, or structure as well as conformity to the Secretary of the Interior's Standards for Rehabilitation described as follows.

(1) Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.

(2) The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

(3) All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have historical basis and which seek to create an earlier appearance shall be discouraged.

(4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.

(6) Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material should match the material and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

(8) Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.

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(9) Whenever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations to structures shall be done in the future, the essential form and integrity of the structure would be unimpaired.

(10) If the Commission finds that to issue a permit would adversely affect the site, structure, or district, it shall hold a public hearing upon ten days' published notice and similar mailed notice to the applicant. Within ten days after the hearing, the Commission shall issue its written findings and inform the Building Official as to whether or not the permit shall be issued.

(D) *Time limitation.* Within 30 days after filing an application, plans, and meeting all the requirements of this section, the Heritage Preservation Commission shall have approved the issuance of the permit, or disapproved issuance and given notice of hearing thereon. If the Commission has failed to take such action, the Building Official shall forthwith issue such permit if, in all other respects, the application is in compliance with applicable law.

(2005 Code, § 4.40)

§ 150.08 STATE PLUMBER'S LICENSE REQUIRED.

It is unlawful for any person to engage in or work at the business of a master plumber or journeyman plumber, upon premises not owned by him or her, unless such person holds a valid and current license

from the state's Board of Health.

(2005 Code, § 4.50) Penalty, see § 150.99

§ 150.99 PENALTY.

(A) Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including state statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

(B) Any person, firm, or corporation who violates any provision of this code, including state statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a fine of not more than \$300.

(C) In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

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(D) The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for violation.
(2005 Code, § 4.99)

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CHAPTER 151: BUILDING REGULATIONS

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§ 151.01 TITLE.

These regulations shall be known as "the Property Maintenance Code for the City of Pipestone" hereinafter referred to as "this code".

(A) *Scope.* The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment, and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators, and occupants; the occupancy of existing structures and premises, and for administration enforcement, and penalties.

(B) *Intent.* This code shall be construed to secure its expressed intent, which is to ensure public health, safety, and welfare insofar as they are affected by the continued occupancy or vacancy and maintenance of structure and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Repairs, alterations, additions to, and change of occupancy in existing buildings shall comply with the state's Building Code and the state's Building Conservation Code.

(2005 Code, § 15.01)

§ 151.02 APPLICABILITY.

(A) *General.* The provisions of this code shall apply to all matters affecting or relating to structures and premises, as set forth in § 151.01. In the case where different sections of this code specify different requirements, the most restrictive shall govern.

(B) *Maintenance.* Equipment, systems, devices, and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered, or repaired shall be

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maintained in good working order. No owner, operator, or occupant shall cause any service, facility, equipment, or utility which is required under this section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures, and premises.

(C) *Applications of other codes.* Repairs, additions, or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the most currently adopted state's Building Code, the state's Building Conservation Code, and state's Electrical Code. Nothing in this code shall be construed to cancel, modify, or set aside any provision of the zoning ordinance of the city.

(D) *Existing remedies.* The provisions of this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe, and unsanitary.

(E) *Workmanship.* Repairs, maintenance work, alterations, or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

(F) *Historic buildings.* The provisions of this code shall not be mandatory for existing buildings or structures designated by the state or local jurisdiction as historic buildings, including those listed on the National Register of Historic Places, when such buildings and structures are judged by the code official to be safe and in the public interest of health, safety, and welfare.

(G) *Referenced codes and standards.* The codes and standards referenced in this code shall be those that are listed in Chapters 70 and 71 and considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provision of this code shall apply.

(H) *Requirements not covered by the code.* Requirements necessary for the strength, stability, or proper operation of an existing fixture, structure, or equipment, or for the public safety, health, and general welfare, not specifically covered by this code, shall be determined by the code official.
(2005 Code, § 15.02)

§ 151.03 DEPARTMENT OF PROPERTY MAINTENANCE INSPECTIONS.

(A) *Code official.* The City Council shall appoint an individual to serve as code official. That individual shall have the authority to appoint a deputy, inspectors, and employees as approved by the City Council.

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(B) *Restriction of employees.* The code official or employee connected with the enforcement of this code shall not be engaged in, or directly or indirectly connected with, the furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of a building, or the preparation of construction documents thereof, unless that person is the owner of the building or property; nor shall such officer or employee engage in any work that conflicts with official duties or with the interests of the department.

(C) *Liability.*

(1) The code official, officer, or employee charged with enforcement of this code, while acting for the city, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties.

(2) Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit, or proceeding that is instituted in pursuance of the provision of this code; and any officer of the department of building safety, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

(2005 Code, § 15.03)

§ 151.04 DUTIES AND RESPONSIBILITIES OF THE CODE OFFICIAL.

(A) *General.* The code official shall enforce the provisions of this code.

(B) *Rule-making authority.* The code official shall have authority as necessary in the interest of public health, safety, and general welfare, to adopt and promulgate rules and procedures; to interpret and implement the provisions of this code; to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating accepted engineering methods involving public safety.

(C) *Inspections.* The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the City Administrator.

(D) *Right of Entry.* The code official may enter the structure or premises as with the approval of the owner to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by state law.

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(E) *Identification.* The code official shall carry proper identification when inspecting structures and premises in the performance of duties under this code.

(F) *Notices, orders, and citations.* The code official shall issue all necessary notices, orders, and citations to ensure compliance with this code.

(G) *Department records.* The code official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records as long as the building or structure to which the records relate remains in existence, unless otherwise provided for by other regulations.

(H) *Coordination of inspections.* Whenever in the enforcement of this code or another code or ordinance, the responsibility of more than one code official of the jurisdiction is involved, it shall be the duty of the code officials involved to coordinate their inspections and administrative orders as fully as practicable so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders.

(2005 Code, § 15.04)

§ 151.05 APPROVAL.

(A) *Modifications.* Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official shall have the authority to grant modifications for individual cases, provided the code official shall first find that special individual reasons make the strict letter of the code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life, and fire safety requirements. The details of action granting modification shall be recorded and entered in department files.

(B) *Alternative materials, methods, and equipment.* The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability, and safety.

(C) *Required testing.* Whenever there is insufficient evidence on compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the code official shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

(1) *Test methods.* Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall be permitted to approve appropriate testing procedures performed by an approved agency.

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(2) *Testing agency.* All tests shall be performed by an approved agency.

(3) *Test reports.* Reports of tests shall be retained by the code official for the period required for retention of records.

(D) *Materials and equipment reuse.* Materials, equipment, and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested, when necessary, placed in good and proper working condition, and approved.

(2005 Code, § 15.05)

§ 151.06 VIOLATIONS.

(A) *Unlawful acts.* It shall be unlawful for a person, firm, corporation, or its agents to be in conflict with or in violation of any of the provisions of this code.

(B) *Notice of violation.* The code official shall serve notice of violation, order, or citation in accordance with § 151.07.

(C) *Prosecution of violation.* Any person failing to comply with a notice of violation or order served in accordance with § 151.07 shall be deemed guilty of a misdemeanor, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

(2005 Code, § 15.06) Penalty, see § 151.99

§ 151.07 NOTICES AND ORDERS.

(A) *Notice to person or persons responsible.* Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in divisions (B) and (C) below to the person or persons responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with § 151.05(C).

(B) *Form.* Such notice prescribed in division (A) above shall be in accordance with all of the following:

(1) Be in writing;

(2) Include a description of the real estate sufficient for identification;

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(3) Include a statement of the violation or violations and why the notice is being issued;

(4) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code;

(5) Inform the property owner of the right to appeal;

(6) Include a statement of the right to file a lien in accordance with § 151.06(C); and

(7) Include notice that a motion for summary enforcement will be made to the county district court unless corrective action is taken, or unless an answer is filed within the time specified by the code official.

(C) *Methods of service.* Such notice shall be deemed to be properly served if a copy thereof is:

(1) Delivered personally or posted in a conspicuous place in or about the structure affected by such notice;

(2) Sent by certified or first-class mail addressed to the last known address; or

(3) If the notice is returned showing that the letter was not delivered, a copy thereof shall be placed in or about the structure affected by such notice.

(D) *Penalties.* Penalties for noncompliance with orders and notices shall be as set forth in § 151.04(F).

(E) *Transfer of ownership.* It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease, or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee, or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee, or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

(2005 Code, § 15.07) Penalty, see § 151.99

§ 151.08 UNSAFE STRUCTURES AND EQUIPMENT.

(A) *General.* When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

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(1) *Unsafe structures.* An **UNSAFE STRUCTURE** is one that is found to be dangerous to the life, health, property, or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

(2) *Unsafe equipment.* **UNSAFE EQUIPMENT** includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers, or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property, or safety of the public or occupants of the premises or structure.

(3) *Structure unfit for human occupancy.* A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful, or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks adequate egress, ventilation, illumination, sanitary or heating facilities, or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

(4) *Unlawful structure.* An **UNLAWFUL STRUCTURE** is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered, or occupied contrary to law.

(B) *Closing of vacant structures.* If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons, and the cost thereof shall be charged against the real estate and may be collected by any other legal resource.

(C) *Notice.* Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with § 151.07(C). If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in § 151.07(B).

(D) *Placarding.*

(1) Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word "Condemned" and statement of penalties provided for occupying the premises, operating the equipment, or removing the placard.

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(2) The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided in this code.

(E) *Prohibited occupancy.* Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premises or shall operate placarded equipment and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.

(2005 Code, § 15.08)

§ 151.09 EMERGENCY MEASURES.

(A) *Imminent danger.* When in the opinion of the code official, there is 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 explosives, explosive fumes, gases, or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This structure is unsafe and its occupancy has been prohibited by the code official". It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition, or of demolishing the same.

(B) *Temporary safeguards.* Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the safe boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

(C) *Closing streets.* When necessary for public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways, and places adjacent to unsafe structures, and prohibit the same from being utilized.

(D) *Emergency repairs.* For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

(E) *Cost of emergency repairs.* Costs incurred in the performance of emergency work shall be paid by the city. The city shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs pursuant to state law.

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(F) *Hearing.* Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the City Council, be afforded a hearing as described in this code.
(2005 Code, § 15.09)

§ 151.10 DEMOLITION.

(A) *Demolition.* The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment is so old, dilapidated, or has become so out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure.

(B) *Notices, orders, and citations.* All notices, orders, and citations shall comply with § 151.07.

(C) *Failure to comply.* If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be lien upon such real estate as provided by state statute.

(D) *Salvage materials.* When any structure has been ordered demolished and removed, the governing body or their designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.
(2005 Code, § 15.10)

§ 151.11 MEANS OF APPEAL.

(A) *Application for appeal.*

(1) Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the City Council provided that a written application for appeal is filed within 20 days after the day the decision, notice, or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

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(2) A Council member shall not hear an appeal in which that member has a personal, professional, or financial interest.

(B) *Notice of meeting.* The City Council shall meet to hear the appeal upon proper notice as determined by M. S. Chapter 13D et seq., as it may be amended from time to time.

(C) *Open hearing.*

(1) All hearings before the City Council shall be open to the public. The appellant, the appellant's representative, the code official, the code official's representative, and any other person whose interests are affected shall be given an opportunity to be heard.

(2) The City Council shall adopt and make available to the public through the City Administrator, procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

(D) *Council decision.* The City Council shall modify or reverse the decision of the code official only by a vote of a majority of the total number of Council members.

(1) *Records and copies.* The decision of the City Council shall be recorded. Copies shall be furnished to the appellant and to the code official.

(2) *Administration.* The code official shall take immediate action in accordance with the decision of the City Council.

(E) *Court review.* Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the City Administrator.

(F) *Stays of enforcement.* Appeals of notice and orders (other than imminent danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the City Council.
(2005 Code, § 15.11)

§ 151.12 CODE INTERPRETATION.

(A) *Interchangeability.* Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular.

(B) *Parts.* Whenever the words "dwelling", "premises", "building", "rooming house", "rooming unit", "housekeeping unit", or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof".

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(C) *Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this section.*

(D) *Terms in other codes. Where terms are not defined in this code and are defined in the state's Building Code or the city's Zoning Code, such terms shall have the meanings ascribed to them as in those codes.*

(E) *Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have their ordinarily accepted meanings such as the context implies.*
(2005 Code, § 15.21)

§ 151.13 DEFINITIONS.

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

APPROVED. *Approved by the code official.*

BASEMENT. *The portion of a building which is partly or completely below grade.*

BATHROOM. *A room containing plumbing fixtures including a bathtub or shower.*

BEDROOM. *Any room or space used or intended to be used for sleeping purposes.*

CODE OFFICIAL. *The official who is charged with the administration and enforcement of this code or any duly authorized representative.*

CONDEMN. *To adjudge unfit for occupancy.*

DWELLING UNIT. *A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.*

EASEMENT. *The portion of land or property reserved for present or future use by a person or agency other than the legal owners of the property. The **EASEMENT** shall be permitted to be for use under, on, or above a said lot or lots.*

EXTERIOR PROPERTY. *The open space on the premises and on adjoining property under the control of owners or operators of such premises.*

EXTERMINATION. *The control and elimination of insects, rats, or other pests by eliminating their harborage places; by removing or making inaccessible material that serve as their food; by poison spraying, fumigating, trapping, or by any other approved pest elimination methods.*

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GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

HABITABLE SPACE. Space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered **HABITABLE SPACES**.

HOUSEKEEPING UNIT. A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking, and eating which does not contain within such a unit, a toilet, lavatory, and bathtub or shower.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or premises of insects, rats, vermin, or other pests.

INOPERABLE MOTOR VEHICLE. A vehicle which cannot be driven upon the public streets for reason including, but not limited to, being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

LABELED. Devices, equipment, appliances, or materials to which has been affixed a label, seal, symbol, or other identifying mark of a nationally recognized testing laboratory, inspection agency, or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards.

LET FOR OCCUPANCY or **LET.** To permit, provide, or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premises, or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement, or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building or having possession of a space within a building.

OPENABLE AREA. The part of a window, skylight, or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care, or control of a structure or premises which is let or offered for occupancy.

OWNER. Any person, agent, operator, firm, or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality as holding title to

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the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership, or any other group acting as a unit.

PREMISES. A lot, plat, or parcel of land, easement, or public way, including any structures thereon.

PUBLIC WAY. Any street, alley, or similar parcel of land essentially unobstructed from the ground to the sky which is deeded, dedicated, or otherwise permanently appropriated to the public for public use.

RENTAL UNIT. Any dwelling, dwelling unit, rooming house, or rooming unit which is leased by the owner or the owner's licensee to another party and any renter-occupied mobile home.

ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and non-combustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust and other similar materials.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

STRUCTURE. That which is built or constructed or a portion thereof.

TENANT. A person, corporation, partnership, or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from any space.

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WORKM.ANLIKE. Executed in a skilled manner (e.g., generally plumb, level, square, in line, undamaged, and without marring adjacent work).

YARD. An open space on the same lot with a structure.
(2005 Code, § 15.22)

§ 151.14 GENERAL REQUIREMENTS.

(A) *Scope.* The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment, and exterior property.

(B) *Responsibility.* The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit, or housekeeping unit are responsible for keeping in a clean, sanitary, and safe condition that part of the dwelling unit, rooming unit, housekeeping unit, or premises which they occupy and control.

(C) *Vacant structures and land.* All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure, and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.
(2005 Code, § 15.26) Penalty, see § 151.99

§ 151.15 EXTERIOR PROPERTY AREAS.

(A) *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 such occupant occupies or controls in a clean and sanitary condition.

(B) *Grading and drainage.* All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon. Exception: approved retention areas and reservoirs.

(C) *Sidewalks and driveways.* All sidewalks, walkways, stairs, driveways, parking spaces, and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

(D) *Exhaust vents.* Pipes, ducts, conductors, fans, or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors, or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

(E) *Accessory structures.* All accessory structures, including detached garages, fences, and walls, shall be maintained structurally sound and in good repair.

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(F) *Defacement of property.* No person shall willfully or wantonly damage, mutilate, or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving, or graffiti.

(G) *Owner responsibility.* It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.
(2005 Code, § 15.27) Penalty, see § 151.99

§ 151.16 COMMERCIAL EXTERIOR PROPERTY AREAS.

(A) *Scope.* The provisions of this section shall govern the minimum conditions and responsibilities of owners or occupants of commercial property for the maintenance of structures; equipment, and exterior property.

(B) *Responsibility.* The owner or occupants of the commercial premises shall maintain the structures and exterior property in compliance with this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this section. Owner or occupants of a commercial premises are responsible for maintaining the premises in a clean, sanitary, and safe condition.

(C) *Sidewalks and driveways.* All sidewalks, walkways, driveways, parking spaces, and similar areas shall be kept in a proper state of repair and maintained free from hazardous conditions.

(D) *Motor vehicles.* No inoperative or unlicensed motor vehicles or junk vehicles shall be parked, kept, or stored on any commercial premises and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped and dismantled unless such unlicensed or inoperative vehicles are on the premises of junk yards and automobile graveyards that are defined, maintained, and licensed in accordance with state law.

(E) *Dangerous machinery.* Accumulation of discarded or disused, dangerous machinery, automobile bodies, or other material or equipment in a manner creating fire or safety hazard from such accumulation.

(F) *Other materials.* All materials not intended for or a part of landscaping or function ability of the property shall be stored inside a structure suitable for storage or concealed from public view.

(G) *Unlawful acts.* It shall be unlawful for a person, firm, corporation, or its agents be in conflict with or in violation of any of the provisions of this section.

(H) *Notice of violation.* The code official shall serve notice of violation, order, or citation in accordance with § 151.07.

(I) *Prosecution of violation.* Any person failing to comply with a notice of violation or order served in accordance with § 151.07 shall be deemed guilty of a misdemeanor, and the violation shall be deemed

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a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

(2005 Code, § 15.28) Penalty, see § 151.99

§ 151.17 SWIMMING POOLS, SPAS, AND HOT TUBS.

(A) *Swimming pools.* Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

(B) *Enclosures.* Private swimming pools, hot tubs, and spas with a capacity greater than 2,000 gallons and/or two feet in depth shall be completely surrounded by a fence or barrier at least 48 inches (1,219 mm) in height, which does not allow a four-inch sphere to pass through and above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1,372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of six inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced, or changed in a manner that reduces its effectiveness as a safety barrier. (2005 Code, § 15.29) Penalty, see § 151.99

§ 151.18 EXTERIOR STRUCTURE.

(A) *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.

(B) *Protective treatment.* All exterior surfaces, including, but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking, and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water-tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

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

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(D) *Foundation walls.* All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

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

(F) *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 drains, gutters, and downspouts shall be maintained in good repair and free from obstructions.

(G) *Decorative features.* All cornices, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

(H) *Overhang extensions.* All overhang extensions, including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition.

(I) *Stairways, decks, porches, and balconies.* Every exterior stairway, deck, porch, and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

(J) *Chimneys and towers.* All chimneys, cooling towers, 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.

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

(L) *Window, skylight, and door frames.* Every window, skylight, door, and framer shall be kept in sound condition, good repair, and weather tight.

(1) *Glazing.* All glazing materials shall be maintained free from cracks and holes.

(2) *Openable windows.* Every window, other than a fixed window, shall be easily openable and capable of being held in position by the window hardware.

(M) *Insect screens.* During the period from May 1 to October 1, every door, window, and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged, or stored, shall be supplied with approved tightly fitting screens of not less than

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16 mesh per inch and every swinging door shall have a self-closing device in good working condition. Exception: screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

(N) *Doors.* All exterior doors, door assemblies, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units, and guestrooms shall tightly secure the door.

(O) *Basement hatchways.* Every basement hatchway shall be maintained to prevent the entrance of rodents, rain, and surface drainage water.

(P) *Guards for basement windows.* Every basement window that is openable shall be supplied with rodent shields, storm windows, or other approved protection against the entry of rodents.

(Q) *Building security.* Doors, windows, or hatchways for dwelling units, room units, or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

(1) *Doors.* Doors providing access to a dwelling unit, rooming unit, or housekeeping unit that is rented, leased, or let shall be equipped with a deadbolt lock meeting specifications set forth herein. Such deadbolt locks shall be operated only by the turning of a knob or key and shall give a lock throw of not less than one-inch. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock. Such deadbolt locks shall be installed according to manufacturer's specifications and maintained in good working order. All deadbolt locks required by this section shall be designed and installed in such a manner so as to be operable inside of the dwelling unit, rooming unit, or housekeeping unit without the use of a key, tool, combination thereof, or any other special knowledge or effort.

(2) *Windows.* Operable windows located in whole or in part within six feet above ground level or walking surface below that provide access to a dwelling unit, rooming unit, or housekeeping unit that is rented, leased, or let shall be equipped with a window sash locking devices.

(3) *Basement hatchways.* Basement hatchways that provide access to dwelling unit, rooming unit, or housekeeping unit that is rented, leased, or let shall be equipped with devices that secure the units from unauthorized entry.

(2005 Code, § 15.30) Penalty, see § 151.99

§ 151.19 INTERIOR STRUCTURE.

(A) *General.* The interior of a structure and equipment therein shall be maintained in good repair, structurally sound, and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units, or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

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(B) *Structural members.* All structural members shall be maintained structurally sound and be capable of supporting the imposed loads.

(C) *Interior surfaces.* All interior surfaces, including windows and doors, shall be maintained in good, clean, and sanitary condition. Peeling, chipping, flaking, or abraded paint shall be repaired, removed, or covered. Cracked or loose plaster, decayed wood, and other defective surface conditions shall be corrected.

(D) *Stairs and walking surfaces.* Every stair, ramp, landing, balcony, porch, deck, or other walking surface shall be maintained in sound condition and good repair.

(E) *Interior doors.* Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers, or tricks as intended by the manufacturer of the attachment hardware.

(2005 Code, § 15.31) Penalty, see § 151.99

§ 151.20 HANDRAILS AND GUARDRAILS.

(A) *General.* Every exterior and interior flight of stairs having more than three risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp, or other walking surface which is more than 30 inches above the floor or grade below shall have guards. Handrails shall not be less than 30 inches high or more than 42 inches high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 30 inches high above the floor of the landing, balcony, porch, deck, or ramp or other walking surfaces.

(B) *Exception.* Guards shall not be required where exempted by the adopted Building Code.
(2005 Code, § 15.32) Penalty, see § 151.99

§ 151.21 LIGHT, VENTILATION, AND OCCUPANCY LIMITATIONS.

(A) *General.* The provisions of this section shall govern the minimum conditions and standards for light, ventilation, and space for occupying a structure.

(B) *Responsibility.* The owner of the structure shall provide and maintain light, ventilation, and space conditions in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy, any premises that do not comply with the requirements of the section.

(C) *Alternative devices.* In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the state's Building Code shall be permitted. (2005 Code, § 15.36) Penalty, see § 151.99

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§ 151.22 LIGHT.

(A) *Habitable spaces.* Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be 8 % of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room. Exception: where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 % of the floor area of the interior room or space, but not less than 25 square feet. The exterior glazing area shall be based on the total floor area being served.

(B) *Common halls and stairways.* Every common hall and stairway in residential occupancies, other than in one- and two-family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet. In other than residential occupancies, means of egress, including exterior means of egress stairways, shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of one footcandle at floors, landings, and treads.

(C) *Other spaces.* All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment, and fixtures.

(2005 Code, § 15.37) Penalty, see § 151.99

§ 151.23 VENTILATION.

(A) *Habitable spaces.* Every habitable space shall have at least one openable window. The total openable area of the window in every room shall be equal to at least 45 % of the minimum glazed area required in § 151.22. Exception: where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 % of the floor area of the interior room or space, but not less than 25 square feet. The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

(B) *Bathrooms and toilet rooms.* Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by division (A) above, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be re-circulated.

(C) *Cooking facilities.* Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in a rooming unit or dormitory unit. Exception: where specifically approved in writing by the code official.

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(D) *Process ventilation.* Where injurious, toxic, irritating, or noxious fumes, gases, dusts, or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be re-circulated to any space.

(E) *Clothes dryer exhaust.* Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted in accordance with the manufacturer's instructions.
(2005 Code, § 15.38) Penalty, see § 151.99

§ 151.24 OCCUPANCY LIMITS.

(A) *Privacy.* Dwelling units, hotel units, housekeeping units, rooming units, and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

(B) *Minimum room widths.* A habitable room, other than a kitchen, shall not be less than seven feet in any plan dimension. Kitchens shall have a clear passageway of not less than three feet between counter fronts and appliances or counter fronts and walls.

(C) *Minimum ceiling heights.*

(1) Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms, and habitable basement areas shall have a clear ceiling height of not less than seven feet.

(2) Exceptions include:

(a) In one- and two-family dwellings, beams or girders spaced not less than four feet on center and projecting not more than six inches below the required ceiling height;

(b) Basement rooms in one- and two-family dwellings occupied exclusively for laundry, study, or recreation purposes, having a ceiling height of not less than six feet four inches of clear height under beams, girders, ducts, and similar obstructions; and

(c) Rooms occupied exclusively for sleeping, study, or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least seven feet over not less than one-third of the required minimum floor area. In calculation the floor area of such rooms, only those portions of the floor area with a clear ceiling height of five feet or more shall be included.

(D) *Bedroom requirements.* Every bedroom shall comply with the following requirements.

(1) *Area for sleeping purposes.* Every bedroom occupied by one person shall contain at least 70 square feet of floor area, and every bedroom occupied by more than one person shall contain at least 50 square feet of floor area for each occupant thereof.

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(2) *Access from bedrooms.* Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces. Exception: units that contain fewer than two bedrooms.

(3) *Water closet accessibility.* Every bedroom shall have access to at least one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.

(4) *Prohibited occupancy.* Kitchens and non-habitable spaces shall not be used for sleeping purposes.

(5) *Other requirements.* Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room area, ceiling height, and room width requirements of this section; the plumbing facilities and water-heating facilities requirements of §§ 151.25 and 151.31; the heating facilities and electrical receptacle requirements of §§ 151.32 to 151.36; and the smoke detector and emergency escape requirements of §§ 151.40 and 152.42.

(E) *Overcrowding.* Dwelling units shall not be occupied by more occupants than permitted by the area requirements of the following table:

<i>Space</i>	<i>Minimum Area in Square Feet</i>		
	<i>1-2 Occupants</i>	<i>3-5 Occupants</i>	<i>6 or More Occupants</i>
Bedrooms	Shall comply with division (D) above		
Dining Room	No requirements	80	100
Living Room	No requirements	120	150
For SI: 1 square foot = 0.093 m ² a. See division (E)(1) below for combined living room/dining room spaces. b. See division (0)(2) above for limitations on determining: the minimum occupancy area for sleeping purposes.			

(1) *Sleeping area.* The minimum occupancy area required by the table above shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with division (D) above.

(2) *Combined spaces.* Combined living room and dining room spaces shall comply with the requirements of the table above if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

(F) *Efficiency unit.* Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements.

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(1) A unit occupied by not more than two occupants shall have a clear floor area of not less than 220 square feet. A unit occupied by three occupants shall have a clear floor area of not less than 320 square feet. These required areas shall be exclusive of the areas required by divisions (F)(2) and (F)(3) below.

(2) The unit shall be provided with a kitchen sink, cooking appliance, and refrigeration facilities, each having a clear working space of not less than 30 inches in front. Light and ventilation conforming to this code shall be provided.

(3) The unit shall be provided with a separate bathroom containing a water closet, lavatory, and bathtub or shower.

(4) The maximum number of occupants shall be three.

(G) *Food preparation.* All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare, and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage. (2005 Code, § 15.39) Penalty, see § 151.99

§ 151.25 PLUMBING FACILITIES AND FIXTURE REQUIREMENTS.

(A) *Scope.* The provisions of this section shall govern the minimum plumbing systems, facilities, and plumbing fixtures to be provided.

(B) *Responsibility.* The owner of the structure shall provide and maintain such plumbing facilities and plumbing 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 section. (2005 Code, § 15.44) Penalty, see § 151.99

§ 151.26 REQUIRED FACILITIES.

(A) *Dwelling units.* 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 such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

(B) *Rooming houses.* At least one water closet, lavatory, and bathtub or shower shall be supplied for each four rooming units.

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(C) *Hotels.* Where private water closets lavatories and baths are not provided, one water closet, one lavatory, and one bathtub or shower having access from a public hallway shall be provided for each ten occupants.

(D) *Employees' facilities.* A minimum of one water closet, one lavatory, and one drinking facility shall be available to employees.

(E) *Drinking facilities.* Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler, or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in toilet rooms or bathrooms.

(2005 Code, § 15.45) Penalty, see § 151.99

§ 151.27 TOILET ROOMS.

(A) *Privacy.* Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.

(B) *Location.* Toilet rooms and bathrooms serving hotel units, rooming units, or dormitory units or housekeeping units, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

(C) *Location of employee toilet facilities.* Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located not more than one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet. Employee facilities shall either be separate facilities or combined employee and public facilities. Exception: facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease, or control, shall not exceed a travel distance of 500 feet from the employees' regular working area to the facilities.

(D) *Floor surface.* In other than dwelling units, every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

(2005 Code, § 15.46) Penalty, see § 151.99

§ 151.28 PLUMBING SYSTEMS AND FIXTURES.

(A) *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 such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary, and functional condition.

(B) *Fixture clearance.* Plumbing fixtures shall have adequate clearance for usage and cleaning.

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(C) *Plumbing system hazards.* Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, back-siphoning, improper installation, deterioration, or damage of for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard. (2005 Code, § 15.47) Penalty, see § 151.99

§ 151.29 WATER SYSTEM.

(A) *General.* Every sink, lavatory, bathtub, or shower, drinking fountain, water closet, or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs, and showers shall be supplied with hot or tempered and cold running water in accordance with the state's Plumbing Code.

(B) *Contamination.* The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets, and other hose bibs or faucets to which hoses are attached left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

(C) *Supply.* The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices, and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks. (2005 Code, § 15.48) Penalty, see § 151.99

§ 151.30 SANITARY DRAINAGE SYSTEM.

(A) *General.* All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

(B) *Maintenance.* Every plumbing stack, vent, waste, and sewer line shall function properly and be kept free from obstructions, leaks, and defects. (2005 Code, § 15.49) Penalty, see § 151.99

§ 151.31 STORM DRAINAGE.

Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance. (2005 Code, § 15.50) Penalty, see § 151.99

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§ 151.32 MECHANICAL AND ELECTRICAL REQUIREMENTS.

(A) *Scope.* The provisions of this section shall govern the minimum mechanical and electrical facilities and equipment to be provided.

(B) *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 of this section.

(2005 Code, § 15.54) Penalty, see § 151.99

§ 151.33 HEATING FACILITIES.

(A) *Facilities required.* Heating facilities shall be provided in structures as required by this section.

(B) *Residential occupancies.* Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68 °F in all habitable rooms, bathrooms, and toilet rooms. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

(C) *Heat supply.* Every owner and operator of any building who rents, leases, or lets one or more dwelling unit, rooming unit, dormitory, or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a temperature of not less than 65 °F in all habitable rooms, bathrooms, and toilet rooms.

(D) *Occupied work spaces.* Indoor occupied work spaces shall be supplied with heat during the period the spaces are occupied. Exceptions: processing, storage, and operation areas that require cooling or special temperature conditions; and areas in which persons are primarily engaged in vigorous physical activities.

(E) *Room temperature measurements.* The required room temperatures shall be measured three feet above the floor near the center of the room and two feet inward from the center of each exterior wall. (2005 Code, § 15.55) Penalty, see § 151.99

§ 151.34 MECHANICAL EQUIPMENT.

(A) *Mechanical appliances.* All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances, and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

(B) *Removal of combustion products.* All fuel-burning equipment and appliances shall be connected to an approved chimney or vent. Exception: fuel-burning equipment and appliances which are labeled for unvented operation.

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(C) *Clearances.* All required clearances to combustible materials shall be maintained.

(D) *Safety controls.* All safety controls for fuel-burning equipment shall be maintained in effective operation.

(E) *Combustion air.* A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

(F) *Energy conservation devices.* Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless labeled for such purpose and the installation is specifically approved. (2005 Code, § 15.56) Penalty, see § 151.99

§ 151.35 ELECTRICAL FACILITIES.

(A) *Facilities required.* Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and § 151.36.

(B) *Service.* The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the state's Electrical Code. Dwelling units shall be served by a three-wire, 120/240-volt, single phase electrical service having a rating of not less than 60 amperes.

(C) *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 receptacle and lighting outlets, improper wiring of installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard. (2005 Code, § 15.57) Penalty, see § 151.99

§ 151.36 ELECTRICAL EQUIPMENT.

(A) *Installation.* All electrical equipment, wiring, and appliances shall be properly installed and maintained in a safe and approved manner.

(B) *Receptacles.* Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection.

(C) *Lighting fixtures.* Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room, and furnace room shall contain at least one electric lighting fixture. (2005 Code, § 15.58) Penalty, see § 151.99

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§ 151.37 ELEVATORS, ESCALATORS, AND DUMBWAITERS.

(A) *General.* Elevators, dumbwaiters, and escalators shall be maintained to sustain safely all imposed loads, to operate properly, and to be free from physical and fire hazards. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter; or the certificate shall be available for public inspection in the office of the building operator.

(B) *Elevators.* In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied. Exception: buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

(2005 Code, § 15.59) Penalty, see § 151.99

§ 151.38 DUCT SYSTEMS.

Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

(2005 Code, § 15.60) Penalty, see § 151.99

§ 151.39 FIRE SAFETY REQUIREMENTS.

(A) *Scope.* The provisions of this section shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.

(B) *Responsibility.* The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this section. (2005 Code, § 15.64) Penalty, see § 151.99

§ 151.40 MEANS OF EGRESS.

(A) *General.* A safe, continuous, and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the state's Fire Code.

(B) *Aisles.* The required width of aisles in accordance with the state's Fire Code shall be unobstructed.

(C) *Locked doors.* All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge, or effort, except where the door hardware conforms to that permitted by the state's Building Code.

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(D) *Emergency escape openings.* Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates, or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool, or force greater than that which is required for normal operation of the escape and rescue opening.

(2005 Code, § 15.65) Penalty, see § 151.99

§ 151.41 FIRE-RESISTANCE RATINGS.

(A) *Fire-resistance rated assemblies.* The required fire-resistance rating of fire-resistance rated walls, fire stops, shaft enclosures, partitions, and floors shall be maintained.

(B) *Opening protectives.* Required opening protectives shall be maintained in an operative condition. All fire and smoke stop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

(2005 Code, § 15.66) Penalty, see § 151.99

§ 151.42 FIRE PROTECTION SYSTEMS.

(A) *General.* All systems, devices, and equipment to detect a fire, actuate an alarm, or suppress or control a fire of any combination thereof shall be maintained in an operable condition at all times in accordance with the state's Fire Code.

(B) *Smoke alarms.* Single or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4, and in dwellings not regulated in Group R occupancies, regardless of occupant load at all of the following locations:

(1) On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms;

(2) In each room used for sleeping purposes; and

(3) In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level. Single or multiple-station smoke alarms shall be installed in other groups in accordance with the state's Fire Code.

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(C) *Power source.* In Group R occupancies and in dwellings not regulated as Group R occupancies, single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnection switch other than as required for overcurrent protection. Exception: smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source, and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space, or basement available which could provide access for building wiring without the removal of interior finishes.

(D) *Interconnection.*

(1) *Generally.* Where more than one smoke alarm is required to be installed within an individual dwelling unit in Group R-2, R-3, R-4, and in dwellings not regulated as Group R occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

(2) *Exceptions.*

(a) Interconnection is not required in buildings which are not undergoing alteration, repairs, or construction of any kind; and

(b) Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic crawl space, or basement available which could provide access for interconnection without the removal of interior finishes.

(2005 Code, § 15.67) Penalty, see § 151.99

§ 151.43 LICENSING OF THE OPERATION OF ALL RESIDENTIAL RENTAL UNITS AND STRUCTURES, RENTAL UNITS IN MIXED-USE STRUCTURES, AND RENTER-OCCUPIED MOBILE HOMES.

(A) No person shall operate a rental unit unless he or she holds a current, valid operating license issued by the city in the person's name for the specific named rental unit. Failure to comply with this requirement shall result in certain fees being charged to the owner as per the schedule set forth in the housing inspection plan and may result in the filing of a criminal complaint.

(B) Every operating license shall be issued for a period of time in accordance with the plan for the systematic inspection of rental housing units to be developed by the appropriate authority.

(C) The appropriate authority is hereby authorized upon application therefor to issue new operating licenses, and renewals thereof, in the names of applicant owners or operators of rental housing units.

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No such licenses shall be issued unless the rental housing unit in connection with which the license is sought is found after inspection to meet all applicable requirements of this section and applicable rules and regulations pursuant thereto.

(D) No operating license shall be issued or renewed unless the applicant owner or operator has first made application therefor on an application form provided by the appropriate authority. The appropriate authority shall develop such forms and make them available to the public.

(E) No operating license shall be issued or renewed unless the applicant owner or operator agrees in his or her application to such inspection pursuant to § 151.04(C) and (D) as the appropriate authority may require to determine whether the rental housing unit in connection with which such license is sought is in compliance with the applicable provisions of this section and with applicable rules and regulations pursuant thereto.

(F) No operating license shall be issued or renewed unless the completed application form is accompanied by payment of a license fee pursuant to the schedule of fees included in the inspection plan developed by the appropriate authority.

(G) No operating license shall be issued or renewed for a nonresident applicant, unless such applicant designates in writing to the appropriate authority the name of applicant's agent for the receipt of service of notice of violation of the provisions of this section and for service of process pursuant to this section. The applicant may designate any person resident in the county as his or her agent for this purpose. An applicant who does not reside in the county is a nonresident applicant.

(H) No operating license shall be issued or renewed for a resident applicant unless such applicant has first designated an agent for the receipt of service of violations of the provisions of this section when said applicant is absent from this city for 30 or more days. Such a designation shall be made in writing and shall accompany each application form. The applicant may designate any person resident in the county as his or her agent for this purpose.

(I) No operating license shall be renewed unless an application therefor has been made within 60 days prior to the expiration of the present operating license.

(J) No operating license for a rental unit shall be issued or renewed if the real estate taxes assessed against the rental unit are not current.

(K) Each license shall be displayed in a common area within the structure housing the rental housing units, provided the structure has a common area.

(L) Any license for a particular property shall be transferable to another person, provided that the person holding the operating license gives notice in writing to the appropriate authority within 15 working days after having transferred or otherwise disposed of the legal control of the licensed rental housing unit. Such notice shall include the name and address of the person or persons succeeding to the

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ownership or control of such rental housing unit. Failure to provide proper notification of a transfer of property shall be cause for the property to be re-registered and the appropriate fee charged. (2005 Code, § 15.68) Penalty, see§ 151.99

§ 151.44 NOTICE OF VIOLATION.

(A) Whenever the appropriate authority determines that any dwelling, dwelling unit, rental unit, rooming unit, or the premises surrounding any of these fails to meet the requirements set forth in this section or in applicable rules and regulations issued pursuant thereto, the appropriate authority, in accordance with existing legislation, shall issue a notice setting forth the alleged failures and advising the owner, occupant, operator, or agent that such failures must be corrected. This notice shall:

(1) Be in writing;

(2) Set forth the alleged violations of this section or of applicable rules and regulations issued

thereto;

(3) Describe the dwelling, dwelling unit, rental unit, or rooming unit where the violations are alleged to exist or to have been committed. Such written notice shall specify an appropriate or acceptable method of correction;

(4) Specify a specific date for the correction of any violation alleged;

(5) State that unless the violations cited are corrected by the date set, the operating license for the specific unit in violation may be suspended;

(6) Be served upon the owner, agent of the owner, occupant, or operator of the dwelling, dwelling unit, rental unit, or rooming unit personally or by registered mail, return receipt requested, addressed to the owner, occupant, operator, or owner's agent. If one or more persons to whom such notice is addressed cannot be found after diligent effort to do so, service may be made upon such persons by posting the notice in or about the dwelling, dwelling unit, or rooming unit described in the notice, or by causing such notice to be published in a newspaper of general circulation once each week for a period of three successive weeks; or

(7) Be served upon a resident agent for the receipt of such services of notices designated pursuant to§ 151.43(G).

(B) At the end of the period of time allowed for corrections of any violation alleged, the appropriate authority shall reinspect the dwelling, dwelling unit, rental until, or rooming unit described in the notice.

(C) If upon reinspection the violations are determined by the appropriate authority not to have been corrected, the appropriate authority shall initiate legal proceedings for the immediate correction of the

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alleged violations or shall order the dwelling, dwelling unit, rental unit, or rooming unit vacated within 30 days or both. In addition, the operating license of the owner shall be suspended.
(2005 Code, § 15.69) Penalty, see § 151.99

§ 151.45 REPAIRS AND OTHER CORRECTIVE ACTION; DESIGNATION OF UNFIT UNITS AND/OR STRUCTURES; DEMOLITION.

(A) Repairs and other corrective action.

(1) Whenever an owner, operator, or agent of a dwelling, dwelling unit, rental unit, rooming unit, dormitory, or dormitory room fails, neglects, or refuses to make such repairs or other corrective action called for in the order or notice of violation issued pursuant to § 151.38, the appropriate authority may undertake such repairs or action, when in the judgment of such authority a failure to make them will endanger the public health, safety, or welfare, and the cost of such repairs and action will not exceed 50 % of the fair market of the structures to be repaired.

(2) Notice of the intention to make repairs or take other corrective action shall be served upon the owner, operator, or upon the designated agent for service pursuant to § 151.43(0), or upon the resident agent of the owner, as designated agent for service pursuant to § 151.43(H).

(3) Every owner, operator, or agent of a dwelling, dwelling unit, rental unit, rooming unit, dormitory, or dormitory room has received notice of the intention of the approved authority to make repairs or take other corrective action shall give entry and free access to the agent of the appropriate authority for the purpose of making such repairs. Any owner, operator, or agent of a dwelling, dwelling unit, rental unit, rooming unit, dormitory, or dormitory room who refuses, impedes, interferes with, or hinders or obstructs entry by such agent pursuant to a notice of intention to make repairs or take other corrective action shall be subject to a civil penalty pursuant to the schedule included in the systematic housing inspection plan adopted by the appropriate authority for each such failure to comply with this section. In addition, the owner, operator or agent may be subject to criminal penalties for which provision is made in § 151.99.

(4) When repairs are made or other corrective action taken at the discretion of the appropriate authority, the cost of such repairs and corrective action shall constitute a debt in favor of the city against the owner of the repaired structure. In the event the owner fails, neglects, or refuses to pay the city the amount of this debt, it shall be recoverable in a civil action against the owner or his or her successor, brought in a court of competent jurisdiction by the city which shall possess all rights of a private creditor.

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(B) *Designation of unfit dwellings, dwelling units, rooming houses, rooming units, dormitories, and dormitory rooms.*

(1) Any dwelling, dwelling unit, rental unit, rooming house, rooming unit, dormitory, or dormitory room shall be designated as unfit for human habitation when any of the following defects or conditions are found, and when, in the judgment of the appropriate authority, such defect created a hazard to the health, safety, or welfare of the occupants or of the public:

(a) Such dwelling, dwelling unit, rental unit, rooming house, rooming unit, dormitory, or dormitory room is damaged, decayed, dilapidated, unsanitary, unsafe, and/or vermin-infested and/or contains levels of hazardous material which could be harmful to health; or

(b) The dwelling, dwelling unit, rental unit, rooming house, rooming unit, dormitory, or dormitory room lacks illumination, ventilation, and/or required sanitation facilities to the extent that it is in violation of the provisions of this section.

(2) Whenever any dwelling, dwelling unit, rental unit, rooming house, dormitory, or dormitory room has been designated as unfit for human habitation, the appropriate authority shall placard the dwelling, dwelling unit, rental unit, rooming unit, dormitory, or dormitory room, indicated that it is unfit for human habitation, and, if occupied, shall order such dwelling, dwelling unit, rental unit, or rooming unit vacated within a reasonable time.

(3) Whenever any dwelling, dwelling unit, rental unit, rooming house, dormitory, or dormitory room has been placarded and vacated, the appropriate authority shall order services and utilities to be turned off or disconnected and all utility meters to be removed.

(4) No dwelling, dwelling unit, rental unit, rooming house, rooming unit, dormitory, or dormitory room which has been designated as unfit for human habitation, has been placarded as such, and vacated shall be used again for human habitation until written approval is secured from the appropriate authority and the placard removed by the appropriate authority.

(5) The appropriate authority shall rescind the designation as unfit for human habitation and remove the placard when the defect or condition upon which such designation and placarding was based has been removed or eliminated and the dwelling, dwelling unit, rental unit, rooming house, rooming unit, dormitory, or dormitory room is deemed by the appropriate authority as a safe, sanitary, and fit place for human habitation.

(6) No person shall deface or remove the placard from any dwelling, dwelling unit, rental unit, rooming house, rooming unit, dormitory, or dormitory room which has been designated as unfit for human habitation and has been placarded as such, except as provided in § 151.08(D).

(7) Any person affected by any decision of the appropriate authority or by any designation or placarding of a dwelling, dwelling unit, rental unit, rooming unit, dormitory, or dormitory room as unfit for human habitation shall be granted a hearing on the matter before the appropriate authority under the procedure set forth in § 151.11.

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(C) *Demolition of dwellings, dwelling units, rental unit, rooming houses, rooming units, dormitories or dormitory rooms designated as unfit for human habitation.* Any demolition necessary as a result of a designation that the rental unit is unfit for human habitation must be done in accordance with the applicable state statutes, rules, and regulations.

(2005 Code, § 15.70) Penalty, see § 151.99

§ 151.99 PENALTY.

(A) (1) Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including state statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

(2) Any person, firm, or corporation who violates any provision of this code, including state statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a fine of not more than \$300.

(3) In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(4) The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for violation.

(2005 Code, § 15.99)

(B) (1) *Violation penalties.* Any person who shall violate a provision of § 151.06, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(2) *Enforcement.* The remedies provided in this code are not exclusive. They are in addition to and do not supersede or preempt other remedies such as injunctive relief, hazardous building condemnation, elimination of public health and safety hazards under state statutes, or criminal charges for violation of substantive provisions of any city or state code relating to housing maintenance, health, fire safety, building, or zoning. Further, the remedies in this code do not supersede or affect the legal rights or remedies of tenants provided under state law or other code provisions.

Building Regulations

(3) *Abatement of violation.* The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct, or abate a violation, or to prevent illegal occupancy of a building, structure, or premises, or to stop an illegal act, conduct, business, or utilization of the building, structure, or premises.
(2005 Code, § 15.06)

(C) (1) *Violation penalties.* Any person who shall violate a provision of § 151.16, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(2) *Enforcement.* The remedies provided in this code are not exclusive. They are in addition to and do not supersede or preempt other remedies such as injunctive relief, hazardous building condemnation, elimination of public health and safety hazards under state statutes, or criminal charges for violation of substantive provisions of any city or state code relating to housing maintenance, health, fire safety, building, or zoning. Further, the remedies in this code do not supersede or affect the legal rights or remedies of tenants provided under state law or other code provisions.

(3) *Abatement of violation.* The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct, or abate a violation, or to prevent illegal occupancy of a building, structure, or premises, or to stop an illegal act, conduct, business, or utilization of the building, structure, or premises.
(2005 Code, § 15.28)

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CHAPTER 152: SUBDIVISIONS

Section

- 152.01 General provisions
- 152.02 Definitions
- 152.03 Preliminary plat
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- 152.05 Design standards and improvements
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§ 152.01 GENERAL PROVISIONS.

(A) *Purpose.* Land subdivision is the first step in the process of community development. Once land has been divided into streets, blocks, lots, and open spaces a pattern has been established which determines how well community needs for residents, business, and industry will be met. It also determines, to a great extent, how well the community will be able to handle its traffic circulation problems, how well it will be able to meet the demand for home sites and how efficiently and economically it will be able to provide the many services that are required. These subdivision regulations are designed to provide for harmonious development of a subdivided area; for a coordinated layout; for the proper arrangement of streets; for adequate and convenient spaces for traffic, utilities, recreation, light, air, and access for firefighting equipment; and for adequate provision for water, drainage, sewer, and other sanitary facilities. This chapter adopts subdivision regulations to provide for the orderly, economic, and safe development of land and urban services and facilities to promote the public health, safety, morals, and general welfare.

(B) *Application.* This chapter shall apply to all land now lying within, and hereafter annexed to, the city, and to unincorporated territory located within two miles of its limits in any direction. Except as herein otherwise provided, this chapter shall apply to the subdivision of a lot, tract, or parcel of land into two or more lots, tracts, or other division of land for any purpose, whether immediate or future, including the re-subdivision, rearrangement, or re-platting of land or lots. This chapter shall further apply to any parcel of land being subdivided which includes an existing or future public right-of-way or easement according to the comprehensive plan of the city that has not been previously dedicated. This

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chapter shall not apply to subdivision into tracts each of which tracts contain five acres or more, and at least 300 feet in width, to re-subdivision of land previously subdivided the total area of which is one acre or less, or to the subdivision or allocation of land as open space for common use by owners, occupants, or leaseholders, or as easements for the extension and maintenance of public sewerage, water, storm drainage, or other public facilities.

(C) *Plat approval required.* No plat for a subdivision or part thereof within the application of this chapter shall be prepared, presented for approval, approved, or recorded, except as prescribed herein.

(D) *Restrictions on filing and recording conveyances.*

(1) After the effective date of this section, no conveyance of land to which this chapter is applicable shall be filed or recorded if the land is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after April 21, 1961 or to an unapproved plat.

(2) This section does not apply to a conveyance if the land: was a separate parcel of record on the date of adoption of this section; was the subject of a written agreement to convey entered into prior to the date of adoption of this section; was a separate parcel of not less than two and one-half (2 1/2) acres in area and 150 feet in width on January 1, 1966; or is a single parcel of land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width.

(3) In any case in which compliance with this section will create an unnecessary hardship and failure to comply does not interfere with the purpose of this chapter, the Council may waive such compliance by adoption of a resolution to that effect and the conveyance may then be filed or recorded.

(E) *Public street grants.* No grant of a public street to the city by deed shall be filed without the approval of the Council by a resolution to that effect.

(F) *Plat review and charges.*

(1) All subdividers are hereby on notice that the Council will employ qualified persons to check and verify surveys and plats hereafter filed for approval, and to determine the suitability of the plat from the standpoint of community planning. Such persons shall make full reports of their findings to the Council.

(2) The Council may from time to time establish fees and charges for the filing and reviewing of preliminary plats. The subdivider shall reimburse the city for the cost of legal, professional, and technical services as to any plat.

(2005 Code, § 12.01) Penalty, see § 152.99

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§ 152.02 DEFINITIONS.

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

ALLEYS. Minor ways which are used primarily for vehicular service access to the backs or to the sides of properties which otherwise abut on streets.

ARTERIAL STREETS AND HIGHWAYS. Those designed or utilized primarily for high vehicular speeds and/or for heavy volumes of traffic.

BLOCK. The distance as measured along a street between intersecting streets from centerline to centerline; and where the context requires, it also means the enclosed area within the perimeter of the streets or property lines enclosing it.

COLLECTOR STREETS AND HIGHWAYS. Those designed or utilized to carry intermediate volumes of traffic from minor streets to arterial streets.

DRAINAGE COURSE. A watercourse or indenture for the drainage of surface water.

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

LAKE LEVEL. The mean level of the lake or watercourse into which a property does or will drain as established by the City Engineer.

LOCAL STREETS. Those which are used or will be used primarily for access to abutting properties and which carry limited volumes of traffic.

LOT. A piece or parcel of land occupied or to be occupied by a building or a use, or as a unit for the transfer of ownership.

LOT WIDTH. The dimension of a lot from side line to side line as measured at the street right-of-way line.

MAP. A drawing showing one or more parcels of land.

OFFICIAL MAP. A map which designates rights-of-way and easements for streets, alleys, drainage courses, and utilities. Such **MAP** shall also show existing additions and subdivisions and that include the lot and block identifications and dimensions and the identifications of such additions and subdivisions and the streets contained therein. The information as shown on such **MAP** shall be in accordance with documents as permanently recorded with the city and the county. The **OFFICIAL MAP** shall be kept on record in the office of the City Administrator and is to be kept current by the city.

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OWNER.' A person having sufficient interest in land sought to be subdivided to maintain proceedings as a subdivider.

PARKS. Areas of public land developed and maintained primarily as pleasurable landscaped areas providing for both active and passive recreational pursuits, including tot-lots, playgrounds, neighborhood parks, playfields, and special purpose areas.

PLAT. A map showing a plan for the subdivision of land which is submitted for approval and is intended in final form (which shall contain the necessary certificates) for recording.

PRIVATE STREET. A purported street, way, or strip of land reserved for the use of a limited number of persons or purposes as distinguished from a publicly dedicated street.

PUBLIC WALKWAY. A public way designated for the use of pedestrian traffic.

SANITARY SEWER. A constructed conduit connected with a sewer system from the carrying of liquids and solids other than storm waters to a sanitary treatment facility.

SERVICE DRIVES. Minor streets which are parallel and adjacent to higher classified thoroughfares and which serve to reduce the number of access points to those thoroughfares and thereby increase traffic safety.

SETBACK. The building setback distance of a line as measured from the nearest street, road, or water shoreline or property boundary line.

STORM SEWER. A constructed conduit for carrying surface waters to a drainage course.

STREET. A way set aside for vehicular traffic, regardless of size or designation, but excluding private driveways serving only one parcel of land.

SUBDIVIDER. A person commencing proceedings under this chapter to subdivide land.

SUBDIVISION. The division of any parcel of land there to for shown as a unit or as contiguous units of record to which this chapter is applicable.

SURVEYOR. A duly registered land surveyor employed by the subdivider for the preparation of subdivision surveys or plats as required by this chapter and state statute, and in accordance with the city code and state law.

TRANSPORTATION PLAN. The part of the comprehensive plan now or hereafter adopted which includes a major street and highway plan and sets forth the location, alignment, dimension, identification, and classification of existing and proposed streets, highways, and other thoroughfares. (2005 Code, § 12.02)

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§ 152.03 PRELIMINARY PLAT.

(A) *General information.* All subdividers are on notice of the substantive and procedural aspects of preparing and submitting plats for approval; however, if any subdivider has questions as to interpretation of this chapter, he or she is encouraged to meet with the City Engineer, Planning Commission, and the Zoning Administrator for the purpose of resolving questions prior to commencing such proceedings.

(B) *Preliminary plat required.* Before submitting a final plat for approval, the subdivider shall have the approval of a preliminary plat so designated. Ten copies of the preliminary plat shall be filed in the office of the Zoning Administrator; provided, that additional copies may be required if highways are affected. The preliminary plat shall be considered filed after the Zoning Administrator has examined it and found it to be complete and in proper form. The Zoning Administrator shall note the filing date on all copies.

(C) *Procedure on preliminary plat.*

(1) One copy of any preliminary plat which includes lands abutting upon any existing or established trunk highway or proposed highway which has been designated by a centerline order filed in the office of the County Recorder shall be forthwith forwarded by the Zoning Administrator to the Commissioner of Highways for his or her written comments and recommendations, and any such plat which includes land abutting upon an existing or established county or county state-aid highway shall be so forwarded to the County Highway Engineer for his or her written comments and suggestions. Action thereon shall be postponed for a period of 15 days pending receipt of such response. Copies of any such responses shall be forwarded to the Chairperson of the Planning Commission.

(2) One copy of the preliminary plat shall be referred by the Zoning Administrator to the City Engineer. The City Engineer shall check and verify the survey and plat to such extent as he or she deems necessary; provided that he or she shall check it with the Zoning Administrator and with heads of other departments which, in his or her opinion, would be affected by approval of the preliminary plat in the form presented. He or she shall, within 30 days (unless such time limit be extended by the Council) from the filing date, prepare a written report to the Chairperson of the Planning Commission, with a copy to the Planning Commission including his or her comments and recommendations and the comments and recommendations of the Zoning Administrator and other department heads.

(3) One copy of the preliminary plat shall be referred to the Chairperson of the Planning Commission. After receipt of such comments and recommendations, if any, from the Commissioner of Highways and County Highway Engineer, and after receipt of the report from the City Engineer, the Planning Commission shall meet to review the preliminary plat, at which time, a public hearing may be scheduled for the next regular meeting of the Planning Commission.

(4) Such hearing of the Planning Commission shall be held within 60 days from the date of filing, extended by the equivalent of any extensions granted the City Engineer to make his or her report, and may be called by the Chairperson. A ten-day written notice thereof stating the time, place, and purpose shall be given by the Secretary to all members of the Planning Commission, abutting property

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owners, and the subdivider. Notice of the hearing must be published in the official newspaper at least ten days prior to the hearing date; provided, however, that failure to give such notice shall not affect the validity of such hearing or subsequent proceeding relating to the plat.

(5) At such meeting the Planning Commission shall review the plat, consider all oral and written reports, comments, and recommendations, and adopt, by majority vote of those present and voting, its own recommendation to the Council as to whether or not to approve or disapprove the plat, stating its reasons. Such recommendation shall be forwarded to the Council, with a copy to the subdivider, within five days after the adjournment of such meeting.

(6) Within 30 days after receipt of the Planning Commission's recommendation the Council shall act on the preliminary plat.

(7) At any time prior to Council action on the preliminary plat, the subdivider may, in writing, withdraw his or her application for approval thereof by filing such withdrawal in the office of the City Administrator. If he or she thereafter submits a revised preliminary plat it shall be so designated to distinguish it from the original thereof, provided that a revised preliminary plat shall be entitled to the same consideration and subject to the same procedure, except that unnecessary duplication should be avoided wherever possible.

(8) If the Council's decision is to review the plat, such approval shall be contingent upon filing a final plat in accordance with the requirements of this chapter, and the City Administrator shall forthwith advise the subdivider of the Council action. Action approving the plat shall constitute approval of all supplementary documents, including, but not limited to, the plan for construction and installation of improvements and the proposed method of payment therefor. In the event that any variance has been requested by the subdivider, and the Council approves the plat, it shall also make findings granting such variance. If its decision is to disapprove, the Council shall make and adopt findings of fact and conclusions which shall forthwith be forwarded to the subdivider.

(9) The requirements of divisions (C)(5) and (C)(7) above may be waived by the Planning Commission and Council if the plat is a subdivision or a re-subdivision of an area, and if the plat does not affect the land use of the area and if the plat does not involve the development of additional streets or portion thereof. If the formal hearing and notification process are waived, the Planning Commission shall still approve the plat pursuant to the other provisions of this section and pass its recommendation on to the Council for its approval or disapproval which shall be given within 30 days after the decision of the Planning Commission.

(D) *Preliminary plat and supplementary data and documents.* All preliminary plats shall meet the design standards set forth in this chapter and shall show thereon, or have submitted therewith, as the context of this section indicates, the following:

(1) Scale of 100 feet to one inch or larger;

(2) Name of subdivision, name and address of the owners, the engineer or surveyor, and the owners of the adjacent property;

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(3) Location of subdivision by section, town, range, or other legal description together with small scale sketch showing location within the section;

(4) Date, approximate north point, and graphic scale;

(5) Acreage of land to be subdivided;

(6) Zoning classification of lands to be subdivided and all adjacent lands;

(7) Existing land elevation contours at an interval of two feet;

(8) Boundary lines of area to be subdivided and their approximate bearings and distances;

(9) Existing and proposed easements and their locations, widths, and distances;

(10) Streets on and adjacent to the tract and their names, widths, proposed approximate grades, and proposed relative ground elevations at the intersections of all streets and every 100 feet along such streets and at the corners or extremities of the plat, and other dimensions as may be required. Elevations shall be to city datum;

(11) Utilities on and adjacent to the tract showing proposed connections to existing utility systems. Rear easements for utilities shall be provided wherever possible. Data to be provided includes type of utility, location of manholes, catch basins, hydrants, and the like; approximate depth of pipe construction and size of pipe and direction of flow;

(12) Lot lines, lot numbers, and approximate lot dimensions;

(13) Sites and their acreages, if any, to be reserved or dedicated for parks, recreation areas, open spaces, schools, or other public uses. Sites, if any, for semi-public, commercial, or multi-family use;

(14) Minimum building setback lines;

(15) Location of railroads, streams, natural and proposed drainage courses, permanent buildings, or other structures;

(16) Other reasonable information, such as percolation and other soil tests, if so, requested by the Commission in order to make a proper review of the site;

(17) Copies of proposed deed restrictions or protective covenants, if any;

(18) A detailed written statement as to the general plan of improvements and proposed method of payment therefor, drainage and development thereof;

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(19) Whenever part of a tract is proposed to be subdivided and it is intended to subdivide additional parts of the tract in the future, a sketch plan for the entire tract showing the proposed general platting arrangement shall be submitted at the time the preliminary plat for the first part of the tract to be platted is filed; and

(20) If a variance is necessary, the subdivider shall submit with the preliminary plat his or her written request for such variance specifying, in detail, reasons necessitating variance in compliance with this chapter. (2005 Code, § 12.10)

§ 152.04 FINAL PLAT.

(A) *Procedure on final plat.*

(1) The owner or subdivider shall file with the Zoning Administrator ten copies of the final plat not later than three months after the date of approval by the Council of the preliminary plat otherwise the preliminary plat and final plat shall be void unless an extension is requested in writing and for good cause is granted by the Council. The owner or subdivider shall also submit at this time an up-to-date certified abstract of title or registered property report and such other evidence as the City Attorney may require, showing title or control by the applicant and an attorney's opinion based on the abstract or certificate of title showing the owners of the land to be platted. The final plat will have incorporated all changes or modifications required by the Council; in all other respects it shall conform to the preliminary plat. The plats required for filing shall bear the fully executed certificates of the subdivider and surveyor. The supplementary documents shall be in final form and shall be fully executed by the subdivider at the time of such filing.

(2) The Zoning Administrator shall forward the official plat and one paper copy and supplementary engineering documents and data to the City Engineer, one paper copy and supplementary legal and title documents to the City Attorney, and copies to the Planning Commission.

(3) The Planning Commission and City Engineer shall examine the plat to determine whether or not it conforms to the preliminary plat and is consistent with the action taken by the Council and with the requirements of this chapter. The City Attorney or his or her assistant shall examine the title and determine whether or not the proper parties have subdivided the land and whether or not the title is without defects. They shall forward their respective opinions and recommendations to the Council.

(4) If the final plat and supplementary data and documents are found to be consistent with the action taken by the Council and in conformity with this chapter and state statutes, and after payment of plat review charges as set by the city, the Council shall adopt an approving resolution which shall also authorize and direct the City Administrator to certify its approval on the plat. When so certified, the City Administrator shall return the official plat, and copies required for filing, to the subdivider together with a certified copy of resolution of approval which must be filed with the official plat. An approving resolution shall become void 90 days after adoption, unless the plat is filed for record within such time, provided that the time limitation shall be stated therein. If the final plat and supplementary data and

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documents are not in conformance with prior Council action, this chapter, or state statutes, the Council shall forthwith return the executed plats and documents and state the requirements necessary for approval of the final plat. The subdivider shall immediately upon recording, furnish the City Administrator with one tracing and three copies of the final plat showing evidence of the recording, one for the Building Inspector, the Assessor, the Clerk, and the tracing for the City Engineer. No building permits shall be let for construction of any structure on any lot in said plat until the city has received evidence of the plat being recorded.

(B) *Final plat and supplementary data and documents.*

(1) Every final plat shall contain the following:

(a) The final plat shall be prepared strictly in accordance with state statutes including, but not by way of limitation, requirements for a description of the land to be platted including accurate dimensions, angles, bearings to describe boundaries, streets, easements, areas reserved for public purposes, and other important features; name and right-of-way width, of each street, highway, easement, or other rights-of-way; location of rivers, streams, creeks, lakes, ponds, and swamps; location and description of monuments; certification by surveyor as to the accuracy of the survey and plat; and, it shall set forth what part of the land is dedicated, and also to whom, and for what purpose these parts are dedicated;

(b) Lot numbers, lot lines, and dimension;

(c) Purpose for which sites, other than residential lots, are dedicated or reserved;

(d) Names and location of adjoining subdivisions, streets, and unplatted properties; and

(e) Certification on the plat by the City Administrator that the plat has been approved by the Council.

(2) The subdivider shall submit with the final plat, and in accordance with the action taken by the Council, approving the preliminary plat and supplementary documents, either:

(a) A certificate that all improvements have been installed in accordance with the requirements of this chapter and have been paid for in full;

(b) A corporate surety or cash bond, or escrow deposit and agreement (subject to withdrawal by the city) in an amount determined by the Council to be sufficient to guarantee the complete installation of improvements in accordance with this chapter, which bond or agreement shall specify the completion date; or

(c) Executed petitions for installation of the local improvements to be assessed.

(3) The subdivider shall also submit with the final plat, the following:

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(a) *Cross-sections, profiles, and grades of streets, curb, gutters, and sidewalks showing locations of in-street utilities, and drawn to standard scales and elevations;*

(b) *Protective covenants, if any;*

(c) *Letters of approval of highway access points and service roads from the Commissioner of Highways and the County Highway Engineer, as applicable; and*

(d) *A written statement from the management of each utility firm indicating that arrangements have been made for the installation of such utility in accordance with the terms and conditions for acceptance of the plat.*

(4) *The final plat shall have a scale of 100 feet to one inch.
(2005 Code, § 12.11)*

§ 152.05 DESIGN STANDARDS AND IMPROVEMENTS.

(A) *Minimum improvements required. The subdivider shall provide the improvements described herein.*

(B) *Financing improvements. Improvements may be financed, in accordance with a policy established by the Council and uniformly enforced, by one of the following means: installation and payment therefor by the subdivider; a corporate surety bond or cash bond guaranteeing performance of such installation; an escrow deposit and agreement; special assessments; or any combination of the foregoing.*

(C) *Subsequently platted areas. No area platted or subdivided by metes and bounds description after December 28, 1984 and lying outside the city shall be accepted for annexation unless it shall substantially conform, or is brought within, the minimum standards set forth herein. This division (C) may be waived by the Council.*

(D) *Conformance to the official map and comprehensive plans. All plats shall conform to the official map and other parts of the adopted comprehensive plans of the city. Whenever a subdivision embraces any part of an arterial or collector street or highway, which is so designated on the comprehensive plans, such part shall be dedicated to the public by the subdivider in the location and at the width indicated thereon.*

(E) *Community assets. In all subdivisions, due regard shall be shown for natural features such as trees, unusual rock formations, and watercourses; for sites which have historical significance; and for similar assets which, if preserved, will add attractiveness and value to the subdivision and to the community. The Planning Commission may prepare a list of all such features within its area of subdivision jurisdiction which it deems worthy of preservation.*

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(F) *Monuments and stakes.* All subdivision boundary corners, block and lot corners, street intersection corners, and point of tangency and curvature shall be marked with survey monuments consisting of minimum five-eighth inch steel rods 24 inches in length. Inscribed on the monument or cap, for block corners, according to state statute, shall be the registration number of the land surveyor making the survey. All United States, state, county, and other official bench marks, monuments, or triangulation stations in or adjacent to the property shall be preserved in precise position.

(G) *Public sites and open spaces.*

(1) *Dedication of land.* In subdividing land or re-subdividing an existing plat, due consideration shall be given by the subdivider to the dedication or reservation sites for schools, parks, playgrounds, conservation areas, or other public or semi-public recreational areas or open spaces. Areas so dedicated or reserved shall conform as nearly as possible to the city comprehensive plan. All areas to be reserved for or dedicated to public use shall be indicated on the preliminary plat in order that it may be determined when and in what manner such areas will be dedicated to or acquired by the appropriate agency. It shall be required that the subdivider of residential areas dedicate to the city the following land for use as the city shall see fit except that the city may not sell such lands for building sites to any private party. Such dedicated area may be taken in one or more parcels at the discretion of the city and must be acceptable to the city in respect to dimension, location, and topography.

Subdivisions of up to 50 acres	5% of the platted area
Additional acreage over 50 acres	2% of the platted area

(2) *Cash in lieu of land.* If, in the judgment of the Council, the area proposed to be dedicated is not suitable or desirable for park/playground purposes, because of the location, size, or other reason, the Council may require, in lieu of land dedication, a payment to the city of a sum equal to the percentage listed above of the average value of land to be subdivided. The aforementioned value shall be the value of land upon approval of the preliminary plat, yet prior to the installation of improvement, and shall be determined jointly by the Council or its agent and the subdivider-developer. If the Council and subdivider-developer cannot agree on land value, then the land values shall be established on the basis of the average of two independent appraisals by professional appraiser.

(H) *Street and block layout.*

(1) The subdivision shall be so designed as to be in harmony with adjacent subdivisions and provide for the continuation of existing streets. Provisions shall be made for streets through existing streets. Provisions shall be made for streets through the subdivision for the platting of contiguous property. No strip of unplatted land or portion of street or artifice shall be used or retained by the subdivider to impede the platting of adjacent parcels.

(2) The street layout shall provide access adequate for emergency and public service vehicles to all lots and parcels of land within the subdivision.

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(3) Where appropriate to the design, streets shall be established to avoid jogs at intersections and to promote continuity of local streets and those of higher classifications. Street jogs with centerline offsets of less than 150 feet shall be discouraged.

(4) Streets shall be established to take advantage of the contour of the land so as to produce usable lots, cause a minimum of cutting and filling, and to produce streets with reasonable grades as defined herein.

(5) Certain proposed streets, where appropriate, shall be extended to the boundary line of the tract to provide for adequate circulation of traffic within the vicinity for adjacent but as yet undeveloped or platted land tracts.

(6) Streets shall intersect other streets as near to a 90-degree angle as topography and other factors permit. Intersections of streets with arterial or collector streets shall be limited to a minimum angle of 70 degrees unless specifically approved by the Commission.

(7) Whenever there exists a dedicated or platted portion of a street or alley adjacent to the proposed subdivisions which conforms to the official map, the remainder of the street or alley shall be platted to the prescribed width within the proposed subdivision.

(8) Half-width streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations. Where an existing half-width street adjoins a portion of the boundary of a proposed subdivision, street dedication in a width needed to make this a full-width street may be required.

(9) Street and right-of-way widths shall conform to those indicated in the Transportation Plan. Where such widths are not prescribed therein, the widths shall not be less than the minimum stated herein.

(10) Alleys may be platted in the rear of all lots to be used for commercial or industrial purposes. Alleys will not generally be approved in single-family residential areas, unless required by unusual topography or other exceptional conditions.

(11) Land abutting arterial or collector streets shall be platted with the view of making the lots, if for residential use, desirable for such use by cushioning the impact of heavy traffic on such traffic ways; and with the view also of minimizing interference with traffic on such traffic ways as well as the accident hazard. This may be accomplished in several ways:

(a) By platting the lots abutting such traffic ways at very generous depth, with setbacks or front yards at least ten feet greater or deeper than otherwise required; and providing vehicular access to them by means of frontage access roads next to the traffic way, connected therewith at infrequent intervals;

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(b) By not fronting the lots on the highway or thoroughfare, but on a parallel local street at a distance of a generous lot depth, in which case private driveways shall connect with such local street; or

(c) By a collector street platted more or less parallel with the highway or thoroughfare, 600 to 1,000 feet distance therefrom, from which loop streets or dead-end streets would extend toward the highway, the ends of which provide access to the lots abutting the highway to their rear.

(12) Dead-end streets will be approved if limited to 850 feet in length, provided a permanently designed turn-around area having a minimum diameter to the edge of the finished street or curb line of not less than 50 feet and a minimum right-of-way diameter of 60 feet is constructed.

(13) Closed subdivisions over five acres in size (with only one exit) shall be permitted at the discretion of the Planning Commission. This shall be done during the plat review.

(14) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, unless, in the opinion of the Commission, prevented by unusual topography or other physical conditions.

(15) The lengths, widths, and shapes of blocks, and lots within blocks, shall be determined with due regard to:

(a) Provision of adequate building sites suitable to the special needs of the principal and all required accessory uses;

(b) Zoning requirements as to lot sizes and dimensions, and provisions regulating off-street parking and loading spaces;

(c) Needs for convenient access, circulation, control, and safety of street traffic;

(d) Limitations and opportunities of topography; and

(e) Generally, blocks shall not exceed 1,320 feet or less than 350 feet in length measured along the greatest dimension of the block.

(16) Residential blocks shall normally be of sufficient width for two tiers of lots. Block lengths shall be determined by circulation and other needs.

(17) Pedestrian walk rights-of-way, not less than ten feet wide, shall be required where deemed essential to provide circulation, or access to schools, playgrounds, shopping centers, transportation, and other community facilities.

(18) The number of intersecting streets along arterial and collector streets shall be held to a minimum, and where practicable, blocks along such traffic ways shall not be less than 800 feet in length.

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(I) *Minimum widths for streets and alley right-of-way.* Where existing or anticipated traffic on principal and minor arterial highways warrants greater widths or rights-of-way, these shall be required. For all public ways hereafter dedicated and accepted, the minimum right-of-way widths for streets and thoroughfares shall be shown in the comprehensive plan and where not shown therein, the minimum right-of-way width for streets, arterial highways, or pedestrian ways included in any subdivision shall not be less than the minimum dimensions for each classification as follows:

<i>Classification</i>	<i>Right-of-Way</i>	<i>Roadway</i>
Alley	20 feet	
Collector streets	70 feet	44 feet
Minor arterial highway (local thoroughfare)	80 feet	44 feet
Minor streets and cul-de-sacs	60 feet	28 feet 50-foot radius
Pedestrian way	10 feet	
Principal arterial highway (major thoroughfare)	As determined by state and county	
Service drives (marginal access)	50 feet	28 feet

(J) *Lots.*

(1) The size, shape, and orientation of lots shall be appropriate for the location of the proposed subdivision and for the type of development contemplated. Lot dimensions shall conform to the requirements of the Zoning Chapter.

(2) Excessive depth in relation to widths shall be avoided. A proportion of not more than three to one normally shall be considered appropriate.

(3) Every lot shall abut on a street. Lots for residential purposes shall meet the size requirements of the Zoning Chapter and also the requirements relative to building setback and side yard requirements.

(4) Corner lots for residential use shall be platted at least five feet wider than interior lots in order to permit conformance with the setback required by the Zoning Chapter on the side streets.

(5) Residential lots fronting on arterial and collector streets should have extra depth to permit deep setbacks for the buildings.

(6) Double frontage lots and reversed frontage lots shall not generally be platted except as hereinbefore otherwise permitted.

(7) Side lot lines shall be approximately at right angles to the right-of-way line of the street on which the lot fronts.

(8) Narrow, triangular lots, unusual shapes, and lots not permitting at least a 26-foot width house with side yards and driveway, rear yards, and front yards are prohibited. No plat will be accepted

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that contains lots undesirable for building, property subject to recurrent flooding, property at grades greater than 8 % or other factors that may cause such properties to be marginal in building operations and cause such property to be returned for property taxes.

(K) Utilities and drainage.

(1) Where an approved public water supply is within reasonable access to the subdivision as determined by the number of lots, distance from and capacity of existing mains, water lines shall be placed within the right-of-way of each street. Water lines shall have a minimum diameter of six inches (exception below), and all water mains shall be looped so that water is available from two directions to any point (exception below). Water main, fire hydrants, gate valves, and appurtenances shall be installed in accordance with acceptable engineering practice and city municipal utilities policies. Exception: at the discretion of the Planning Commission during the plat review, the Commission may allow the water line to dead end if a small portion of the subdivision is to be developed. Fire hydrants shall be required on all dead-end lines. If this is allowed, the minimum diameter of the water line will increase to eight inches. Looping of water mains is still required when the development of the subdivision is near completion.

(2) Sanitary sewers shall be constructed in accordance with the standards of the city and each lot shall be provided with a connection to a sanitary sewer. The city may accept an area for platting where such service cannot be provided when the lots are of sufficient size and the soil is suitable for private disposal systems in accordance with city and State Health Department recommendations. No such private disposal systems shall be interconnected or run to a common private or public drain. The minimum size public sanitary sewer shall be eight inches in diameter. Sewage lift stations may be constructed if necessary to serve an area, provided a lift station may be constructed on an assessment basis to serve an area only if at least 50% of the cost is immediately assessable. The lift station cost beyond the 50% and the pro-rate immediately assessable may be held for future assessment to the future area to be served.

(3) All necessary facilities including underground pipe, manholes, inlets, catch basins, and other appurtenances necessary to provide adequate drainage for the property or to maintain any natural drainage course shall be the responsibility of the developer. Open drainage ditches will not be allowed unless specifically permitted by the City Engineer. Platting of the property is prohibited unless it is possible to drain the property to the natural drainage course for the area. As a minimum, no property plat will be accepted unless lots are of such elevation as to drain in to the streets. The meeting of this minimum requirement does not obligate the Council to accept the plat if there are substantial obstructions to the drainage of the property contained therein, and the Council may require that the subdivider install pumping facilities for storm drainage prior to plat acceptance if such facilities are necessary.

(4) In some cases, the proposed area to be platted will not be served at its borders by water mains or sanitary sewer. The Council may require a petition for the creation of an assessment district to extend the facilities to the platted area; or may require the subdivider to pay the cost of such extension; or may accept the plat with a separate water or sewer system; or may pay the cost thereof and hold the amount for future assessment; or may refuse acceptance of the plat.

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(5) The City Engineer may design the improvements to be installed by the city. A subdivider desiring to contract and install his or her own improvements shall do so in accordance with city specifications and practice. The City Engineer will approve or disapprove all plans, specifications, and installations in the public street. For improvements installed by the subdivider, the City Engineer shall furnish a written statement to the subdivider of city acceptance of the improvement prior to the city accepting maintenance of the improvement or street as a part of the city system.

(6) All utility lines for telephone and electrical service shall be placed in rear line easements when carried on overhead poles. The Planning Commission may recommend, and the Council require, that the type of overhead pole used be of a quality and durability aesthetically in conformance with the nature of the residential development.

(7) Where telephone, electric, and gas service lines are to be placed underground entirely, conduits or cables shall be placed within easements or dedicated public ways, in such a manner so as not to conflict with other underground services.

(8) All drainage and other underground utility installations which traverse privately owned property shall be protected by easements.

(9) Placement of utilities underground shall be encouraged in accordance with the requirements of the city.

(L) *Other requirements.*

(1) Sidewalks shall be required unless the Planning Commission decides to waive this requirement on a case-by-case basis. This should be looked at as a safety issue.

(2) All streets are to be named. A proposed street which is in alignment with and which joins an existing and named street shall be given the name of the existing street. The name of a proposed street shall not duplicate the name of an existing street to which it does not connect or with which it is not in alignment.

(3) (a) An easement for utilities shall be provided where necessary to form a continuous right-of-way, at least 16 feet in width. Such easements are to be dedicated and provide for utility service from street to street. If necessary for the extension of water mains or sewer lines, electrical transformer pads, or similar utilities, easements of greater width may be required along lot lines or across lots.

(b) Where a subdivision is transversed by a watercourse, drainage way, channel, or stream, a storm water easement, drainage right-of-way, or park dedication, whichever the Planning Commission may deem the most adequate, conforming substantially with the lines of such watercourse shall be provided. The width of such easements shall be determined by the Planning Commission. (2005 Code, § 12.20)

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§ 152.06 EXEMPTION.

The Council may exempt from compliance with all or any part of the requirements for preparation of a preliminary plat any subdivision situated in a locality where conditions are well defined and the number of current improved lots fronting on the proposed frontage street substantially limit change in the existing public improvements or future land layout; and not involving a new street or the extension of municipal utilities, and not adversely affecting the adjoining property.

(2005 Code, § 12.40)

§ 152.07 VARIANCES.

(A) *Reasons for granting.* The Council may grant a variance from these regulations following a finding that substantially all of the following conditions exists:

(1) There are special circumstances or conditions affecting said property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his or her land;

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

(3) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which said property is situated.

(B) *Consideration to be given.* In making such finding, the Council shall consider the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. In granting a variance as herein provided, the Council shall prescribe only conditions that it deems desirable or necessary to the public interest.

(2005 Code, § 12.41)

§ 152.08 BUILDING PERMITS.

No building permit shall be issued in the platted area until the premises described in the application qualify therefor in accordance with the city.

(2005 Code, § 12.42)

§ 152.09 MINOR SUBDIVISIONS.

(A) In the case of a subdivision resulting in three parcels or less situated in a locality where conditions are well defined, the Council may exempt the subdivider from complying with some of the requirements of these regulations. In the case of a request to subdivide a lot which is a part of the

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recorded lot, or where the subdivision is to permit the adding of a parcel of land to an abutting lot or to create not more than three new lots, and the newly created property lines will not cause any resulting lot to be in violation of these regulations or the Zoning Chapter, the division may be approved by the Council, after submission of a survey by a registered land surveyor showing the original lot and the proposed subdivision.

(B) In the case of a request to divide a lot which is a part of a recorded plat where the division is to permit the adding of a parcel of land to an abutting lot or to create two lots and the newly created property line will not cause the other remaining portion of the lot to be in violation with these regulations or Chapter 153, the division may be approved by the Council, after submission of a survey by a registered land surveyor showing the original lot and the proposed subdivision.
(2005 Code, § 12.42)

§ 152.99 PENALTY.

(A) (1) Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including state statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

(2) Any person, firm, or corporation who violates any provision of this code, including state statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a fine of not more than \$300.

(3) In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(4) The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for violation.
(2005 Code, § 12.99)

(B) Any owner or agent of the owner of the land who conveys a lot or parcel in violation of the provisions of § 152.01 shall forfeit and pay to the city a penalty of not less than \$100 for each lot or parcel so conveyed. The city may enjoin such conveyance or may recover such penalty by a civil action in any Court of competent jurisdiction.
(2005 Code, § 12.01)

CHAPTER 153: ZONING

Section

- 153.01 Purpose and intent
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153.37 Schedule of fees, charges, and expenses

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153.39 Airport zoning regulations

153.99 Penalty

§ 153.01 PURPOSE AND INTENT.

(A) *Title.* The official title of this chapter is "the Zoning Ordinance of the City of Pipestone, Minnesota".

(B) *Purpose.* This chapter is intended to promote the general health, safety, morals, convenience, and welfare of the people of the city. These regulations are necessary to provide adequate open spaces, avoid undue concentration of population, secure safety from fire and other disasters and danger, maximize the use of public facilities and resources, control and abate unsightly use of buildings or land, facilitate other public needs (such as schools, parks, and emergency services), encourage the most appropriate use of land, and conserve and stabilize the value of property.

(C) *Compliance.* No structure shall be located, erected, constructed, moved, converted, or enlarged; nor shall any structure or land be used, or be designed to be used, except in full compliance with all the provisions of this chapter and after the lawful issuance of all permits and certificates required by this chapter. (2005 Code, § 11.01)

§ 153.02 APPLICATION OF DISTRICT REGULATIONS.

(A) *Zoning upon annexation.* All land hereafter annexed to the city shall be zoned R-1, Single-Family Residential, until the zoning designation is changed by Council action.

(B) *All-encompassing.* No building, structure, or land be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed or reconstructed, moved, or altered except in conformity with all district regulations herein specified.

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

(D) *Rules for interpretation of district boundaries.* Where uncertainty exists as to the boundaries to districts as shown on the official zoning map, the following rules shall apply.

(1) *Streets.* Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be constructed to follow such centerlines ♦

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(2) *Lot lines.* Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(3) *City limits.* Boundaries indicated as approximately following city limits shall be construed as following city limits.

(4) *Railroads.* Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(5) *County drains.* Boundaries indicated as approximately following the centerlines of county drains or other bodies of water shall be construed to follow such centerlines.

(6) *Extensions.* Boundaries indicated as parallel to or extensions of features indicated in divisions (D)(1) through (D)(5) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map or field survey.

(7) *Vacated ways.* Whenever any street, alley, or other public way is vacated in the manner authorized by law, the zoned district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation and all included in the vacation shall then, and henceforth, be subject to all regulations of the extended districts.
(2005 Code, § 11.02)

§ 153.03 RULES AND DEFINITIONS.

(A) *Rules.* For the purpose of this chapter, certain terms or words used herein shall be interpreted as follows:

(1) The word **PERSON** includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual;

(2) The present tense includes the future tense, the singular number includes the plural and the plural number includes the singular;

(3) The word **SHALL** is mandatory, the word **MAY** is permissive;

(4) The words **USED** or **OCCUPIED** include the words intended, designed, or arranged to be used or occupied; and

(5) The word **LOT** includes the words plot or parcel.

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

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ACCESSORY USE OR STRUCTURE. A structure or use which:

- (a) Is subordinate to and serves a principal building or principal use;
- (b) Is subordinate in area, extent, or purpose to the principal building or principal use served;
- (c) Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use; and
- (d) Is located on the same zoning lot as the principal building or principal use. Examples of ***ACCESSORY USES*** are private garages, storage sheds, playhouses, satellite dishes, and swimming pools.

AGRICULTURE. The cultivation of land for crops with the intention of making a cash profit; may also include animal husbandry, tree nurseries, and orchards.

AUTOMOBILE SALVAGE YARD. The dismantling or disassembling of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled, obsolete, or wrecked vehicles or their parts.

AUTOMOBILE SERVICE STATION. Any building or premises, or portion thereof, used or intended to be used for the retail dispensing or sale of automobile fuels, which activity may be accompanied by accessory uses such as sale of lubricants, tires, accessories or supplies, or minor repairing of automobiles.

BASEMENT. A portion of a building located partly underground but having less than the average of half its clear floor-to-ceiling height below grade.

BOARD OF ZONING APPEALS AND ADJUSTMENTS. A quasi-judicial body, appointed by the City Council, whose responsibility it is to hear appeals from decisions made by the Zoning Administrator and to consider requests for variances permissible under the terms of this chapter.

BUFFER. The use of land, topography (differences in elevation), spaces, fences, or landscape plantings to screen or partially screen a tract of property from another tract of property and thus reduce undesirable influences such as sight, noise, dust, and other external effects which a land use may have upon other adjacent or nearby land uses.

CHILD CARE FACILITY (COMMERCIAL). A building or structure where care, protection, and supervision are provided for a fee, on a regular schedule and in compliance with State of Minnesota Child Care Regulations (Department of Human Services Rule 9503).

CHILD CARE FACILITY (RESIDENTIAL). A private residence where care, protection,

and supervision are provided for a fee, on a regular schedule, and in compliance with State of Minnesota Child Care Licensing Regulations (Department of Human Services Rule 9502).

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COMMERCIAL USE. An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

COMPREHENSIVE PLAN. The general plan for land use, housing, transportation, and community facilities prepared and maintained by the Pipestone City Council for the city.

CONDITIONAL USE. A use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would not be detrimental to public health, safety, or general welfare.

CONDOMINIUM. An apartment building as defined herein, in which the units are owned separately by the individual or family which occupies them, and not by a corporation or cooperative. The term **CONDOMINIUM** refers to the building as a whole or any apartment unit within such building.

DRIVE UP FACILITY. An establishment that, by design of physical facilities or by service or packaging procedures, encourages or permits customers to receive a service or obtain a product that may be used or consumed in a motor vehicle.

DWELLING. Any structure designed or used as the living quarters for one or more families.

DWELLING, MULTIPLE-FAMILY. A building designed for or occupied by more than two families.

DWELLING, SINGLE-FAMILY. A residence designed for or occupied by one family only.

DWELLING, TWO-FAMILY. A residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each. This would include single-family homes with an apartment in the basement. A two-family dwelling (duplex) with a rooming unit(s) shall be considered and classified as a multi-family dwelling.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

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

ESSENTIAL SERVICES. The erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies of underground or overhead communications, gas, electrical, steam, or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

FAMILY. One or more persons related by blood, marriage, adoption, or other legal relationship, occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, club, fraternity, or hotel. **LEGAL RELATIONSHIPS** shall include guardianship, foster parent/child, or any other relationship which is created by court order.

FEEDLOT. A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For the purpose of this chapter, open lots used for feeding and rearing of poultry (poultry ranges) shall be considered animal **FEEDLOTS**. Pastures shall not be considered **FEEDLOTS**.

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

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

HEIGHT OF BUILDING. The vertical distance measured from the grade level to the highest point of the roof.

HOME OCCUPATION. An occupation, profession, activity, or use carried on in a dwelling unit which is clearly incidental and secondary to the use of the building for dwelling purposes, which does not change the character thereof. In no event shall a Cannabis Business, Lower-Potency Hemp Edible Retailer or Lower-Potency Hemp Manufacturer be considered a Home Occupation.

LOT. A parcel of land occupied or capable of being occupied by one or more structures.

LOT AREA. The total horizontal area within the lot lines of a lot exclusive of any portion of the right-of-way of any public roadway.

LOT OF RECORD. Any lot which individually or as a part of a subdivision, has been recorded in the office of the County Recorder of the Deeds.

LOT, DEPTH OF. A mean horizontal distance between the front and rear lot lines.

LOT, WIDTH OF. The mean width measured at right angles to its depth.

MANUFACTURED HOME PARK. A parcel of land under single ownership that has been planned and improved for the placement of manufactured housing (manufactured home) for dwelling purposes.

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

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M.S. § 327.31, Subd. 3, as it may be amended from time to time. Wherever the term "single-family dwelling" or "single-family residential structure" or a similar term is used in this chapter, that term shall include a **MANUFACTURED HOME** as defined herein.

NONCONFORMING LOT. A use or activity which lawfully existed prior to the adoption, revision, or amendment of this chapter, but which fails by reason of such adoption, revision, or amendment to conform to the use district in which it is located.

NONCONFORMING STRUCTURE. Any structure that does not meet the limitations on structure size and location on a lot, for the district in which such structure is located, or for the use to which such structure is being put.

NONCONFORMING USE. A lawful use of land that does not comply with the use regulations for its zoning district but which complied with applicable regulations at the time the use was established.

OPEN SPACE. An area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes. **OPEN SPACE** may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, and watercourses. **OPEN SPACE** shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel.

PLANNED UNIT DEVELOPMENT. Land under unified control to be planned and developed as a whole in a single development operation or a definitely programmed series of development operations or phases. A **PLANNED DEVELOPMENT** includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A **PLANNED DEVELOPMENT** is built according to general and detailed plans that include not only streets, utilities, lots, and building location, and the like, but also site plans for all buildings as are intended to be located, constructed, used, and related to each other, and plans for other uses and improvements on the land as related to the buildings. A **PLANNED DEVELOPMENT** includes a program for the provisions, operations, and maintenance of such areas, facilities, and improvements as will be common use by some or all of the occupants of the planned development district, but which will not be provided, operated, or maintained at general public expense.

PRINCIPAL STRUCTURE. A structure in which is conducted the principal use of the lot on which it is situated.

PRINCIPAL USE. The primary use of land or structure, as distinguished from a secondary or accessory use.

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

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

REGULATORY FLOOD PROTECTION ELEVATION. An elevation no lower than the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

STRUCTURE. Anything constructed or erected, the use of which requires a fixed location on the ground, including, in addition to buildings, billboards, carports, porches, decks, and other building features, but not including sidewalks, drives, fences, and patios.

TEMPORARY STORAGE CONTAINER. An enclosed, reusable steel box or container fabricated for the purpose of transporting freight or goods on a truck, railroad or ship and that are placed on a private property and used for the storage of items, including, but not limited to, clothing, equipment, goods, household or office fixtures or furnishings, materials or merchandise. The term includes, but is not limited to, cargo containers, storage box shipping containers, storage moving “pods,” or any other similar portable storage containers, regardless of whether it has wheels or a chassis. The term does not include a construction trailer of a licensed contractor when placed at a construction site while actively engaged in a construction project at the site.

TOWNHOUSES. A group of single-family dwelling units on a common lot.

TRAVEL TRAILER.

(a) Any vehicle or structure designed and used for human living quarters which meets all of the following qualifications:

1. Is not used as the permanent residence of the owner or occupant;
2. Is used for temporary living quarters by the owner or occupant while engaged in recreational or vacation activities; and
3. Is towed or otherwise transported by its own or by other motive power on the public streets or highways incidental to such recreational or vacation activity.

(b) The term **TRAILER** shall not include mobile home. The term **TRAILER** shall include, but not be limited to, campers, camper tents, house trailers, camping trailers, travel trailers, tent trailers, motor homes, and any self-propelled vehicle constructed to provide living accommodations.

USE. The purpose for which land or a building is designed or intended or for which either land or a building is or may be occupied or maintained.

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VARIANCE. A relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this chapter, a **VARIANCE** is authorized only for area, size of structure, size of yards, setback and side yard requirements, and parking requirements; establishment or expansion of a use otherwise prohibited shall not be allowed by **VARIANCE**, nor shall a **VARIANCE** be granted because of the presence of nonconformities in the zoning district or adjoining zoning districts.

WIND ENERGY CONVERSION SYSTEMS (WECS). Any device that is designed to convert wind power to another form of energy such as electricity, mechanical, or heat (also referred to as **WIND CHARGER**, **WIND TURBINE**, or **WINDMILL**).

YARD. An open space on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.

YARD, FRONT. The space extending between side lot lines from the front property line and building setback line.

YARD, REAR. A space extending between the rear line of the principal structure and the rear line of the lot and extending full width of the lot.

YARD, SIDE. A space between the building and the sideline of the lot and extending from the front lot line to the rear yard. In the case of corner lots with normal frontage, there will only be one **SIDE YARD**, adjacent to the interior lot. In the case of the corner lots with reversed frontage, the yards remaining after the required setbacks have been established shall be considered to be **SIDE YARDS**.

ZONING ADMINISTRATOR. The person appointed by the City Council to grant zoning certificates and, following Council or Board of Adjustments approval, conditional uses or variances. (2005 Code, § 11.03)

§ 153.04 ESTABLISHMENT OF ZONING DISTRICTS AND MAP.

(A) *Establishment of districts.* For the purpose of this chapter, the city is hereby divided into ten zoning districts which are described in this chapter. These prescribed district regulations for land use and building and development standards shall be enforced uniformly within each district. The purpose of the district, permitted uses, and yard and lot requirements are listed for each general land use district. Any use not permitted by right or located in a city utility easement shall require a conditional use permit.

(1) *Residential District.* Districts designated for residential use, R-1, R-2, and R-3 are limited to agricultural uses, accessory structures, and uses normally associated with residential neighborhoods. Such uses include schools, churches, and parks. However, under the provisions of PUD (Planned Unit Development),

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planned unit residential projects are permitted which may include limited business facilities integrated into neighborhood design.

R-1 Single-Family Residential District
R-2 Urban Residential District
R-3 Multi-Family Residential District

(2) *Commercial Districts.* Districts designed for commercial use, B-1, B-2, and B-3 are limited to business activities and certain residential uses. Establishment of compact commercial districts provides for more efficient extension of city utilities and services. Most industrial uses are separated from other

uses in order to maximize access and reduce hazards typically associated with industrial uses. However, research industrial uses and light industrial uses are permitted if they are of such a nature that hazards are not present and they meet specific requirements set forth in this chapter.

B-1 Neighborhood Business District
B-2 Central Business District
B-3 Highway Business District

(3) *Industrial District.* The districts designated for industry, I-1 and I-2, provide suitable space for future industrial development performance standards, parking specifications, and yard regulations are set forth in the chapter in order to ensure safe industrial development that is compatible with adjacent uses.

I-1 Light Industrial District
I-2 General Industrial District

(4) *Special District.* A special district typically designated to accommodate a narrow or special set of user or special purposes. The only Special District designated in this chapter is the C-1, Conservation District, which is provided to prevent development and use of land that is unsuitable for development due to periodic flooding or due to its location in an environmentally sensitive area.

C-1 Conservation District

(B) *Pipestone zoning map.* Changes in the official zoning map, after initial adoption, shall, within 30 days after they become effective, be noted on the map by stating the ordinance number and effective date thereof.

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The up-to-date map shall be kept in the City Administrator's office and open to inspection by the public during office hours.

(2005 Code, § 11.10)

§ 153.05 DISTRICT USE REGULATION.

Unless otherwise allowed by the provisions of this chapter, it is unlawful to use or permit the use of any building or premises for any purpose other than as stated herein. Such use is further subject to all of the terms, limitations, and other provisions of this chapter having general or special applications to various uses or classes of uses. No building permit shall be issued for any purpose inconsistent with land uses permitted in the affected district, or inconsistent with a variance or conditional use permit duly granted in accordance with the city code.

(2005 Code, § 11.11) Penalty, see§ 153.99

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§ 153.06 GENERAL PROVISIONS.

(A) *Compliance.* Except as hereinafter provided, no building, structure, or land shall hereinafter be used or occupied, and no building or structure or part thereof shall hereinafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

(B) *Building requirements.* No building or other structure shall hereinafter be erected or altered to exceed the height; to accommodate or house a greater number of families; to occupy a greater percentage of lot area; or to have narrower or smaller rear yards, front yards, side yards, or other open spaces than therein required; or in any other manner contrary to the provisions of this chapter.

(C) *Area requirements.*

(1) No part of a yard, or other open space, or off-street parking or loading space required for or in connection with any building for the purpose of complying with this chapter shall be included as a part of a yard, open space, or off-street parking or loading space similarly required for any other building, except as modified hereinafter.

(2) No yard or lot existing on August 1, 1978 shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after August 1, 1978 shall meet at least the minimum requirements established by this chapter.

(D) *Minimum requirements.* In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of public health, safety, convenience, comfort, prosperity, or general welfare. Wherever the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive or that imposing the higher standards shall govern.

(E) *Dwelling on any lot of record.* In any district where dwellings are permitted, a one-family detached dwelling may be erected on any lot of official record on August 1, 1978, irrespective of its area or width, provided the applicable yard and other open space requirements are satisfied or modified by the Zoning Board of Appeals and Adjustments.

(F) *Height limitations not applicable.* The height limitations stipulated in this chapter shall not apply to the following:

(1) *Essential service structures, architectural features, and the like.* Church spires, belfries, cupolas and domes, monuments, water towers, fire and hose towers, observation towers, transmission towers, chimneys, smoke stacks, flag poles, radio and television towers, mast and aerials; also, parapet walls extending not more than four feet above the limiting height of the building;

(2) *Places of public assembly.* Places of public assembly in churches, schools, and other permitted public and semi-public buildings, provided that they are located on the first floor of such buildings; provided that for each two feet by which the height of such exceeds the maximum height

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otherwise permitted in the district, its side and rear yards shall be increased in width or depth by an additional foot over the side and rear yards required for the highest building otherwise permitted in the district and further provided that the Zoning Board of Appeals and Adjustments shall find that such additional height will not be materially detrimental to surrounding property; and

(3) *Elevator penthouses and the like.* Elevator penthouses (elevator machinery loft), monitors, and scenery lofts, provided no linear dimension of any such structure exceeds 50 % of the corresponding street lot line frontage. Fire hose or cooling towers, elevators, gas holders, or other structures incorporated into a principal structure where a manufacturing process requires a greater height shall be excepted.

(G) *Yard and frontage limitations not applicable.* The yard and frontage limitations stipulated elsewhere in this chapter shall not apply to the following: average depth of front yards - front yard observed. In any district where front yards are required and where 40 % or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have front yards that is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established. Where such varying average front yard setback has been so established, no variance action by the Zoning Board of Appeals and Adjustments shall be required for structure placement.

(H) *Yard space, general.* Any building, structure, or use hereafter erected, altered, or established shall comply with the yard space requirements of the district in which it is located except as specified below. The required yard space for any building, structure, or use shall be contained on the same lot as the building, structure, or use and such required yard space shall fall entirely in a district or districts in which the principal use is permitted. Any required yard space shall be open from 30 inches above the ground to the sky except as specified elsewhere in this chapter.

(I) *Placement of single- and two-family residential structures on large lots.* In any residential district where a single- or two-family structure is to be developed on large lots which could later be re-subdivided and still meet the dimensional and area requirements for another lot for the district in which it is situated, it is desirable, but not mandatory for such structure to be placed in a manner which would permit such later re-subdivision.

(J) *Yard space encroachments - projections into yards.*

(1) *Permitted projections.* The following projections may be permitted into any front, rear, or exterior side yard adjoining a street lot line:

(a) Cornices, sills, belt courses, eaves, and other ornamental features to a distance of not more than two feet six inches;

(b) Fire escapes to a distance of not more than four feet six inches;

(c) Landings, patios, porches, and other similar structures, provided said structure has its floor no higher than the entrance floor of the building;

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(d) Bay windows and chimneys to a distance of not more than three feet, provided that such features do not occupy, in the aggregate, more than one-third the length of the building wall on which they are located;

(e) Canopies to a distance of not more than four feet six inches; and

(t) Balconies, in residential districts, to a distance of not more than eight feet, provided that said balconies do not occupy, in the aggregate, more than one-third the length of the building wall on which they are located.

(2) *Interior side yards.* Subject to the limitations for features projecting into front yards, said features may also project into required yards adjoining interior side lot lines, provided that the distance shall not exceed one-fifth of the required least width of such side yard and not more than three feet in any case.

(K) *Yard space exception, steep slopes.* In any residential district where natural grade of a lot within the required front yard has an average slope, normal to the front lot line at every point along said line, of such a degree or percent of slope that it is not practicable to provide a driveway with a grade 12% or less to a private garage conforming to the requirements of this chapter, such garage may be located within such front yard, but not in any case closer than 12 feet to the street line.

(L) *Erection of more than one principal structure on a lot.* In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot.

(M) *Housing projects utilizing the "zero lot line" concept.* Every development proposal in a R-3 or R-4 Residential District which is designed so as to place the principal structure abutting a side property line in order to have only one open side yard, must file with the Zoning Administrator a signed copy of the covenant assuring access through the adjacent yard for purposes of repairs and general maintenance. Such covenant is mandatory and the issuance of any certificate of zoning compliance shall be contingent on the filing.

(N) *Accessory buildings.*

(1) In case an accessory building is attached to the main building, it shall be made structurally a part of the main building and shall comply in all respects with the requirements of this chapter applicable to the main building. An accessory building, unless attached to and made part of the main building, shall not be closer than five feet to the main building.

(2) A detached accessory building used as a private garbage enclosure not over one story and not over 15 feet in height may occupy up to 30% of the area of any side or rear yard, but shall not be placed in any front yard (closer than the building line setback from the street line) in any zoning district.

(0) *Fences in residential districts.* In any residential district, fences for decorative, screening, or confinement purposes may be constructed on any lot; provided, however, that fences in any front or side

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yard of a corner lot shall be limited to a maximum height of 30 inches along the street side within 40 feet of the intersecting street or alley right-of-way lines, and of 60 inches if of mesh or similar construction permitting functional line-of-sight through such fencing for purposes of street traffic safety. If the foregoing height limitation is not applicable, all fences shall be limited to a height of six feet. All fence heights shall be measured from contiguous ground level on both sides. Setbacks from lot lines shall be sufficient in all cases to permit painting, repair, and general maintenance; provided, however, that adjoining owners may construct a fence on the lot line, each side of which is to be maintained by such adjoining owner, if they have entered into a written agreement and duly recorded the same in the office of the County Recorder. No more than 70% of any fence shall be solid.

(P) *Determination of yard requirements.* Before issuing any permit, a determination shall be made by the Zoning Administrator as to what constitutes the rear yard and side yard. After such determination has been made, no future permits on such premises shall be issued which are not in full compliance with such determination. As to premises on which there are existing structures, such determination shall also be made with reference to applications for permits, reasonably construing the apparent election at the time of the original and any subsequent construction.
(2005 Code, § 11.12)

§ 153.07 CONSERVATION DISTRICT (C-1).

(A) *Purpose.* The Conservation District (C-1) is designated to provide for uses in environmentally sensitive areas. The purpose of this district is to prevent development of land that is unsuitable for development due to periodic flooding or wetland designation, and to regulate the intensity of land use in those areas of the C-1 District that are suitable for development.

(B) *Permitted uses.*

- (1) Agriculture per § 153.22;
- (2) Public parks and playgrounds;
- (3) Essential services; and
- (4) Accessory uses per division (E) below.

(C) *Conditional uses.*

- (1) Single-family dwellings;
- (2) Home occupations;
- (3) Recreation facilities of a commercial or semi-commercial nature, such as golf courses, pistol and rifle ranges, sportsman's clubs, and camping areas;

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- (4) Nurseries and greenhouses;
- (5) Kennels, veterinary establishments, and sales barns;
- (6) Public utility buildings;
- (7) Water recreation and water storage;
- (8) Other uses similar in nature to those uses listed in this division (C), and which in opinion of the City Planning Commission, will not be detrimental to the integrity of the district; and
- (9) Manufactured home parks.

(D) Yard and lot requirements.

	<i>One Family</i>	<i>All Other Uses</i>	<i>Accessory Structure</i>
Maximum lot coverage	35%	35%	
Minimum front yard setback (feet)	25	25	25
Minimum lot area (square feet)	7,000	7,000	
Minimum lot depth (feet)	120	120	
Minimum lot width at setback line (feet)	60	60	
Minimum rear yard setback (feet)	25	25	(2)
Minimum side yard setback (feet)	(1)	(1)	5
(1) Ten percent of lot width at front yard setback. Side yard setback on corner lots shall be a minimum of 12.5 feet from the property line. (2) Five feet unless a garage entrance faces onto a street, avenue, or alley, the minimum setback will be 18 feet from the property line to accommodate a vehicle from encroaching onto public right-of-way. A setback of ten feet is required if there is a utility easement.			

(E) Accessory uses and buildings permitted in the C-1 District.

- (1) Home occupations;
- (2) Garage space - all single-family homes built, assembled or placed on a residential lot must provide, at the minimum, access to and space for sheltered, off-street parking for two standard sized automobiles;
- (3) Storage buildings - these structures are to be used exclusively for the storage of household, yard, and related supplies and equipment. (2005 Code, § 11.15); and
- (4) Temporary Storage Containers, subject to the requirements of Section 153.40.

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§ 153.08 SINGLE-FAMILY RESIDENTIAL DISTRICT (R-1).

(A) *Purpose.* The Single-Family Residential District is designated for low density single-family residences and provide certain private and public facilities and services that are compatible with the neighborhood.

(B) *Permitted uses.*

- (1) Agriculture per§ 153.22;
- (2) Single-family dwellings, minimum width of the structure at its narrowest point shall not be less than 22 feet;
- (3) Manufactured housing per§ 153.18;
- (4) Public and parochial schools;
- (5) Public parks and playgrounds;
- (6) Essential services;
- (7) Accessory uses per division (E) below;
- (8) Home occupations per§ 153.24;
- (9) Signs per§ 153.32; and
- (10) Day care facilities serving 12 or fewer persons, residential care facilities serving six or fewer persons, and group family day care facilities licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, serving 14 or fewer persons.

(C) *Conditional uses.*

- (1) Cemeteries;
- (2) Non-profit recreational uses;
- (3) Nursery schools;
- (4) Hospitals and clinics for humans;
- (5) Public utility buildings;
- (6) Water recreation and storage;

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- (7) Fire stations;
- (8) Municipal buildings and libraries;
- (9) Two-family dwellings;
- (10) Planned unit residential project;
- (11) Greenhouses;
- (12) Nursing homes;
- (13) Second garages; and
- (14) Churches.

(D) Yard and lot requirements.

	<i>One Family</i>	<i>All Other Uses</i>	<i>Accessory Structures</i>
Maximum building height	35 feet		15 feet
Maximum lot coverage	35%	35%	
Minimum front yard setback (feet) building line to lot line	25	25	25
Minimum lot area (square feet)	7,200	7,200	
Minimum lot depth (feet)	120	120	
Minimum lot width at setback line (feet)	60	60	(2)
Minimum rear yard setback (feet) building line to lot line	25 (1)	25	
Minimum side yard setback (feet)	(1) Ten percent of lot width at front yard setback. Side yard setback on corner lots shall be the same as the front yard setback. 12 feet from property line to street line.		5
(2) Five feet unless a garage entrance faces onto a street, avenue, or alley, the minimum setback will be 18 feet from the property line to accommodate a vehicle from encroaching onto public right-of-way. A setback of ten feet is required if there is a utility easement.			

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(E) *Accessory uses and buildings permitted in the R-1 District.*

(1) Home occupations;

(2) Garage space - all single-family homes built, assembled, or placed on residential lots must provide, at the minimum, access to and space for sheltered, off-street parking for two standard sized automobiles;

(3) Storage buildings - these structures are to be used exclusively for the storage of household, yard, and related supplies and equipment. (2005 Code § 11.15);

(4) See§ 153.24 for additional restrictions. (2005 Code, § 11.16); and

(5) Temporary Storage Containers, subject to the requirements of Section 153.40.

§ 153.09 URBAN RESIDENTIAL DISTRICT (R-2).

(A) *Purpose.* The Urban District is designated for land that is presently developed in predominantly urban residential lots. The purpose of this district is to permit the continuation and limited expansion of the more densely populated, established sections of the city.

(B) *Permitted uses.*

(1) Agriculture per§ 153.22;

(2) Single-family dwellings, minimum width of the structure at its narrowest point shall not be less than 22 feet;

(3) Two-family dwellings;

(4) Public and parochial schools;

(5) Manufactured housing per§ 153.18;

(6) Essential services;

(7) Accessory uses per division (E) below;

(8) Public parks and playgrounds;

(9) Day care facilities serving 12 or fewer persons, residential care facilities serving six or fewer persons, and group family day care facilities licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, serving 14 or fewer persons; and

(10) Home occupations.

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(C) Conditional uses.

- (1) Cemeteries;*
- (2) Home occupations;*
- (3) Non-profit recreational uses;*
- (4) Nursery schools;*
- (5) Nursing homes;*
- (6) Hospitals and clinics for humans;*
- (7) Boarding and lodging houses subject to a maximum of eight accommodation units;*
- (8) Offices and quasi-public facilities of philanthropic or charitable institutions;*
- (9) Public utility buildings;*
- (10) Fire stations;*
- (11) Funeral homes;*
- (12) Water recreation and water storage;*
- (13) Municipal buildings, libraries, museums, and art exhibition centers;*
- (13) Multiple-family dwellings;*
- (14) Planned unit residential projects;*
- (15) Neighborhood commercial;*
- (16) Churches; and*
- (17) Manufactured home parks.*

(D) Yard and lot requirements.

	<i>One-Family</i>	<i>Two-Family</i>	<i>Accessory Structures</i>
Maximum building height	35	35	15
Maximum lot coverage	40%	40%	

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	<i>One-Family</i>	<i>Two-Family</i>	<i>Accessory Structures</i>
Minimum front yard setback (feet)	(1)	(1)	5
Minimum lot area	6,000	6,000	
Minimum lot depth (feet)	120	120	
Minimum lot width at setback line (feet)	50	50 2	
Minimum rear yard setback (feet)	25	(2)	(3)
Minimum side yard setback (feet)	(2)		5
<p>(1) Twenty-five feet from the property line except on residential streets where the right-of-way is 100 feet, in which case the setback shall be 17.5 feet from the property line.</p> <p>(2) Ten percent of lot width at front yard setback. Side yard setback on corner lots shall be a minimum of 12.5 feet from the property line.</p> <p>(3) Five feet unless a garage entrance faces onto a street, avenue, or alley. The minimum setback will be 18 feet from the property line to accommodate a vehicle from encroaching onto public right-of-way. A setback of ten feet is required if there is a utility easement.</p>			

(E) Accessory uses and buildings permitted in the R-2 District.

- (1) Home occupations § 153.24;
- (2) Garage space - all single-family homes built, assembled, or placed on residential lots must provide, at the minimum, access to and space for sheltered, off-street parking for two standard sized automobiles;
- (3) Storage buildings - these structures are to be used exclusively for the storage of household, yard, and related supplies and equipment;
- (4) See § 153.24 for additional restrictions. (2005 Code, § 11.17); and
- (5) Temporary Storage Containers, subject to the requirements of Section 153.40.

§ 153.10 MULTI-FAMILY RESIDENTIAL DISTRICT (R-3).

(A) *Purpose.* The Multi-Family Residential District (R-3) is designated for apartment complexes, townhouses, retirement complexes, and other innovative multi-family developments.

(B) Permitted uses.

- (1) Agriculture per § 153.22;
- (2) Two-family dwellings;
- (3) Multiple-family dwellings;

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- (4) Planned unit residential projects;
- (5) Public parks and playgrounds;
- (6) Retirement, nursing, and convalescent homes;
- (7) Accessory uses per division (E) below;
- (8) Essential services; and

(9) Day care facilities serving 12 or fewer persons, residential care facilities serving six or fewer persons, and group family day care facilities licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, serving 14 or fewer persons.

(C) Conditional uses.

- (1) Cemeteries;
- (2) Non-profit recreational uses;
- (3) Nursery schools;
- (4) Public and parochial schools;
- (5) Hospitals and clinics for humans;
- (6) Public utility buildings;
- (7) Hotels, motels, and tourist homes for transient guests;
- (8) Fire stations;
- (9) Funeral homes;
- (10) Water recreation and water storage;
- (11) Municipal buildings and libraries;
- (12) Manufactured home parks;
- (13) Neighborhood commercial; and
- (14) Churches.

(D) *Yard and lot requirements.*

	<i>Accessory Structure</i>	<i>Multiple Family</i>
Maximum height (feet)	45	15
Maximum lot coverage	35%	
Minimum front yard setback (feet)	25	25
Minimum lot area (square feet)	(1)	
Minimum lot depth (feet)	120	
Minimum lot width at front setback (feet)	60	
Minimum rear yard setback (feet)		(2)
Minimum side yard setback (feet)	2	5
<p>(1) Not less than 7,000 square feet for each multiple-family dwelling having four dwelling units or less, and not less than 750 additional square feet for each additional unit.</p> <p>(2) Five feet unless a garage entrance faces onto a street, avenue, or alley, the minimum setback will be 18 feet from the property line to accommodate a vehicle from encroaching onto public right-of-way. A setback of ten feet is required if there is a utility easement.</p> <p>(3) Ten percent of lot width at front yard setback. Side yard setback on corner lots shall be a minimum of 12.5 feet from the property line.</p>		

(E) *Accessory uses and buildings permitted in the R-3 District.*

(1) Home occupations;

(2) Storage buildings - these structures are to be used exclusively for the storage of household, yard, and related supplies and equipment;

(3) See § 153.24 for additional restrictions; and

(4) Temporary Storage Containers, subject to requirements of Section 153.40.

(F) *Usable open space.* Except for elderly (senior citizen) housing, each multiple-family dwelling site shall contain at least 350 square feet of usable open space for each dwelling unit contained therein. Open space shall not include driveways, parking lots, or other surfaces designated or intended for vehicular use.

(2005 Code, § 11.18)

§ 153.11 NEIGHBORHOOD BUSINESS DISTRICT (B-1).

(A) *Purpose.* The Neighborhood Business District (B-1) is intended to identify suitable compact areas within the city for the maintenance and development of commercial service nodes which offer

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convenience services and retail goods to adjacent residential neighborhoods. The commercial clusters may have limited operations which serve patrons in automobiles, subject to issuance of a conditional use permit, but are primarily pedestrian oriented for the convenience of local residents.

(B) *Permitted uses.*

- (1) Retail businesses;
- (2) Funeral homes;
- (3) Offices;
- (4) Home occupations per§ 153.24;
- (5) Essential services; and
- (6) Accessory uses per division (E) below:
- (7) Cannabis Retailer; and
- (8) Lower-Potency Hemp Edible Retailers.

(C) *Conditional uses.*

- (1) Self-service establishments;
- (2) Entertainment facilities;
- (3) Eating and drinking establishments;
- (4) Banks;
- (5) Studios;
- (6) Automotive service station per§ 153.33;
- (7) Churches;
- (8) Drive-up facilities;
- (9) Public utility buildings; and
- (10) Car wash per§ 153.33.

(D) *Yard and lot requirements.*

- (1) Minimum lot width: 50 feet;
- (2) Minimum lot depth: 100 feet;

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- (3) Front yard setback: 25 feet;
- (4) Side yard setback: 10% of lot frontage to a maximum of ten feet;
- (5) Rear yard setback: 15 feet;
- (6) Side yard setback on a corner: 12.5 feet;
- (7) Setbacks from any "R" district boundary: 15 feet;
- (8) Detached accessory structures, both side and rear: five feet;
- (9) Minimum lot area: 5,000 square feet;
- (10) Allowable percentage of lot coverage (all structures): 50%;
- (11) Maximum height for principal structures: 35 feet; and
- (12) Maximum height for accessory structures: 15 feet.

(E) *Accessory uses and structures permitted in the B-1 District.*

- (1) Those uses and structures directly associated with the principal business. (2005 Code, § 11.30); and
- (2) Temporary Storage Containers, subject to the requirements of Section 153.40.

§ 153.12 CENTRAL BUSINESS DISTRICT (B-2).

(A) *Purpose.* The B-2, Central Business District, is designed for providing the core service and retail businesses ample space to develop and allow those services to be accessed conveniently by residents and other customers. All businesses and services located in this district shall be of a beneficial nature to the city and promote orderly development and generate economic use of land.

(B) *Permitted uses.*

- (1) Retail businesses;
- (2) Eating and drinking establishments;
- (3) Personal and professional services;
- (4) Offices;
- (5) Hotels;
- (6) Municipal buildings and libraries;

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- (7) Auto sales, service, and repair;
- (8) Trade and vocational schools;
- (9) Commercial recreation;
- (10) Animal clinics;
- (11) Hospitals;
- (12) Essential services;
- (13) Accessory uses;
- (14) Cannabis Retailer; and
- (15) Lower-Potency Hemp Edible Retailers.

(C) Conditional uses.

- (1) Water recreation and water storage;
- (2) Research laboratories;
- (3) Public utility Buildings;
- (4) Planned unit business project;
- (5) Multiple-family dwellings;
- (6) Wholesale business;
- (7) Supply yards;
- (8) Churches;
- (9) Light manufacturing;
- (10) Rental storage facilities;
- (11) Drive-up facilities;
- (12) Automotive service station per§ 153.33;
- (13) Carwash per§ 153.33;
- (14) Manufactured home parks;
- (15) Cannabis Testing Facility;

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- (16) Cannabis Wholesaler;
- (17) Cannabis Manufacturer; and
- (18) Temporary Cannabis Event.

(C) *Yard and lot requirements.*

- (1) Minimum lot width: 25 feet;
- (2) Minimum lot depth: 100 feet;
- (3) Maximum height: unlimited, Board approval required for principal structures over four stories or 75 feet;
- (4) Maximum height of accessory structures: 35 feet;
- (5) Rear yard requirements: no rear yard setback is required except as hereinafter provided. When required, the rear yard requirements shall be the same as the R-1 District.
 - (a) A rear yard is required for buildings containing any dwelling units.
 - (b) A rear yard is required for any lot of which the rear or side line abuts a Residential District (R-1, R-2, or R-3).
- (6) Front yard requirements: the minimum front setback on property abutting a public right-of-way in the B-2 District is zero feet; and
- (7) Side yard setback requirements: no side yard setback is required except as hereinafter provided. When required, the side yard shall be 10% of the lot width. A side yard is required for any lot of which the side line abuts a Residential District.

(D) *Accessory uses and structures permitted in the B-2 District.* Those uses and structures directly associated with the principal business.

(E) *Special district provisions.*

(1) *Storage displays.* All materials, supplies, merchandise, or other similar matter not on display for direct sales, rental, or lease to the ultimate consumer or user shall be stored within a completely enclosed building within the B-2 District or within the confines of a 100% opaque wall or screening device.

(2) *Exceptions to off-street parking and loading.* Up to 100% of the total required off-street parking spaces may be waived by the Zoning Board of Appeals and Adjustments when in the Zoning Board's opinion adequate off-street parking capacity exists or will be provided through public parking lots and parking garages.

(2005 Code, § 11.31)

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§ 153.13 HIGHWAY BUSINESS DISTRICT (B-3).

(A) *Purpose.* The Highway Business District (B-3) is designated to provide areas for commercial establishments that offer a broad range of goods and services largely to accommodate automobile-oriented customers. Uses would be primarily highway-oriented, provide compact and convenient shopping areas, and means of safe access and egress to abutting roads and highways.

(B) *Permitted uses.*

- (1) Shopping centers, malls, or plazas;
- (2) Office parks or complexes;
- (3) Eating and drinking establishments;
- (4) Hotels and motels;
- (5) Auto sales service and repair;
- (6) Retail businesses;
- (7) Educational institutions;
- (8) Commercial recreation and entertainment centers;
- (9) Essential services;
- (10) Accessory uses per division (E) below;
- (11) Supply yards;
- (12) Banks;
- (13) Cannabis Retailer;
- (14) Lower-Potency Hemp Edible Retailer;
- (15) Cannabis Delivery Service;
- (16) Cannabis Transporter.

(C) *Conditional uses.*

- (1) Light manufacturing;
- (2) Churches;
- (3) Planned unit developments;

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- (4) Livestock sales or auction centers and confinement buildings;
 - (5) Single-family residential;
 - (6) Water recreation and water storage;
 - (7) Fire station and municipal buildings;
 - (8) Public utility buildings;
 - (9) Wholesale buildings;
 - (10) Gas/service stations per§ 153.33;
 - (11) Car wash per§ 153.33;
 - (12) Cannabis Manufacturer;
 - (13) Cannabis Cultivator;
 - (14) Temporaru Cannabis Event; and
 - (15) Other highway-oriented uses as determined appropriate by the Planning Commission.
- (D) *Yard and lot requirements.*
- (1) Minimum lot area: 12,000 square feet;
 - (2) Minimum lot width: 100 feet;
 - (3) Minimum lot depth: 120 feet;
 - (4) Front yard setback: 25 feet;
 - (5) Side yard setback: 10% of lot width;
 - (6) Rear yard setback: 15 feet;
 - (7) Rear yard setback abutting "R" district boundary: 30 feet;
 - (8) Detached accessory structures setback: 20 feet;
 - (9) Allowable percentage of lot coverage (all structures): 60%;
 - (10) Maximum height: 60 feet; and
 - (11) Maximum height of accessory buildings: 15 feet.
- (E) *Accessory uses and structures permitted in the B-3 District.*

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- (1) Those uses and structures directly associated with the principal business; and
- (2) Temporary Storage Container, subject to the requirements of Section 153.40.

(F) *Special district provisions.*

(1) *Traffic and circulation.*

(a) All commercial buildings or structures and their accessory uses shall be accessible to and from nearby public streets and sidewalks by driveways and walkways surfaced with a hard, all-weather, durable, dust-free material and properly drained.

(b) Vehicular traffic generated by a business use shall be channeled and controlled in a manner that will avoid congestion on the public streets, traffic hazards, and excessive traffic through residential areas; particularly truck traffic. The adequacy of any proposed traffic circulation system to accomplish these objectives shall be determined by the Planning Commission who may require such additional measures for traffic control as it may deem necessary, including, but not limited to, the following: directional signalization; channelization; standby turn lanes; illumination; and distribution facilities within the commercial site to prevent back-up of vehicles on public streets.

(c) No area used by motor vehicles other than driveways serving an ingress and egress to the commercial site shall be located within the public street right-of-way.

(d) Wherever possible, the placement of structures in the B-3 District shall be such that a service or frontage road may be constructed yet retain sufficient lot area for parking and internal vehicular circulation.

(e) All driveways to or from public streets shall be subject to the following restrictions:

- 1. Driveway widths: back of curb to back of curb;

<i>Type</i>	<i>Minimum</i>
One-way	12 feet
Two-way	24 feet

- 2. Maximum driveway width at street curb: 30 feet, measured along street curb lines;

3. Minimum driveway angle to street: 30 degrees when street is one-way or divided, otherwise 60 degrees;

4. Minimum distance between driveways: 20 feet between curb ends measured along street curb line; and

5. Minimum distance of driveway from street intersections: measured along street curb line between ends of returns.

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<i>Driveway Enters</i>	<i>A Street Classified as a</i>	<i>And the Intersecting Street is Classified as a</i>	<i>And Driveway Enters Land Approaching or Leaving Intersection</i>
		<i>Approaching</i>	<i>*Leaving</i>
Collector street	Local street	20 feet	15 feet
	Collector street or minor arterial	25 feet	15 feet
	Principal arterial	35 feet	20 feet
Local street	Local street, collector street, or minor arterial	15 feet	15 feet
	Principal arterial	20 feet	15 feet
Principal arterial	Local street	20 feet	15 feet
	Collector street or minor arterial	25 feet	15 feet
	Principal arterial	40 feet	20 feet

*Note: minimum distance to be the same as that specified for approaching lane if left turns are permitted into or out of driveway.

(2) *Screening.*

(a) All principal, accessory, and conditional uses, except business signs, which are situated within 50 feet of a Residential District, shall be screened and buffered from such district by a land separation of open space which shall have a minimum depth of 30 feet and shall include a required wall or fence of not less than 90 % opacity and not less than five nor more than seven feet in height above the level of the Residential District property at the district boundary. Walls or fences of lesser heights or planting screens may be permitted by the Zoning Board of Appeals and Adjustments if there is a finding that the nature or extent of the use being screened is such that a lesser degree of screening will as adequately promote and protect the use and enjoyment of the properties within the adjacent Residential District, or there is a finding that a screening of the type required by this chapter would interfere with the provision of adequate amounts of light and air to same said properties. All required screening devices shall be designed so that they are architecturally harmonious with the principal structures on the site and they shall be properly maintained so as not to become unsightly, hazardous, or less opaque than originally constructed.

(b) A green belt planting strip shall consist of evergreen trees and/or deciduous trees and

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plants and shall be of sufficient width and density to provide an effective visual screen. This planting strip shall be designed to provide substantial visual screening a minimum height of six feet. The planting plan and type of plantings shall require the approval of the Planning Commission.

(3) *Landscaping.* All exposed ground areas surrounding or within a principal or accessory use including street boulevards, which are not devoted to drives, sidewalks, patios, or other such uses shall be landscaped with grass, shrubs, trees, or other ornamental landscape materials. All landscaped areas shall be kept neat, clean, and uncluttered. No landscaped area shall be used for the parking of vehicles or the storage or display of materials, supplies, or merchandise.

(4) *Storage-displays.* All materials, supplies, merchandise, or other similar matter not on display within a completely enclosed building within the B-3 District, or within the confines of a 100% opaque wall or fence not less than five feet high. Merchandise which is offered for sale as described heretofore may be displayed beyond the confines of a building in the B-3 District, but the area occupied by such outdoor display shall not constitute a greater number of square feet than 10% of the ground floor area of the building housing the principal use, unless such merchandise is of a type customarily displayed outdoors such as garden supplies.

(5) *Performance standards.* All business operations and activities, including, but not limited to, the production, processing, cleaning, servicing, testing, or repair of materials, goods, or products shall conform with this chapter.

(2005 Code, § 11.32)

§ 153.14 INDUSTRIAL PERFORMANCE STANDARDS.

(A) *General.* All uses shall comply with the requirements of this section. In order to determine whether a proposed use will conform to the requirements of this chapter, the Board may also obtain the services of a qualified consultant or the Board may request the assistance of the responsible regulatory agency. Costs for services shall be borne by the applicant.

(B) *Fire protection.* Fire protection and firefighting equipment acceptable to the Uniform Fire Code and the Board of Fire Underwriters shall be readily available when any activity involving the handling or storage of flammable or explosive materials is conducted.

(C) *Electrical disturbance.* No activity shall cause continuous or repetitive electrical disturbance adversely affecting the operation of other electrical equipment in the vicinity.

(D) *Noise.* Noise which is determined to be objectionable because of volume, frequency, or beat shall be muffled or otherwise controlled, except fire sirens and related apparatus used solely for public purposes shall be exempt from this requirement.

(E) *Smoke.* The maximum amount of smoke emission permissible shall be determined by use of standard Ringleman Chart issued by the U.S. Bureau of Mines. No smoke of a shade darker than No. 2 will be allowed.

(F) *Vibrations.* Vibrations detectable without instruments on neighboring property in any district shall be prohibited.

(G) *Odors.* In any district, no malodorous gas or matter shall be permitted which is so

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objectionable as to damage property interests on any neighboring lot.

(H) *Air pollution.* No pollution of air by fly ash, dust, vapors, or other substance shall be permitted which is harmful to health, animals, vegetation, or other property.

(I) *Glare.* Lighting devices which produce objectionable direct or reflected glare on adjoining properties or thoroughfares shall not be permitted.

(J) *Erosions.* No erosion by wind or water shall be permitted which will carry objectionable substances onto neighboring properties.

(K) *Water pollution.* Water pollution shall be subject to the standards established by the Minnesota Pollution Control Agency (MPCA).
(2005 Code, § 11.39) Penalty, see § 153.99

§ 153.15 LIGHT INDUSTRIAL DISTRICT (1-1).

(A) *Purpose.* The Light Industrial District (1-1) provides space for industries that are compatible with adjacent residential or commercial districts and are free from objectionable influence upon small urban development.

(B) *Permitted uses.*

- (1) Retail businesses;
- (2) Offices;
- (3) Personal and professional services;
- (4) Governmental buildings;
- (5) Vehicle, implement, and/or equipment sales, services, and repair;
- (6) Trade and vocational schools;
- (7) Research and testing laboratories;
- (8) Supply yards;
- (9) Warehousing of non-explosive material or equipment;
- (10) Truck terminals;
- (11) Wholesale businesses;
- (12) Radio and television offices and stations;
- (13) Freight and parcel shipping facilities;

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- (14) Rental establishments;
- (15) Recreational vehicle/trailer sales, service, and repair;
- (16) Essential services;
- (17) Storm water retention areas; and

(18) The production, assembly, or processing of the following materials, goods, or products where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emission which could disturb or endanger neighboring properties:

- (a) Advertising specialties;
- (b) Awnings, canopies, and window treatments;
- (c) Bakery, candy, dairy, and other food products;
- (d) Bottling facilities;
- (e) Ceramic products;
- (f) Clothing;
- (g) Computer and related components;
- (h) Cosmetics, drugs, and other pharmaceutical products;
- (i) Electrical, plumbing, and heating supplies and services;
- (j) Film processing;
- (k) Furniture, cabinets, and similar wood/upholstery products;
- (l) Ice facilities;
- (m) Jewelry, watches, and clocks;
- (n) Metal castings, stampings, and extrusions (non-ferrous);
- (o) Metal finishing, fabrication, and welding;
- (p) Monuments;
- (q) Musical instruments;
- (r) Office machines;
- (s) Optical goods;
- (t) Packing facilities;
- (u) Packing and crating establishments;
- (v) Printing and publishing;
- (w) Plastic injection molding and extrusion;
- (x) Sheet metal products;
- (y) Small home appliances;
- (z) Textile;
- (aa) Tool and dye operations;
- (bb) Tools, hardware, and plumbing appliances; and

(cc) Toys and novelties.

- (19) Cannabis Retailer;
- (20) Lower-Potency Hemp Edible Retailer;
- (21) Cannabis Cultivator;
- (22) Cannabis Delivery Service;

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- (23) Cannabis Transporter;
- (24) Cannabis Manufacturer; and
- (25) Cannabis Wholesaler.

(C) *Conditional uses.* All other uses not listed above.

(D) *Yard and lot requirements.*

- (1) Minimum lot area: 20,000 square feet;
- (2) Minimum lot width: 100 feet;
- (3) Minimum lot depth: no requirement stipulated;
- (4) Front yard setback: 25 feet;
- (5) Side yard setback: 15 feet;
- (6) Side yard detached accessory structures: five feet;
- (7) Rear yard setback: 50 feet;
- (8) Rear yard setback accessory structures: 12 feet;
- (9) Corner setback: 25 feet;
- (10) Setbacks from "R" District boundary: 75 feet;
- (11) Maximum height principal structure: 40 feet;
- (12) Maximum height accessory structure: 25 feet; and
- (13) Allowable lot coverage (all structures) 40%.

(E) *Accessory uses and structures permitted.*

- (1) Those uses and structures directly associated with the principal business; and
- (2) Temporary Storage Containers, subject to the requirements of Section 153.40.

(F) *Special district provisions.*

(1) *Landscaping.* All open areas of any site, lot, tract, or parcel shall be graded to provide proper drainage, and except for areas used for parking, drives, or storage, shall be landscaped with trees, shrubs, or planted ground cover. It shall be the owner's responsibility to see that this landscaping is maintained in an attractive and well-kept condition. All adjacent vacant lots, tracts, or parcels under the same ownership shall also be properly maintained.

(2) *Storage.* All raw materials, supplies, finished or semi-finished products, and equipment shall be stored in an orderly manner with all materials stored in neat and well-organized stacks, piles, or

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other orderly method appropriate for the material. In no event shall junk, rubbish, debris, weeds or tall grass, by-products, salvage, and inoperable equipment or any other material or matter not used in the normal course of business be allowed to accumulate, or become offensive in any manner, to any measurable degree whatsoever. The Council may require all raw materials, supplies, finished or semi-finished products, and equipment shall be stored within a completely enclosed building or within the confines of a 100% opaque wall or fence not less than five feet high; provided, however, that motor vehicles necessary to the operation of the principal use and of not more than three-quarter ton capacity may be stored within the permitted parking lot areas.

(3) *Screening.* All principal, accessory, and conditional uses, except business signs, which are situated within 50 feet of a Residential District, shall be screened and buffered from such district by a separation of open space which shall have a minimum depth of 30 feet and shall include a required fence or vegetative screening of not less than 90% opacity and not less than five nor more than seven feet in height above the level of the Residential District property at the district boundary. Walls or fences of less heights or planting screens may be permitted by the Zoning Board of Appeals and Adjustments if there is a finding that the nature or extent of the use being screened is such that a lesser degree of screening will as adequately promote and protect the use and enjoyment of the properties within the adjacent Residential District, or there is a finding that a screening of the type required by this chapter would

interfere with provisions of adequate amounts of light and air to same said properties. Loading docks in the I-1 District shall be screened so as not to be visible from any public street right-of-way within a Residential District. All required screening devices shall be designed so that they are architecturally harmonious with the principal structures on the site and they shall be properly maintained so as not to become unsightly, hazardous, or less opaque than when originally constructed.

(2005 Code, § 11.40)

§ 153.16 GENERAL INDUSTRIAL DISTRICT (I-2).

(A) Purpose. The General Industrial District (I-2) provides space for a wide variety of industrial establishments which may operate to their maximum advantage without adversely affecting other nearby similar or dissimilar uses and activities.

(B) Permitted uses.

- (1) Research and testing laboratories;*
- (2) Bottling plant;*
- (3) Heavy equipment manufacture, sales, service, or repair;*
- (4) Manufacture, processing, and fabrication of clay, concrete, wood, plastic, and metal products;*
- (5) Agriculture;*
- (6) Trucking or freight terminal;*

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- (7) *Warehouse;*
- (8) *Essential services;*
- (9) *Cannabis Testing Facility;*
- (10) *Cannabis Manufacturer; and*
- (11) *Cannabis Cultivator.*

(C) *Conditional uses.*

- (1) *Wrecking and salvage yards;*
- (2) *Chemical fertilizer plant;*
- (3) *Fuel and explosive material storage tanks and terminals;*
- (4) *Planned unit industrial park;*
- (5) *Automotive service stations per§ 153.33;*
- (6) *Car wash per§ 153.33; and*

(7) Other uses similar in nature to those uses listed in this division (C), and which in opinion of the City Planning Commission will not be detrimental to the integrity of the district.

(D) *Yard and lot requirements.*

- (1) Minimum lot area: 20,000 square feet;
- (2) Minimum lot width: 100 feet;
- (3) Minimum lot depth: no requirement stipulated;
- (4) Front yard setback: 25 feet;
- (5) Side yard setback: 15 feet;
- (6) Side yard detached accessory structures: five feet;
- (7) Rear yard setback: 50 feet;
- (8) Rear yard detached accessory structures: 12 feet;
- (9) Corner setbacks: 25 feet;

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- (10) Setbacks from "R" District boundary: 75 feet;
- (11) Maximum height principal structure: 75 feet;
- (12) Maximum height accessory structure: 25 feet; and
- (13) Allowable lot coverage (all structures): 60%.

(E) *Accessory uses and structure permitted.*

- (1) Those uses and structures directly associated with the principal business; and
- (2) Temporary Storage Containers, subject to the requirements of Section 153.40.

(F) *Special district provisions.*

(1) *Landscaping.* All open areas of any site, lot, tract, or parcel shall be graded to provide proper drainage, and except for areas used for parking, drives, or storage, shall be landscaped with appropriate dust-free and attractive material. Such landscaping shall conform with the development plan approved at the time the building permit was issued. It shall be the owner's responsibility to see that the lot area is maintained in a well-kept condition. All vacant lots, tracts, or parcels abutting and under the same ownership shall be properly maintained.

(2) *Storage.* All raw materials, supplies, finished or semi-finished products, and equipment shall be stored in an orderly manner with all materials stored in neat and well-organized stacks, piles, or other orderly method appropriate for the material. In no event shall junk, rubbish, debris, weeds or tall grass, by-products, salvage and inoperable equipment, or any other material or matter not used in the normal course of business be allowed to accumulate, or become offensive in any manner, to any measurable degree whatsoever. The Council may require all raw materials, supplies, finished or semi-finished products, and equipment shall be stored within a completely enclosed building, or within the confines of a 100 % opaque wall or fence not less than five feet high, provided, however, that motor vehicles necessary to the operation of the principal use may be stored within the permitted parking lot areas.

(2005 Code, § 11.41)

§ 153.17 RENEWABLE ENERGY SYSTEMS.

(A) *Purpose and intent.* The City finds that it is in the public interest to encourage the use and development of renewable energy systems that enhance energy conservation efforts but result in limited adverse impact on nearby properties. As such, the city supports the use of wind energy conversion and solar energy systems. The city also finds that the development of renewable energy systems should be balanced with the protection of the public health, safety and welfare. The city adopts the following standards to ensure that renewable energy systems can be constructed within the city while also protecting the City's public safety and natural resources. Consistent with the City's Comprehensive Plan, it is the intent of the City to create standards for the reasonable capture and use, by households, businesses and property owners, of their renewable energy resources, and to encourage the development and use of renewable energy.

(B) *Definitions.* The following words, terms and phrases, when used in this Section, shall have the meaning provided herein, except where the context clearly indicates otherwise:

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ACCESSORY USE OR STRUCTURE. Any use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

ARRAY: Any number of solar photovoltaic modules or panels connected together to provide a single electrical output.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM. An active solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include, but are not limited to, photovoltaic or thermal solar systems that are contained within roofing materials, windows, skylights and awnings.

COMMERCIAL SOLAR ENERGY SYSTEM. A solar energy system that is capable of generating equal to, or more than, fifty (50) kW of power and is designed to supply energy for off-site users or export to the wholesale market on the distribution grid.

COMMERCIAL WIND ENERGY CONVERSION SYSTEM. A wind energy conversion system with a total nameplate generating capacity equal to or greater than one hundred (100) kW.

COMMUNITY SOLAR GARDEN. A solar energy system that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system, consistent with Minnesota Statutes, section 216B.1641 or successor statute. A community solar garden may be either an accessory or a principal use.

FALL ZONE. The area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.

FEEDER LINE. Any power line that carries electrical power from one or more wind turbine(s) or individual transformers associated with an individual wind turbine to the point of interconnection with the electric power grid. In the case of interconnection with the high-voltage transmission systems, the point of interconnection shall be the substation serving the WECS.

GROUND-MOUNTED SOLAR ENERGY SYSTEM. Freestanding solar panels mounted to the ground by use of rackings, pilings, piers, stabilizers or similar apparatus.

GROUND-MOUNTED WIND ENERGY CONVERSION SYSTEM. Freestanding WECS mounted to the ground with footings or other apparatus.

LARGE ENERGY POWER GENERATING PLANT (LEPGP). Any Solar Energy System capable of producing fifty (50) MW or more of power.

MN PUC. The State of Minnesota Public Utilities Commission.

NON-COMMERCIAL SOLAR ENERGY SYSTEM. A solar energy system that is capable of generating less than fifty (50) kW of power and which is accessory to the principal land use and designed to supply energy for the principal use.

NON-COMMERCIAL WIND ENERGY CONVERSION SYSTEM. A wind energy conversion

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system with a nameplate capacity of less than one hundred (100) kW and which is accessory to the principal land use and designed to supply energy for the principal use.

PHOTOVOLTAIC SYSTEM. An active solar energy system that converts solar energy directly into electricity.

ROOF-MOUNTED SOLAR ENERGY SYSTEM. A solar energy system that is mounted to the roof of a building using brackets, stands or other apparatus.

ROOF-MOUNTED WIND ENERGY CONVERSION SYSTEM. A WECS utilizing a turbine mounted to the roof of a structure.

SOLAR COLLECTOR. A device, structure or a part of a device or structure that the principal purpose is to transform solar radiant energy into thermal, mechanical, chemical or electrical energy.

SOLAR ENERGY SYSTEM (SES). An active solar energy system that collects or stores radiant solar energy from the sun and transforms solar energy into another form of energy, or transfers heat from a collector to another medium using mechanical, electrical, thermal or chemical means. SES can be roof, building, structure, or ground mounted.

SOLAR FARM. A commercial facility that converts sunlight into electricity, whether by photovoltaics, concentrating solar thermal devices, or other conversion technology, for the principal purpose of wholesale sales of generated electricity.

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

TOWER. Vertical structures that support the electrical generator, rotor, and blades, or the meteorological equipment.

TOWER HEIGHT. The total height of the WECS, including tower, rotor, and blade to its highest point of travel.

TURBINE CUT-IN SPEED. The lowest wind speed at which turbines generate power to the utility system.

WIND ENERGY. Kinetic energy present in wind motion that can be converted into electrical energy.

WIND ENERGY CONVERSION SYSTEM (WECS). An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, and substations that operate by converting the kinetic energy of wind into electrical energy.

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

(C) Solar energy systems.

- (1) *Scope.* The requirements and standards in this Article govern Solar Energy Systems that are capable of

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generating less than fifty (50) MW of power. Large Energy Power Generated Plants (“LEPGP”) capable of generating fifty (50) MW of power or more shall fall under the jurisdiction of the MN PUC.

(2) *General Standards.* All SES shall comply with the following standards:

(a) All SES connecting in any way to the distribution or transmission system must obtain an interconnection agreement from the appropriate electric utility. Off-grid systems are exempt from this requirement.

(b) Electric solar system components that are connected to a building electric system must have an Underwriters Laboratory (UL) listing.

(c) All solar installations must comply with the Minnesota and National Electric Code.

(d) All Roof-Mounted solar systems shall comply with the Minnesota Building Code.

(e) Installation of a solar system shall not constitute a right to sunlight from any adjoining property, nor does the City assure access to sunlight.

(f) Any lighting shall be shielded and downcast such that the light does not spill onto adjacent properties.

(g) Maintenance – Routine maintenance must be performed on all solar panels and the ground must be kept free of debris from the solar panels at all times. If a solar panel is broken, it must be removed within thirty (30) days. The City reserves the right to request an inspection of the SES for compliance on any issue that may arise. The SES operator must grant access to the site as requested for inspection.

(h) Building-Mounted solar energy systems, other than Roof-Mounted solar energy systems, are prohibited in the city.

(i) All SES are prohibited in the City’s Floodway District.

(j) All SES located in any other floodplain zoning district shall comply with any and all applicable federal, state and local floodplain regulations.

(3) *Non-commercial SES.*

(a) *Permitting.* Non-commercial SES are considered permitted uses in all zoning districts, excluding the Floodway District. This Ordinance allows for and regulates the following non-commercial types of SES:

1. Roof-Mounted SES; and
2. Ground-Mounted SES.

(b) *Regulation.* Non-commercial SES shall be regulated as follows:

1. Roof-Mounted SES:

a. Shall not project more than four (4) feet above the plane of the roof nor be located closer than three (3) feet from the outer edge of the roof top.

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b. Shall not occupy more than seventy-five (75) percent of the area of the roof plane.

c. Are considered an accessory use or structure and require a building permit.

2. Ground Mounted SES:

a. Shall be subject to the setbacks and standards for the district in which it is located.

b. Shall not exceed fifteen (15) feet in height.

c. Shall not be located in any required front yard area and shall not be located closer than one hundred (100) feet to an existing adjacent residence.

d. Shall not exceed ten (10) percent lot coverage or ten thousand (10,000) square feet, whichever is less. Square footage is calculated by the area encumbered by the outermost measurements of the solar equipment layout.

e. The location of each structure must be such that no part of the structure extends into the setback zone in any tilted position.

f. Are considered an accessory use or structure and require a building permit.

(4) *Commercial SES*

(a) *Permitting.* Commercial SES are allowed in the Light Industrial (I-1), General Industrial (I-2) and Conservation (C-1) zoning districts, excluding any properties that may be located within the Floodway District, and require a Conditional Use Permit in accordance with the procedures set forth in the Zoning Ordinance for a Conditional Use Permit. This Ordinance allows for and regulates the following commercial types of solar energy systems:

1. Solar Gardens (Community Solar Energy Systems).

2. Solar Farms.

(b) *Regulation.* Commercial SES shall be regulated as follows:

1. *Solar Gardens*

a. Solar Gardens shall be located on parcels of land no less than five acres in size.

b. The city prohibits Solar Gardens within the following areas:

i. Within three hundred (300) feet of a classified lake, river or stream.

ii. Within six hundred (600) feet of areas protected from development by Federal, State, or County agencies as wildlife habitat, wildlife management areas or designated as National Wild and Scenic land or corridor; and

iii. Wetlands, to the extent prohibited by the Minnesota Wetland Conservation Act.

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c. Solar Gardens shall meet the following minimum setbacks:

i. Three hundred (300) feet from a residential dwelling unit and two hundred and fifty (250) feet from any building not located on the property.

ii. One Hundred and thirty (130) feet from the center line of any road.

iii. One hundred and fifty (150) feet from any property line.

Setbacks shall be measured to the nearest solar array or other structure within the Solar Garden, excluding security fencing, screening or berm.

d. The following provisions relating to the clearing of existing vegetation and establishment of vegetated ground cover shall apply to all Solar Gardens, in addition to any requirements set forth by the City Council.

i. Restrictions on tree clearing or mitigation for cleared trees may be required by the City Council.

ii. The project site design shall include the installation and establishment of ground cover meeting the beneficial habitat standards consistent with Minnesota Statutes, Section 216B.1642, or successor statutes and guidance as set by the Minnesota Board of Water and Soil Resources.

iii. Beneficial habitat standards shall be maintained on the site for the duration of operation, until the site is decommissioned.

e. Fencing shall be designed in a manner that does not disrupt significant wildlife travel corridors. A wildlife-friendly fencing design must be submitted as part of the Conditional Use Permit application and approved by the City Council.

f. All on-site power and communication lines running between banks of solar panels and buildings shall be buried underground on the premises. The City Council may grant exemptions to this requirement in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.

g. Decommissioning Plan: The owner/operator shall submit a decommissioning plan for the Solar Garden to ensure that the owner or operator properly removes the equipment and facilities upon the end of project life or after their useful life. The owner or operator shall decommission the solar panels in the event they are not in use for twelve (12) consecutive months. The plan shall include provisions for the removal of all structures and foundations, the removal of all electrical transmission components, the restoration of soil and vegetation, and a soundly-based plan ensuring financial resources will be available to fully decommission the site. As an alternative to the full restoration of soil and vegetation, the decommissioning plan may provide for the installation, establishment, and continuation of beneficial habitat standards. The disposal of structures and/or foundations shall meet the requirements of the City's solid waste. The owner/operator shall provide a current-day decommissioning cost estimate, and shall post a bond, letter of credit, or establish an escrow account, including an inflationary escalator, in an amount determined by the City Council, to ensure proper decommissioning.

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2. Solar Farms

a. Solar Farms shall be located on parcels of land no less than five acres in size.

b. The City prohibits Solar Farms within the following areas:

i. Within six hundred (600) feet of a classified lake, river or stream.

ii. Within six hundred (600) feet of areas protected from development by Federal, State or County agencies such as wildlife habitat, wildlife management areas or designated as National Wild and Scenic land or corridor; and

iii. Wetlands, to the extent prohibited by the Minnesota Wetland Conservation Act.

c. Solar Farms shall meet the following minimum setbacks:

i. Three hundred (300) feet from a residential dwelling unit and two hundred and fifty (250) feet from any building not located on the property.

ii. One Hundred and thirty (130) feet from the center line of any road.

iii. One hundred and fifty (150) feet from any property line.

Setbacks shall be measured to the nearest solar array or other structure within the Solar Farm, excluding security fencing, screening or berm.

d. Screening. When visible from adjacent residential properties and from residential properties across a public street or road, the owners or operators of the solar energy systems shall install landscaping and screening around and, on their sites, to minimize the visual impact of the solar improvements to the adjacent and nearby residential properties. Screening must be maintained per the approved screening plan for the life of the solar farm. If the applicant can show the city that the proposed solar project would not be visible from adjacent or nearby residence because of existing vegetation or topography, then the city may waive the screening requirements.

All screening and landscaping shall be of sufficient width and density to provide year-round screening of the solar development site. The developer or applicant shall submit to the City for approval a screening and landscape plan with the following:

i. At least two rows of staggered conifer trees that are at least eight feet tall at the time of planting and that will reach a minimum maturity height of twelve (12) feet.

ii. An alternative buffer and screening plan using a combination of trees, shrubs and/or berms that completely screens the solar installation from the public right-of-way and from adjacent and nearby residences.

iii. An illustration or plan that shows a view of the solar development from the public right-of-way, impacted residence(s) and proposed screening and landscaping.

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e. The following provisions relating to the clearing of existing vegetation and establishment of vegetated ground cover shall apply to all Solar Farms, in addition to any requirements set forth by the City Council.

i. Restrictions on tree clearing or mitigation for cleared trees shall be required by the City Council.

ii. The project site design shall include the installation and establishment of ground cover meeting the beneficial habitat standards consistent with Minnesota Statutes, Section 216B.1642, or successor statutes and guidance as set by the Minnesota Board of Water and Soil Resources.

iii. Beneficial habitat standards shall be maintained on the site for the duration of operation, until the site is decommissioned.

f. Fencing shall be designed in a manner that does not disrupt significant wildlife travel corridors. A wildlife-friendly fencing design must be submitted as part of the Conditional Use Permit application and approved by the City Council.

g. All on-site power and communication lines running between banks of solar panels and buildings shall be buried underground on premise. The City Council may grant exemptions to this requirement in instances where shallow bedrock, water courses or other elements of the natural landscape interfere with the ability to bury lines.

h. Solar Farms shall be designed to prevent any stray voltage from affecting adjacent properties or causing interference with the operation of electrical appliances or electronic equipment on adjacent properties. In the event such disturbances occur or are alleged to occur, such disturbances shall be mitigated to the satisfaction of the City Council.

i. Construction and routine maintenance activities shall be limited to daytime working hours, as defined in Minnesota Rules, part 7030.0020, to ensure nighttime noise level standards will not be exceeded.

The following additional noise related site standards shall also be satisfied:

i. Placement of transformers, inverters, or other equipment generating ongoing vibration or noise must be done in such a manner that low level recurring ambient noise does not audibly cross property boundaries. Placement of equipment interior to the site, shielded by proposed solar panels, and/or shielded by specifically placed noise and vibration deadening fence, landscape, berm, or other efforts, shall be required for all solar farms in close proximity to existing developed homes or property boundaries.

ii. The piling installation construction phase of every project generates repetitive audible noise and is extremely disruptive. Piling installation timelines and durations shall be identified in the application and consolidated into the shortest most confined time period possible. Installation of pilings shall take place only during permitted identified daytime and weekday hours which may be further limited by permit conditions if in close proximity to existing residences. Piling installation shall cease on Sundays and be limited between the hours of 7am-6pm on Saturdays.

j. The City may require a performance bond to be held by the City until such time as all haul routes within their jurisdiction and utilized during construction are returned to their preconstruction condition.

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k. Decommissioning Plan: The owner/operator shall submit a decommissioning plan for the Solar Farm to ensure that the owner or operator properly removes the equipment and facilities upon the end of project life or after their useful life. The owner or operator shall decommission the solar panels in the event they are not in use for twelve (12) consecutive months. The plan shall include provisions for the removal of all structures and foundations, the removal of all electrical transmission components, the restoration of soil and vegetation and a soundly-based plan ensuring financial resources will be available to fully decommission the site. As an alternative to the full restoration of soil and vegetation, the decommissioning plan may provide for the installation, establishment, and continuation of beneficial habitat standards. The disposal of structures and/or foundations shall meet the requirements of the City solid waste ordinance. The owner/operator shall provide a current-day decommissioning cost estimate, and shall post a bond, letter of credit or establish an escrow account, including an inflationary escalator, in an amount determined by the City Council, to ensure proper decommissioning.

(3) *Application.* In addition to any information required by the Zoning Ordinance, the following information shall be provided to the City as part of the Conditional Use Permit Application for any Commercial SES. The City Council reserves the right to deny any Conditional Use Permit whose application is incomplete or does not meet the requirements listed in this Ordinance.

a. A site plan showing the following:

- i. Existing property lines and property lines extending three hundred (300) feet from the exterior boundaries, including the names of the adjacent property owners and current use of those properties.
- ii. Existing public and private roads, showing widths of the roads and any associated easements.
- iii. Location and size of any abandoned wells, sewage treatment systems, and dumps.
- iv. Existing buildings and any impervious surface.
- v. Topography at two (2) foot intervals and source of contour interval. A contour map of the surrounding properties may also be required.
- vi. Existing vegetation, listing the type (e.g. grassland, plowed field, wooded areas) and percent of coverage of each type.
- vii. Waterways, watercourses, lakes, and public water wetlands.
- viii. Delineated wetland boundaries.
- ix. The 100-year flood elevation and Regulatory Protection Elevation, if available.
- x. Floodway, flood fringe, and/or general flood plain district boundary, if applicable.
- xi. Mapped soils.
- xii. Surface water drainage patterns.
- xiii. Location and spacing of solar panels.

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xiv. Location of access roads.

xv. Planned location of underground and overhead electric lines connecting the SES to the building, substation, or other electric load.

xvi. New electrical equipment other than at the existing building or substation that is the connection point for the SES.

xvii. Proposed erosion and sediment control measures.

xviii. Proposed storm water management measures.

xix. Location, number, and caliper of any trees to be removed, for trees with a trunk size greater than six (6) inches in girth.

xx. Interior and exterior fencing plans including fence locations, design, dimensions and measures taken to make fence wildlife friendly and avoid disrupting significant wildlife travel corridors.

b. Manufacturer's specifications and recommended installation methods for all major equipment, including solar panels, mounting systems, and foundations for poles or racks.

c. The number of panels proposed to be installed.

d. A description of the method of connecting the array to a building or substation.

e. A copy of the interconnection application and/or agreement.

f. Evidence of all land acquisition (fee or easement) and agreements with adjacent landowners experiencing devaluation of properties due to installation of a SES must be completed and submitted prior to issuance of any permit.

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

(1) *Scope.* The requirements and standards in this section govern Wind Energy Conversion Systems ("WECS") that are capable of generating less than five (5) MW of electrical power. The State of Minnesota has jurisdiction over the siting and regulation of WECS generating five (5) MW or more of electrical power.

(2) *Permitting.* WECS are permitted in the General Industrial (I-2) zoning district, excluding any property that may be located within the Floodway District, and shall require a Conditional Use Permit in accordance with the procedures set forth in the Zoning Ordinance. WECS are prohibited in all other zoning districts in the city.

(3) *Application.* In addition to any informing required by the Zoning Ordinance, applications for all WECS must include all of the following information:

a. The name(s) of the project applicant.

b. The name(s) of the project owner.

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c. The legal description, parcel number, and E-911 address of the project.

d. A description of the project including: number, type, nameplate generating capacity, tower height, rotor diameter, blade dimensions, color and total height of all wind turbines and means of interconnecting with the electrical grid (written confirmation from the affected electrical utility company required).

e. A site plan showing the location of all property lines, existing structures, roadways, proposed WECS equipment and appurtenances, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site plan shall include distances and be drawn to scale.

f. The location and description of any power lines, residences, other structures, wetlands, and water bodies within seven hundred and fifty (750) feet of the proposed WECS, on the subject property, and affected adjacent property.

g. A Decommissioning Plan.

h. Documentation of land ownership or legal control of the property.

i. The longitude, latitude, and height, above ground level in feet.

j. Written verification from the MN Department of Transportation, Aeronautics Division, indicating registration with their Office.

(4) *Aggregated Projects.* Aggregated projects of less than 5 MW may jointly submit a single Application and be reviewed under joint proceedings, including notices, hearings, reviews and as appropriate approvals. Permits will be issued and recorded separately. Joint Applications will be assessed fees as one project.

(5) *General Standards.* All WECS shall comply with the following standards:

a. *Setbacks.*

From	Non-Commercial WECS	Commercial WECS
Dwelling	1.5 x Total Height	1.5 x Total Height
Structure on the Property	150'	150'
Property Line	Total Height + 10'	1.5 x Total Height
Right-of-Way	1.1 x Total Height	1.5 x Total Height
Public Conservation Land	600'	600'
Wetlands	100'	600'
Other WECS	5 Rotor Diameters	5 Rotor Diameters

b. All WECS connecting in any way to the distribution or transmission system must obtain an interconnection agreement from the appropriate electric utility. Off-grid systems are exempt from this requirement.

c. No WECS shall be located in an area so that its placement diminishes the public enjoyment of scenic highways, scenic overlooks, public parks, and other areas determined by the City Council.

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d. No WECS rotor blades or airfoils shall extend closer than thirty (30) feet to the ground from their lowest point.

e. For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors, or tape, shall be placed on the guy wire anchor points and along the outer innermost guy wires up to a height of 10 feet above the ground. In addition, two highly visible cable balls must be attached to each of the outside guy wires. Visible fencing shall be installed around anchor points of guy wires.

f. All wind turbines and towers that are part of a WECS shall be white, grey or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matt or non-reflective and designed to blend in with the skyline and natural setting to the extent possible.

g. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations.

h. Signage setting forth the identification of the owner/operator and public safety information, including emergency contact information, shall be placed on the nacelle, compartment containing the electrical generator, of the WECS.

i. All communications and feeder lines, equal to or less than 34.5 kV in capacity, installed as part of a WECS shall be buried where reasonably feasible. Feeder lines installed as part of a WECS shall not be considered an essential service.

j. Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable Local, State and Federal regulations.

k. A WECS shall be considered a discontinued use after six (6) months without energy production, unless a plan is developed and submitted to the City outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to four feet below ground level and within 90 days of the discontinuation of use. If a WECS has not been removed after discontinuance, the City may contract the removal and renovation of the site.

l. All WECS shall have a Decommissioning Plan outlining the anticipated means and cost of removing all structures and foundations, the removal of all electrical transmission components and the restoration of soil and vegetation at the end of their serviceable life or upon becoming a discontinued use. As an alternative to the full restoration of soil and vegetation, the decommissioning plan may provide for the installation, establishment, and continuation of beneficial habitat standards. The disposal of structures and/or foundations shall meet the requirements of the City's solid waste ordinance. The cost estimates shall be made by a competent party, such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the WECS and accessory facilities. The owner/operator shall post a bond, letter of credit or establish an escrow account, including an inflationary escalator, in an amount determined by the City Council to ensure proper decommissioning.

m. All WECS shall comply with Minnesota Rules, Chapter 7030 governing noise.

n. All WECS and accessory equipment and facilities shall comply with the National Electrical Code

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and other applicable standards.

o. All WECS shall comply with FAA standards and permits.

p. A WECS applicant shall identify all County, City and Township roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.

q. A WECS applicant shall conduct a pre-construction survey, in coordination with the impacted local road authority(ies) to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public road.

r. A WECS owner or operator shall be responsible for restoring or paying damages as agreed to by the applicable road authority(ies) sufficient to restore the road(s) and bridge(s) to preconstruction conditions.

s. A WECS applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the WECS.

t. A WECS applicant shall be responsible for appropriate dust control while the project is under construction and/or decommissioning.

u. WECS shall be fenced in unless towers are designed without ladders or other accessible climbing devices. All equipment or appurtenances that pose a potential danger to animals or humans shall be fenced in.

v. WECS shall be designed to prevent any stray voltage from affecting adjacent properties or causing interference with the operation of electrical appliances or electronic equipment on adjacent properties. In the event such disturbances occur or are alleged to occur, such disturbances shall be mitigated to the satisfaction of the City Council.

w. WECS shall be designed, constructed, operated, and maintained in a manner consistent with all applicable federal, state, and local laws, rules, standards, codes, and ordinances

(6) Non-Commercial WECS.

a. *Regulation.* In addition to the requirements set forth above in this section, the total height of a Non-Commercial WECS shall not exceed one hundred and fifty (150) feet.

(7) Commercial WECS.

a. *Application.* In addition to the requirements set forth in this section, applications for Commercial WECS shall include all of the following information:

i. The latitude and longitude of individual wind turbines.

ii. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within 10 rotor diameters of the proposed WECS.

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iii. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet of the proposed WECS.

iv. FAA Permit Application.

v. Location of all known Communications Towers within 2 miles of the proposed WECS.

vi. Engineer's certification.

vii. Description of potential impacts on nearby WECS and wind resources on adjacent properties.

b. *Regulation.* In addition to the requirements set forth above in this section, Commercial WECS shall be regulated as follows:

i. The City prohibits Commercial WECS (1) within two thousand six hundred and forty feet (2,640) feet of any occupied residence or business, (2) within seven hundred and fifty (750) feet of a classified lake, river or stream, (3) within seven hundred and fifty (750) feet of areas protected from development by Federal, State, or County agencies such as wildlife habitat, wildlife management areas or designated as National Wild and Scenic land or corridor, and (4) wetlands, to the extent prohibited by the Minnesota Wetland Conservation Act.

c. The manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

d. A sign or signs shall be posted on the tower, transformer and substation warning of high voltage.

e. All wind turbines shall be installed with a tubular, monopole type tower.

f. Upon issuance of a Conditional Use Permit, all Commercial WECS shall notify the Environmental Quality Board Staff of the project location and details on forms specified by the Environmental Quality Board.

g. The following provisions relating to the clearing of existing vegetation and establishment of vegetated ground cover shall apply to all Commercial WECS, in addition to any requirements set forth by the City Council.

i. The applicant for the Commercial WECS Conditional Use Permit shall minimize removal of mature trees on the site. Restrictions on tree clearing or mitigation for cleared trees may be required by the City Council.

ii. To the extent that the existing ground cover is removed and not restored during the operation of the Commercial WECS, the project site design shall include the installation and establishment of ground cover meeting the beneficial habitat standards consistent with Minnesota Statutes, Section 216B.1642, or successor statutes and guidance as set by the Minnesota Board of Water and Soil Resources. Such beneficial habitat standards shall be maintained on the site for the duration of operation, until the site is decommissioned.

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(E) Penalties and enforcement.

(1) *General Offense.* Any person who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a maximum fine or maximum period of imprisonment, or both, as specified by Minnesota Statutes, section 609.03. A violation of this Ordinance shall include, but is not limited to, any of the following: failing, neglecting, or refusing to comply with the provisions of this Ordinance; violating any condition placed on a permit issued by the Township; exceeding the scope of a permit; or knowingly making any false statements in any document required to be submitted under the provisions of this Ordinance. Each day that a violation continues shall constitute a separate offense. In the event of a violation or a threatened violation of this Ordinance, the City Council, in addition to other remedies, may institute appropriate criminal and/or civil actions or proceedings to prevent, prosecute, restore, restrain, correct or abate such violations or threatened violations. A criminal prosecution for a violation shall not be a bar to a civil remedy.

(2) *Enforcement.* The City Council and the City Council's appointed representatives have the authority to enforce this Ordinance by issuing notices of violation, cease and desist orders, citations, and taking or instituting such other lawful actions as may be needed to enforce this Ordinance and to bring a property into compliance. A violation of this Ordinance can occur regardless of whether a permit is required for a regulated activity. If a cease-and-desist order or stop work order is issued to stop an activity, the activity may not be resumed until the reason for the work stoppage has been completely satisfied and the cease-and-desist order lifted.

§ 153.18 MANUFACTURED HOUSING.

Manufactured homes, as defined in this chapter, are permitted uses in all districts where single- family dwellings are permitted subject to the following of these guidelines.

(A) All manufactured homes shall be constructed after June 15, 1976 and bear the HUD certification seal.

(B) All dwellings shall be placed on a continuous permanent foundation in compliance with the Uniform Building Code as adopted by the city.

(C) Hitches and/or other visible transport equipment shall be removed. (2005 Code, § 11.43)

§ 153.19 MANUFACTURED HOME PARKS.

(A) Manufactured home parks, as defined by **M.S.** § 327.14, Subd. 3, are permitted by **M.S.** § 327.14 et seq., as they may be amended from time to time, as a conditional use in all zoning districts that allow the construction or placement of a building used or intended to be used by two or more families.

(B) The following minimum requirements shall apply to all new manufactured home parks and expansion of existing parks.

(1) *General.*

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- (a) The minimum area for a new manufactured home park is five acres.
- (b) The minimum number of spaces completed and ready for occupancy before the first occupancy is permitted in a new park shall be ten units.
- (c) Each manufactured home site within the park shall have a minimum area of 3,500 square feet.
- (d) No manufactured home site shall be closer than 35 feet to any adjacent property.
- (e) No less than 10% of the manufactured home park shall be improved for recreational activities for residents of the park.

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(2) *Site plan.* At time of application for a conditional use permit, the applicant must submit a site plan to the city. The site plan shall include:

- (a) The name and address of all owners and developers of the proposed manufactured home court;
- (b) The legal description and lot size in acres of the proposed park;
- (c) The location and size of all manufactured home lots, convenience establishments, storage areas, recreation areas and facilities, landscaping, existing tree growth, water areas, roadways, sidewalks, and parking sites;
- (d) Detailed landscaping and grading plans and specifications;
- (e) Plans for sanitary sewage disposal, surface drainage, fire hydrants, water systems, electrical service, gas services, cable television, street lighting, and topography diagrams;
- (f) Location and size of all public roadways abutting the manufactured home park and all street and sidewalk accesses from such street and sidewalk to the manufactured home court;
- (g) Preliminary road construction plans and specifications including cross-section and curb details;
- (h) Preliminary floor plans and elevation for all permanent structures;
- (i) Description and method of disposing of garbage and refuse;
- (j) Staging and timing of construction program regardless of whether the entire area will be developed at one time or in stages;
- (k) Such other reasonable information as shall be required by the city; and
- (l) The scale for all drawings shall be one inch to 100 feet.

(3) *Commission recommendations.* The Planning Commission shall review the site plan and submit its recommendation to the City Council.

(C) Each manufactured home lot shall have a hard-surfaced, off-street parking space for two automobiles. All parking shall be completely within the confines of the lot. All streets shall be hard-surfaced and have a minimum width of 20 feet.

(D) Accessory uses and buildings permitted in the manufactured home park.

- (1) Home occupations;

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(2) Garage space - all single-family homes built, assembled, or placed on residential lot must provide, at the minimum, access to and space for sheltered, off-street parking for two standard sized automobiles;

(3) Storage buildings - these structures are to be used exclusively for the storage of household, yard, and related supplies and equipment; and

(4) See § 153.24 for additional restrictions.

(E) If a manufactured home park is converted to another use requiring a variance or zoning change, the Planning Commission must give notice of hearing to each occupant.
(2005 Code, § 11.44)

Statutory reference:

Related provisions, see M.S. § 327C.095, as it may be amended from time to time

§ 153.20 PLANNED UNIT DEVELOPMENT (PUD).

(A) *General.* Planned unit residential, commercial, and industrial development shall be permitted according to the guidelines of this section and the approval of the City Council through the conditional use process. A site plan shall be presented to the City Council after approval, all development shall be in accordance with said plan.

(B) *Requirements.*

(1) The area of land to be developed shall not be less than three acres.

(2) Properties adjacent to the unit plan shall not be adversely affected.

(3) The average density of dwelling units shall not be higher than those permitted in the district in which the planned unit is located.

(4) The use of land shall not differ substantially from uses permitted in the district in which the planned unit is located, except that limited commercial facilities, intended to serve only residents of the planned unit and fully integrated into the design of the project, may be considered in Residential Districts and multiple-family dwellings may be considered in the R-1, R-2, B-1, B-2, and B-3 Districts.

(5) The unit plan shall be consistent with the purpose of this chapter.

(6) The unit plan shall be reviewed and recommendations made by the Planning Commission and the City Council to determine if the proposed planned unit is consistent with the city's comprehensive plan and is in the best interest of the city.

(2005 Code, § 11.50)

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§ 153.21 FLOODPLAIN.

(A) *Statutory authorization and purpose.*

(1) *Statutory Authorization.* This floodplain ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F; Minnesota Rules, parts 6120.5000 – 6120.6200; the rules and regulations of the National Flood Insurance Program (NFIP) in 44 CFR § 59 to 78; and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.

(2) *Purpose.*

(a) This ordinance regulates development in the flood hazard areas of the City of Pipestone. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

(b) This ordinance is adopted in the public interest to promote sound land use practices, and floodplains are a land resource to be developed in a manner which will result in minimum loss of life and threat to health, and reduction of private and public economic loss caused by flooding.

(c) This ordinance is adopted to maintain eligibility in the National Flood Insurance Program.

(d) This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

(3) *Abrogation and Greater Restrictions.* It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. The standards in this ordinance take precedence over any less restrictive, conflicting local laws, ordinances, or codes. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

(4) *Warning and Disclaimer of Liability.* This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. Not all flood risk is mapped. Larger floods do occur and the flood height may be increased by man-made or natural causes, such as ice jams or bridge openings restricted by debris. This ordinance does not create liability on the part of the City of Pipestone or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

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(5) *Severability*. If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.

(B) *Definitions*.

(1) *Definitions*. Unless specifically defined, words or phrases used in this ordinance must be interpreted according to common usage and so as to give this ordinance its most reasonable application.

ACCESSORY STRUCTURE. A structure, as defined in this ordinance, that is on the same parcel of property as, and is incidental to, the principal structure or use; an accessory structure specifically excludes structures used for human habitation.

BASE FLOOD. The flood having a one-percent chance of being equaled or exceeded in any given year. “Base flood” is synonymous with the term “regional flood” used in Minnesota Rules, part 6120.5000.

BASE FLOOD ELEVATION (BFE). The elevation of the base flood, regional flood, or one-percent annual chance flood. The term “base flood elevation” is used in the flood insurance study.

BASEMENT. Any area of a structure, including crawl spaces, having its floor subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

BUILDING. See Structure.

CHANNEL. A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct flowing water either continuously or periodically.

CONDITIONAL USE. A land use or development that would not be appropriate generally, but may be allowed with appropriate restrictions 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.

CRITICAL FACILITIES. Buildings and structures that contain essential facilities and services necessary for emergency response and recovery, or that pose a substantial risk to the public in the event of failure, disruption of function, or damage by flooding. Specifically, this includes facilities identified as Flood Design Class 4 in ASCE 24-14, Flood Resistant Design and Construction, as amended. Examples include health care facilities, facilities required for emergency response, power generating stations, communications towers, or electrical substations.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

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

FEMA. Federal Emergency Management Agency.

FARM FENCE. An open type of fence of posts and horizontally run wire, further specified in Minnesota Statutes, section 344.02, Subd. 1(a-d).

FLOOD. A temporary rise in the stream flow or water surface elevation from any source that results in the inundation of normally dry land areas.

FLOOD FRINGE. The portion of the one-percent annual chance floodplain located outside of the floodway. This district shall be extended laterally to the 0.2-percent annual chance floodplain, where mapped.

FLOOD INSURANCE RATE MAP (FIRM). An official map on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

FLOOD INSURANCE STUDY (FIS). The study referenced in Section 153.21(C)(2), which is an examination, evaluation and determination of flood hazards, and if appropriate, corresponding surface elevations, or an examination, evaluation, and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

FLOODPLAIN. The beds, channel and the areas adjoining a wetland, lake or watercourse, or other source which have been or hereafter may be inundated by the base flood.

FLOODPROOFING. A combination of structural and non-structural additions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

FLOODWAY. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which must be reserved to carry or store the base flood discharge without cumulatively increasing the water surface elevation more than one-half foot.

GENERAL FLOODPLAIN. Those floodplains designated on the Flood Insurance Rate Maps referenced in Section 153.21(C)(2), but that do not have a delineated floodway.

LIGHT DUTY TRUCK. Any motor vehicle that has all three of the following:

- (a) 8,500 pounds Gross Vehicle Weight Rating or less;
- (b) vehicle curb weight of 6,000 pounds or less; and
- (c) basic vehicle frontal area less than 45 square feet.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access,

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or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR § 60.3.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of an adopted floodplain management regulation, and includes any subsequent improvements to such structures.

PRINCIPAL STRUCTURE. The main building or other structure on a lot that is utilized for the property's principal use.

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

RECREATIONAL VEHICLE. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. Those vehicles not meeting this definition shall be considered a structure for the purposes of this ordinance. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term "travel trailer/travel vehicle."

REGULATORY FLOOD PROTECTION ELEVATION (RFPE). An elevation that is one foot above the elevation of the base flood plus any increases in the water surface elevation caused by encroachments on the floodplain that result from designation of a floodway. These increases in water surface elevations are typically identified in the Floodway Data Tables, found in the Flood Insurance Study.

REPETITIVE LOSS. Flood related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.

STAGE INCREASE. Any increase in the water surface elevation during the one-percent annual chance flood caused by encroachments on the floodplain.

START OF CONSTRUCTION. Includes substantial improvement, and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a

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foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. A roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Recreational vehicles not considered travel ready, as detailed in Section 153.21(J)(2)(b), shall also be considered a structure for the purposes of this ordinance.

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

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(b) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this ordinance, “historic structure” is defined in 44 CFR § 59.1.

VARIANCE. “Variance” means the same as that defined in 44 CFR § 59.1 and Minnesota Statutes, section 462.357, Subd. 6(2).

WATERCOURSE. A channel in which a flow of water occurs either continuously or intermittently in a definitive direction. The term applies to either natural or artificially constructed channels.

(C) Jurisdiction and districts.

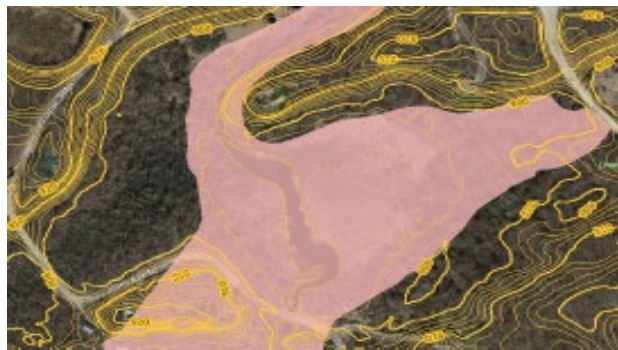
(1) *Lands to Which Ordinance Applies.* This ordinance applies to all lands within the jurisdiction of the City of Pipestone within the boundaries of the Floodway, Flood Fringe and General Floodplain Districts.

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(a) The Floodway, Flood Fringe or General Floodplain Districts are overlay districts. The standards imposed in the overlay districts are in addition to any other requirements. In case of a conflict, the more restrictive standards will apply.

(b) Where a conflict exists between the floodplain limits illustrated on the official floodplain maps and actual field conditions (as illustrated in Figure 1), the Base Flood Elevation (BFE) shall be the governing factor in locating the outer boundaries of the one-percent annual chance floodplain.

Figure 1. The mapped floodplain may not always align with the on-the-ground contour elevations



(c) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Planning Commission or Board of Appeals and Adjustments, as applicable, and to submit technical evidence.

(2) *Incorporation of Maps by Reference.* The following maps together with all attached material are hereby adopted by reference and declared to be a part of the official zoning map and this ordinance. The attached material includes the Flood Insurance Study for Pipestone County, Minnesota, and Incorporated Areas, and the Flood Insurance Rate Map panels enumerated below, all dated April 25, 2024, and prepared by the Federal Emergency Management Agency. These materials are on file in City Hall.

- a. 27117C0139C
- b. 27117C0143C
- c. 27117C0230C
- d. 27117C0231C

(3) *Districts.*

(a) *Floodway District (FW).* Those areas within Zones AE delineated within floodway areas as shown on the Flood Insurance Rate Maps referenced in Section 153.21(C)(2).

(b) *Flood Fringe District.* Those areas within Zones AE located outside of the delineated floodway, as shown on the Flood Insurance Rate Maps referenced in Section 153.21(C)(2). This district shall be extended laterally to the 0.2-percent annual chance floodplain, where mapped.

(c) *General Floodplain District.* Those areas within Zone A areas that do not have a floodway delineated as shown on the Flood Insurance Rate Maps referenced in Section 153.21(C)(2).

(4) *Annexations.* The Flood Insurance Rate Map panels referenced in Section 153.21(C)(2) may include floodplain areas that lie outside of the corporate boundaries of the City of Pipestone at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City of Pipestone after the date of adoption of this ordinance, the newly annexed floodplain lands will be subject to the provisions of this ordinance immediately upon the date of annexation. Annexations into panels not referenced in Section 153.21(C)(2) require ordinance amendment in accordance with Section 153.21(N).

(D) *Requirements for all floodplain districts.*

(1) *Permit Required.* A permit must be obtained from the Zoning Administrator to verify compliance with all applicable standards outlined in this ordinance prior to the following uses or activities:

(a) The erection, addition, modification, rehabilitation, repair, or alteration of any building, structure, or portion thereof. Normal maintenance requires a permit to determine if such work, either separately or in conjunction with other planned work, constitutes a substantial improvement, as specified in Section 153.21(L)(1)(c).

(b) The construction of a fence, pool, deck, or placement of anything that may cause a potential obstruction. Farm fences, as defined in Section 153.21(B) of this ordinance, are not considered to be an obstruction, and as such, do not require a permit.

(c) The change or expansion of a nonconforming use.

(d) The repair of a structure that has been damaged by flood, fire, tornado, or any other source.

(e) The placement of fill, excavation, utilities, on-site sewage treatment systems, or other service facilities.

(f) The storage of materials or equipment, in conformance with Section 153.21(D)(3)(b).

(g) Relocation or alteration of a watercourse (including stabilization projects or the construction of new or replacement dams, culverts and bridges). A local permit is not required if public waters work permit has been obtained from the Department of Natural Resources, unless a significant area above the ordinary high-water level is also to be disturbed.

(h) Any other type of “development,” as defined in Section 153.21(B) of this ordinance.

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(2) *No Permit Required.* Certain uses or activities may be exempt from obtaining a permit, such as planting a garden, farming, or other obviously insignificant activities such as putting up a mailbox or flagpole. The continuation of existing uses, when the associated activities do not encroach further on the regulatory floodplain or trigger associated standards in this ordinance, do not require a permit.

(3) *Minimum Development Standards.*

(a) All development must:

(i) Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(ii) Be constructed with materials and equipment resistant to flood damage;

(iii) Be constructed by methods and practices that minimize flood damage;

(iv) Be constructed with heating, ventilation, duct work, and air conditioning equipment and other service facilities elevated at least up to the Regulatory Flood Protection Elevation (RFPE). Water, sewage, electrical, and other utility lines below the RFPE shall be constructed so as to prevent water from entering or accumulating within them during conditions of flooding;

(v) Be reasonably safe from flooding and consistent with the need to minimize flood damage;

(vi) Be assured to provide adequate drainage to reduce exposure to flood hazards;

(vii) Not be detrimental to uses in adjoining areas; and

(viii) Not adversely affect the efficiency or restrict the flood carrying capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

(ix) Ensure that any fill or other materials are protected from erosion, discharge, and sediment entering surface waters by the use of vegetative cover or other methods as soon as possible.

(b) Materials that, in time of flooding, are buoyant, flammable, explosive, or could be injurious to human, animal, or plant life shall be stored at or above the Regulatory Flood Protection Elevation (RFPE), floodproofed, or protected by other measures as approved by the Zoning Administrator. Storage of materials likely to cause pollution of the waters, such as sewage; sand; rock; wrecked and discarded equipment; dredged spoil; municipal, agricultural or industrial waste; and other wastes as further defined in Minnesota Statutes, section 115.01, are prohibited unless adequate safeguards approved by the Minnesota Pollution Control Agency are provided. For projects not requiring approvals by the Minnesota Pollution Control Agency, adequate safeguards must be approved by the Zoning Administrator prior to issuance of a permit.

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(c) Critical facilities shall be located so that the lowest floor is not less than two feet above the Base Flood Elevation (BFE), or the 0.2% annual chance flood elevation, whichever is higher.

Table 1. Summary of Permitting Requirements for Structures

Structure Type	Floodway	Flood Fringe	Standards*
Accessory Structures – on fill	Only specific uses and types allowed – with CUP	Allowed with Permit	153.21(F)(2)(c)(iv)(B)
Accessory Structures – Alt. Elevation Methods	Only specific uses and types allowed – with CUP	Allowed with Permit	153.21(F)(2)(c)(iv)(C)
Accessory Structures – Wet Floodproofing	Only specific uses and types allowed – with CUP	Allowed with Permit	153.21(F)(2)(c)(iv)(A)
Accessory Structures – Dry (watertight) Floodproofing	Only specific uses and types allowed – with CUP	Allowed with Permit	153.21(F)(2)(c)(iv)(D)
Residential – on fill	Not allowed	Allowed with Permit	153.21(F)(2)(a)(i)
Residential – Alt. Elevation Methods	Not allowed	Allowed with CUP	153.21(F)(4)(a)
Residential – Dry (watertight) Floodproofing and/or Basement Construction below RFPE	Not allowed	Not allowed	N/A
Non-Residential – on fill	Not allowed	Allowed with Permit	153.21(F)(2)(a)
Non-Residential – Alt. Elevation Methods	Not allowed	Allowed with Permit	153.21(F)(2)(b)
Non-Residential – Dry (watertight) Floodproofing and/or Basement Construction below RFPE	Not allowed	Allowed with Permit	153.21(F)(2)(c)

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*Note - many of these standards are cross-referenced

(E) *Floodway district (FW).*

(1) *Permitted Uses in Floodway.* Development allowed in the floodway district is limited to that which has low flood damage potential and will not obstruct flood flows, increase velocities, or increase the water surface elevations of the one-percent annual chance flood. The following uses and activities may be allowed with a permit, subject to the standards in Section 153.21(E)(2):

(a) Agricultural uses, recreational uses, parking lots, loading areas, airport landing strips, water control structures, navigational facilities, as well as public open space uses.

(b) Public utility facilities.

(c) No structures, as defined in Section 153.21(B), are allowed in the Floodway District, except structures accessory to the uses detailed in Sections 153.21(E)(1) and 153.21(E)(3)(a), which require a CUP under Section 153.21(E)(3)(e).

(d) Levees or dikes intended to protect agricultural crops, provided the top of the dike does not exceed the 10-percent annual chance flood event.

(2) *Standards for Permitted Uses in Floodway.* In addition to the applicable standards detailed in Section 153.21(D):

(a) The applicant must demonstrate that the development will not result in any of the following during the one-percent annual chance flood: cause a stage increase of 0.00 feet or greater, obstruct flood flows, or increase velocities. This shall be demonstrated through hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices (e.g. projects that restore the site to the previous cross-sectional area). This is commonly documented through a “no-rise certification.”

(b) Any development that would result in a stage increases greater than 0.00 feet may only be allowed with a permit if the applicant has applied for and received approval for a Conditional Letter of Map Revision (CLOMR) in accordance with 44 CFR § 65.12. Map revisions must follow the procedures in Sections 153.21(K)(1)(e) and 153.21(N).

(c) Any development resulting in decreases to the water surface elevation of the base flood identified in the Flood Insurance Study requires a Letter of Map Revision (LOMR) following the procedures in Sections 153.21(K)(1)(e) and 153.21(N).

(d) Any development in the beds of public waters that will change the course, current or cross section is required to obtain a public waters work permit in accordance with Minnesota Statutes, section 103G.245 or a utility crossing license in accordance with Minnesota Statutes, section 84.415, from the Department of Natural Resources, or demonstrate that no permit is required, before applying for a local permit.

(e) Any facility used by employees or the general public must be designed with a flood warning system acceptable to the Zoning Administrator that provides adequate time for evacuation, or be

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designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four.

(f) Fill and other land alteration activities must offer minimal obstruction to the flow of flood waters, and be protected from erosion and sediment entering surface waters by the use of vegetative cover, riprap or other methods as soon as possible.

(3) Conditional Uses in Floodway. The following uses and activities may be permitted as conditional uses, subject to the standards detailed in Sections 153.21(E)(4):

(a) Commercial extractive uses, and storage and stockpiling yards.

(b) Marinas, boat rentals, docks, piers, wharves and water control structures.

(c) Roads, driveways, railroads, trails, bridges, and culverts.

(d) Grading, filling, land alterations, construction of fences and shoreline stabilization projects.

(e) Structures accessory to uses detailed in Sections 153.21(E)(1)(a) and 153.21(E)(3)(a).

(4) Standards for Conditional Uses in Floodway. In addition to the applicable standards detailed in Sections 153.21(D), 153.21(E)(2) and 153.21(K)(2):

(a) Extractive uses and storage of materials require the completion of a site development and restoration plan, to be approved by the City of Pipestone.

(b) Accessory Structures. Structures accessory to the uses detailed in Sections 153.21(E)(1)(a) and 153.21(E)(3)(a)5.31 must be constructed and placed so as to offer a minimal obstruction to the flow of flood waters, and are subject to the standards in Section 153.21(F)(2)(c) of this ordinance.

(F) *Flood Fringe District (FF).*

(1) *Permitted uses in Flood Fringe.* Any uses or activities allowed in any applicable underlying zoning districts may be allowed with a permit, subject to the standards set forth in Section 153.21(F)(2).

(2) *Standards for permitted uses in Flood Fringe.* In addition to the applicable standards detailed in Section 153.21(D):

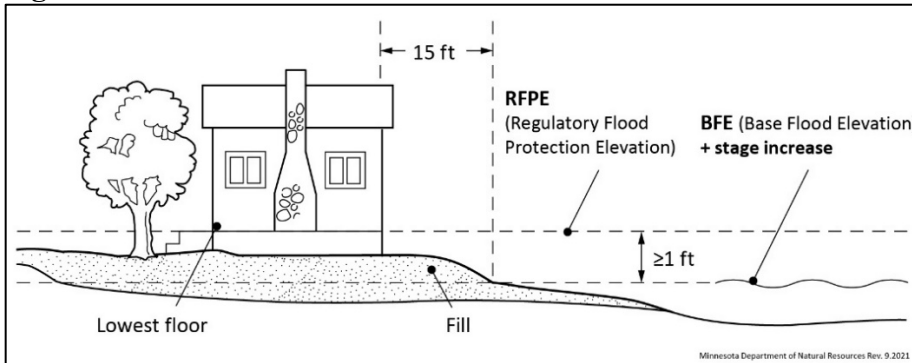
(a) *Residential structures.*

(i) *Elevation on Fill.* Structures erected, constructed, reconstructed, altered, or moved on fill within the Flood Fringe District shall be placed so that the lowest floor, as defined in Section 153.21(B) of this ordinance, is elevated at or above the Regulatory Flood Protection Elevation (RFPE). The finished fill elevation shall be at or above the elevation associated with the base flood plus any stage

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increases that result from designation of a floodway. Fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure. Elevations must be certified by a registered professional engineer, land surveyor or other qualified person designated by the Zoning Administrator. Elevation methods alternative to these fill standards are subject to a Conditional Use Permit, as provided in Section 153.21(F)(3)(a) of this ordinance (Figure 1). Construction of this type shall only be permitted in locations where the natural ground is no lower than three feet below the base flood elevation.

Figure 1: Overview of fill standards for residential structures.



(b) *Nonresidential Principal Structures.* Nonresidential principal structures must meet one of the following construction methods:

(i) *Elevation on Fill.* Structures may be elevated on fill, meeting the standards in Section 153.21(F)(2)(a)(i) of this ordinance. Fill for nonresidential structures is not required to be extended 15 feet beyond the outside limits of the structure.

(ii) *Alternative Elevation Methods.* Structures may be elevated using methods alternative to the fill standards in Section 153.21(F)(2)(a)(i) of this ordinance. Such methods include the use of blocks, pilings (Figure 2), filled stem walls (Figure 3), or internally-flooded enclosed areas (Figure 4) such as crawl spaces, attached garages, or tuck under garages.

Figure 2: Blocks or pilings.

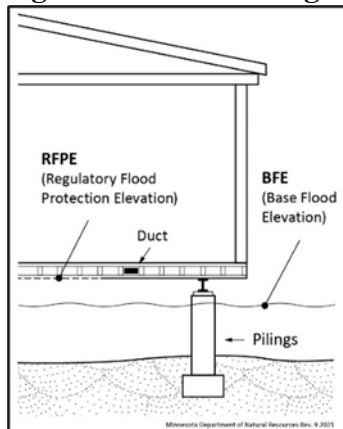


Figure 3: Filled stem walls.

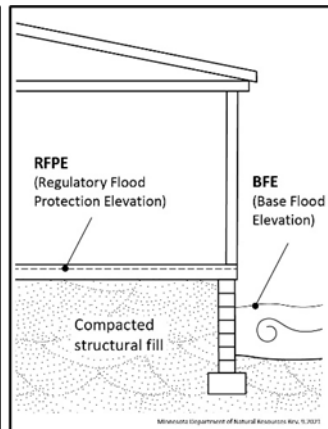
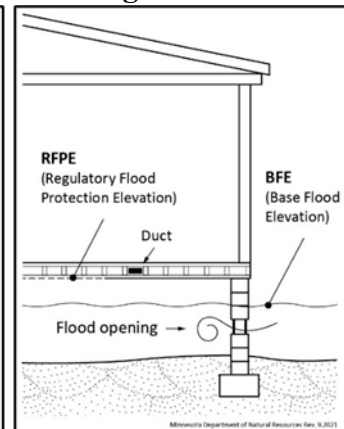


Figure 4: Internally



flooded enclosed area.

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Designs accommodating for internally-flooded enclosed areas must be certified by a registered professional engineer or architect, or meet or exceed the standards detailed in FEMA Technical Bulletin 1, as amended, as well as the following standards:

(A) The lowest floor, as defined in Section 153.21(B) of this ordinance, shall be elevated at or above the Regulatory Flood Protection Elevation (RFPE).

(B) The floor of the enclosed area must be at or above the exterior grade on at least one side of the structure.

(C) To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings below the base flood elevation on at least two sides of the structure. The bottom of all openings shall be no higher than one-foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, have a net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.

(D) Internally flooded enclosed areas shall only be used for the parking of vehicles, building access, or storage. Bathrooms and toilet rooms shall not be allowed. Such areas shall be subject to a deed-restricted non-conversion agreement as well as periodic inspections with the issuance of any permit.

(iii) *Dry Floodproofing*. Structures having watertight enclosed basements or spaces below the Regulatory Flood Protection Elevation (RFPE) must meet the following standards:

(A) Walls must be substantially impermeable to the passage of water, with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, at least up to the Regulatory Flood Protection Elevation (RFPE);

(B) Must meet the standards of FEMA Technical Bulletin 3, as amended; and

(C) A registered professional engineer or architect shall be required to certify that the design and methods of construction meet the standards detailed in this Section.

(c) *Accessory Structures*. All accessory structures must meet the following standards:

(i) Structures shall not be designed or used for human habitation.

(ii) Structures will have a low flood damage potential.

(iii) Structures with fewer than two rigid walls, such as carports, gazebos, and picnic pavilions, may be located at an elevation below the Regulatory Flood Protection Elevation.

(iv) Structures with two or more rigid walls, must meet one of the following construction methods:

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(A) *Wet Floodproofing*. Structures may be floodproofed in a way to accommodate internal flooding. Such structures shall constitute a minimal investment not to exceed 576 square feet in size, one-story in height, and shall only be used for parking and storage. To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one-foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.

(B) *Elevation on Fill*. Structures may be elevated on fill, meeting the standards in Section 153.21(F)(2)(a)(i) of this ordinance. Fill is not required to be extended 15 feet beyond the outside limits of the structure.

(C) *Alternative Elevation Methods*. Structures may have their lowest floor elevated above the Regulatory Flood Protection Elevation (RFPE) through methods alternative to the fill standards in Section 153.21(F)(2)(c)(iv)(B), and must meet the standards in Section 153.21(F)(2)(b) of this ordinance.

(D) *Dry Floodproofing*. Structures may be dry-floodproofed, or watertight, meeting the standards in Section 153.21(F)(2)(c) of this ordinance.

(d) All new principal structures must provide vehicular access no lower than one foot below the Base Flood Elevation (BFE), unless a flood warning/emergency evacuation plan has been approved by the City of Pipestone.

(e) Any facilities used by employees or the general public must be designed with a flood warning system acceptable to the City of Pipestone that provides adequate time for evacuation, or be designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four.

(f) Manufactured homes and recreational vehicles must meet the standards of Section 153.21(J) of this ordinance.

(3) *Conditional Uses in Flood Fringe*. The following uses and activities may be permitted as conditional uses, subject to the standards in Section 153.21(F)(4):

(a) *Alternative Elevation Methods – Residential Structures*. Residential structures with their lowest floor elevated above the Regulatory Flood Protection Elevation (RFPE) using methods alternative to the fill requirements in Section 153.21(F)(2)(a).

(4) *Standards for Conditional Uses in Flood Fringe*. In addition to the applicable standards detailed in Sections 153.21(D), 153.21(F)(2) and 153.21(K)(2):

(a) All residential structures with lowest floors elevated through alternative elevation methods must meet the standards in Section 153.21(F)(2)(b) of this ordinance.

(G) General floodplain district.

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(1) *Permitted Uses in General Floodplain District.*

(a) Until the floodway is delineated, allowable uses will be restricted to those listed in the Floodway District, Section 153.21(E).

(b) All other uses are subject to a floodway/flood fringe determination as provided in Section 153.21(G)(4), in addition to the standards provided in Sections 153.21(G)(2) and 153.21(G)(3). Permitted uses shall be determined as follows:

(i) If the development is determined to be in the Floodway District, Section 153.21(E).

(ii) If the development is determined to be in the Flood Fringe District, Section 153.21(F) applies.

(2) *Determining Flood Elevations.*

(a) All development requires a determination of the Base Flood Elevation (BFE). Exceptions to this requirement include projects that restore the site to the previous cross-sectional area, such as shore stabilization or culvert replacement projects. Base Flood Elevations (BFE) may be found using best available data from any Federal, State, or other source (including MNDNR's Lake & Flood Elevations Online (LFEO) Viewer).

(b) The Regulatory Flood Protection Elevation (RFPE) can be determined by assuming a one-half (0.5) foot stage increase to accommodate for future cumulative impacts. A stage increase does not need to be assumed along lakes, wetlands, and other basins that are not affected by velocities.

(3) *Encroachment Analysis.*

(a) Encroachments due to development may not allow stage increases more than one-half (0.5) foot at any point, unless through a map revision following the procedures in Sections 153.21(K)(1)(e) and 153.21(N). This evaluation must include the cumulative effects of previous encroachments, and must be documented with hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices. A lesser water surface elevation increase than one-half (0.5) foot is required if, due to the water surface level increase, increased flood damages would potentially result.

(b) Alterations or changes that result in stage decreases are allowed and encouraged.

(4) *Standards for the Analysis of Floodway Boundaries.*

(a) *Requirements for Detailed Studies.* Any development, as requested by the Zoning Administrator, shall be subject to a detailed study to determine the Regulatory Flood Protection Elevation (RFPE) and the limits of the Floodway District. This determination must be consistent with the minimum standards for hydrologic and hydraulic mapping standards and techniques, as detailed in Minnesota Rules,

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part 6120.5600, Subp. 4 and FEMA Guidelines and Standards for Flood Risk Analysis and Mapping, as revised. Additionally:

(i) A regulatory floodway necessary to carry the discharge of the one-percent annual chance flood must be selected without increasing the water surface elevation more than one-half (0.5) foot at any point. This determination should include the cumulative effects of previous encroachments. A lesser water surface elevation increase than one-half (0.5) foot is required if, due to the water surface level increase, increased flood damages would potentially result; and

(ii) An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries, unless topography, existing development patterns, and comprehensive land use plans justify a modified approach, as approved by the Department of Natural Resources.

(b) *Other Acceptable Methods.* For areas where a detailed study is not available or required:

(i) Development prohibited in floodways (e.g. most buildings) requires a floodway/flood fringe determination to verify the development is within the flood fringe. This determination must be done by a professional engineer or utilize other accepted engineering practices. The Department of Natural Resources may also provide technical assistance and must approve any alternative methods used to determine floodway boundaries.

(H) *Subdivision Standards.*

(1) *Subdivisions.* All subdivided land must meet the following requirements. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.

(a) All lots within floodplain districts must be suitable for a building site outside of the Floodway District.

(b) Subdivision of lands within the floodplain districts may not be approved if the cost of providing governmental services would impose an unreasonable economic burden on the City of Pipestone.

(c) All subdivisions must have vehicular access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation (RFPE), unless a flood warning/emergency evacuation plan has been approved by the City of Pipestone.

(d) The Floodway and Flood Fringe District boundaries, the Regulatory Flood Protection Elevation (RFPE) and the required elevation of all access roads must be clearly identified on all required subdivision drawings and platting documents.

(I) *Public and private utilities, service facilities, roads, bridges, and railroads.*

(1) *Public Transportation Facilities.* Railroad tracks, roads, and bridges must be elevated to the Regulatory Flood Protection Elevation (RFPE) where such facilities are essential to the orderly

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functioning of the area, or where failure or interruption would result in danger to public health or safety. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety. All public transportation facilities should be designed to minimize increases in flood elevations.

(2) *Public Utilities.* All utilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be elevated and/or floodproofed to the Regulatory Flood Protection Elevation (RFPE), be located and constructed to minimize or eliminate flood damage, and be designed to eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. All public utilities should be designed to minimize increases in flood elevations. New solid waste management facilities, as defined in Minnesota Rules, part 7035.0300, are prohibited in the one-percent annual chance floodplain. Water supply systems are subject to the provisions in Minnesota Rules, part 4725.4350.

(3) *Private On-Site Water Supply, Individual Sewage Treatment Systems, and other Service Facilities.* Private facilities shall be subject to applicable provisions detailed in Section 153.21(I)(2). In addition, new or replacement on-site sewage treatment systems are to be located to avoid impairment to them or contamination from them during times of flooding, shall not be located in a designated floodway, and are subject to the provisions in Minnesota Rules, parts 7080.2270.

(J) *Manufactured homes and recreational vehicles.*

(1) *Manufactured Homes.* Manufactured homes and manufactured home parks are subject to applicable standards for each floodplain district. In addition:

(a) New and replacement manufactured homes must be placed and elevated in compliance with Section 153.21(F) of this ordinance and must be securely anchored to a system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

(b) New manufactured home parks and expansions to existing manufactured home parks must meet the appropriate standards for subdivisions in Section 153.21(H) of this ordinance.

(2) *Recreational Vehicles.* New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Recreational vehicles placed in existing recreational vehicle parks, campgrounds or lots of record in the floodplain must either:

(a) Meet the requirements for manufactured homes in Section 153.21(J)(1), or

(b) Be travel ready, meeting the following criteria:

(i) The vehicle must be fully licensed.

(ii) The vehicle must be ready for highway use, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities.

(iii) No permanent structural type additions may be attached to the vehicle.

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(iv) Accessory structures may be permitted in the Flood Fringe District, provided they do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in Sections 153.21(D) and 153.21(F)(2)(c).

(K) *Administration.*

(1) *Duties.* A Zoning Administrator or other official must administer and enforce this ordinance.

(a) *Permit Application Requirements.* Permit applications must be submitted to the Zoning Administrator. The permit application must include the following, as applicable:

(i) A site plan showing all existing or proposed buildings, structures, service facilities, potential obstructions, and pertinent design features having an influence on the permit.

(ii) Location and detail of grading, fill, or storage of materials.

(iii) Copies of any required local, state or federal permits or approvals.

(iv) Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.

(b) *Recordkeeping.* The Zoning Administrator must maintain applicable records in perpetuity documenting:

(i) All certifications for dry floodproofing and alternative elevation methods, where applicable.

(ii) Analysis of no-rise in the Floodway District, as detailed in Section 153.21(E)(2)(a), and encroachment analysis ensuring no more than one-half foot of rise in the General Floodplain District, as detailed in Sections 153.21(G)(2)(b) and 153.21(G)(3)(a).

(iii) Final elevations, as applicable, detailing the elevation to which structures and improvements to structures are constructed or floodproofed. Elevations shall be determined by an engineer, architect, surveyor or other qualified individual, as approved by the Zoning Administrator.

(iv) Substantial damage and substantial improvement determinations, as detailed in Section 153.21(L)(1)(c), including the cost of improvements, repairs, and market value.

(v) All variance actions, including justification for their issuance, and must report such variances as requested by the Federal Emergency Management Agency.

(c) *Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use.* No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the finished fill and building floor elevations or other flood protection measures are in compliance with the requirements of this ordinance.

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(d) *Notifications for Watercourse Alterations.* Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters in accordance with Minnesota Statutes,

Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to FEMA.

(e) *Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations.* Where physical changes affecting flooding conditions may increase or decrease the water surface elevation of the base flood, the City of Pipestone must notify FEMA of the changes in order to obtain a Letter of Map Revision (LOMR), by submitting a copy of the relevant technical or scientific data as soon as practicable, but no later than six months after the date such supporting information becomes available. Within the General Floodplain District, a map revision is only required if development results in stage increases greater than 0.5 feet.

(2) *Conditional Uses and Variances.*

(a) *Process.*

(i) An application for a conditional use permit will be processed and reviewed in accordance with the provisions of this ordinance.

(ii) An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with Minnesota Statutes, section 462.357, Subd. 6(2) and this ordinance.

(b) *Additional Variance Criteria.* The following additional variance criteria must be satisfied:

(i) Variances must not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(ii) Variances from the provisions of this ordinance may only be issued by a community upon:

(A) A showing of good and sufficient cause;

(B) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(C) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(iii) Variances from the provisions in this ordinance may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

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(iv) Variances must be consistent with the general purpose of these standards and the intent of applicable provisions in state and federal law.

(v) Variances may be used to modify permissible methods of flood protection, but no variance shall permit a lesser degree of flood protection than the Regulatory Flood Protection Elevation (RFPE).

(vi) The Zoning Administrator must notify the applicant for a variance in writing that:

(A) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(B) Such construction below the base flood level increases risks to life and property. Notification must be maintained with a record of all variance actions.

(c) *Considerations for Approval.* The City of Pipestone must consider all relevant factors specified in other sections of this ordinance in granting variances and conditional use permits, including the following:

(i) The potential danger to life and property due to increased flood heights or velocities caused by encroachments.

(ii) The danger that materials may be swept onto other lands or downstream to the injury of others.

(iii) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(d) *Conditions of Approval.* The City of Pipestone may attach such conditions to the granting of variances and conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:

(i) Limitations on period of use, occupancy, and operation.

(ii) Imposition of operational controls, sureties, and deed restrictions.

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

(iv) Other conditions as deemed appropriate by the Zoning Administrator, the Planning Commission or the City Council.

(3) *Notifications to the Department of Natural Resources.*

(a) All notices of public hearings to consider variances or conditional uses under this ordinance must be sent via electronic mail to the Department of Natural Resources respective area

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hydrologist at least ten (10) days before the hearings. Notices of hearings to consider subdivisions/plats must include copies of the subdivision/plat.

(b) A copy of all decisions granting variances and conditional uses under this ordinance must be sent via electronic mail to the Department of Natural Resources respective area hydrologist within ten (10) days of final action.

(L) *Nonconformities.*

(1) *Continuance of Nonconformities.* A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance, but which is not in conformity with the provisions of this ordinance, may be continued subject to the following conditions:

(a) Within the floodway and general floodplain districts (when a site has been determined to be located in the floodway following the procedures in Section 153.21(G)(3), or when the floodway has not been delineated), any expansion or enlargement of uses or structures is prohibited.

(b) Within all districts, any addition, modification, rehabilitation, repair, or alteration shall be in conformance with the provisions of this ordinance, shall not increase the flood damage potential or increase the degree of obstruction to flood flows, and where applicable, must be protected to the Regulatory Flood Protection Elevation (RFPE).

(c) If any nonconforming structure is determined to be substantially damaged or substantially improved based on the procedures in Section 153.21(L)(2), it may not be reconstructed except in conformity with the provisions of this ordinance. Any structures located outside the one-percent annual chance floodplain are exempt from this provision.

(d) If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this ordinance.

(e) If any nonconforming structure has utilities, electrical, or mechanical equipment damaged due to flooding, it must be rebuilt in conformance with the elevation requirements in Section 153.21(D)(3)(a)(iv) to the greatest extent practicable. This requirement shall apply regardless of the determinations made in Section 153.21(L)(2).

(2) *Substantial Improvement and Substantial Damage Determinations.* Prior to issuing any permits for additions, modifications, rehabilitations, repairs, alterations, or maintenance to nonconforming structures, the Zoning Administrator is required to determine if such work constitutes substantial improvement or repair of a substantially damaged structure. A determination must be made in accordance with the following procedures:

(a) Estimate the market value of the structure. In the case of repairs, the market value of the structure shall be the market value before the damage occurred and before any restoration or repairs are made.

(b) Estimate the cost of the project. The property owner shall accommodate for inspection, and furnish other documentation needed by the zoning administrator to evaluate costs.

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(i) Improvement costs shall be comprised of the market rate of all materials and labor, as well as the costs of all ordinary maintenance and upkeep carried out over the past one year.

(ii) Costs to repair damages shall be comprised of the market rate of all materials and labor required to restore a building to its pre-damaged condition regardless of the work proposed, as well as associated improvement costs if structure is being restored beyond its pre-damaged condition.

(c) Compare the cost of the improvement, repairs, or combination thereof to the estimated market value of the structure, and determine whether the proposed work constitutes substantial improvement or repair of a substantially damaged structure, as defined in Section 153.21(B) of this ordinance.

(i) For the purposes of determining whether the proposed work would constitute substantial improvement, the evaluation shall also include all rehabilitations, additions, or other improvements completed since the community has adopted floodplain standards impacting this structure.

(ii) If any nonconforming structure experiences a repetitive loss, as defined in Section 153.21(B) of this ordinance, it shall be considered substantially damaged and must not be reconstructed except in conformity with the provisions of this ordinance.

(d) Based on this determination, the zoning administrator shall prepare a determination letter and notify the property owner accordingly. Structures determined to be substantially damaged or substantially improved may not be reconstructed except in conformity with the provisions of this ordinance.

(M) *Violations and penalties.*

(1) *Uses in Violation of the Ordinance.* Every structure, fill, deposit, or other use placed or maintained in the floodplain in violation of this ordinance shall be considered a public nuisance.

(2) *Civil Remedies.* The creation of a public nuisance may be enjoined and the maintenance of a public nuisance under this ordinance may be abated by an action brought by the City of Pipestone or the Department of Natural Resources.

(3) *Enforcement.* Violations of the provisions of this ordinance constitutes a misdemeanor and is punishable as defined by law. The Zoning Administrator may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance. The City of Pipestone must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(N) *Amendments.*

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(1) *Ordinance Amendments.* Any revisions to the floodplain maps by the Federal Emergency Management Agency or annexations of new map panels require an ordinance amendment to update the map references in Section 153.21(C)(2) of this ordinance.

(2) *Required Approval.* All amendments to this ordinance must be submitted to the Department of Natural Resources for review and approval prior to adoption, for compliance with state and federal rules and requirements. The floodplain ordinance shall not be considered valid until approved.

§ 153.22 AGRICULTURE.

Agriculture uses shall comply with the following requirements.

(A) Farm buildings, other than a dwelling, shall not be erected within 300 feet of a neighboring property.

(B) Feedlots, fenced runs, pens, and similar intensively used facilities for animal raising and care shall not be located within any district except the C-1 District and not less than 300 feet of a neighboring property.

(C) roadside stands for sale of agricultural products shall be permitted if:

(1) They are erected at least 50 feet back from the nearest edge of roadway surface;

(2) They are used exclusively for the sale of agricultural products grown locally;

(3) Parking spaces are provided off the road right-of-way; and

(4) Signs shall conform to provisions set forth in § 153.32.
(2005 Code, § 11.58)

§ 153.23 ACCESSORY STRUCTURES IN RESIDENTIAL DISTRICTS.

(A) *Front yards.* No accessory use, building, structure, or equipment shall be allowed within a required front yard. With the exception of a garage or driveway, no accessory building, structure, use, or equipment may be placed within a front yard.

(B) *Rear yards.* No accessory building, structure, and/or detached garage for a single-family dwelling shall occupy more than 30% of the area of the rear yard.

(C) *Ground coverage.* For lots under 12,000 square feet in area, the total floor area of any garage(s) and accessory buildings may not exceed 900 square feet; for lots from 12,000 square feet to 20,000 square feet the total floor area of any garage(s) and accessory buildings may not exceed 1,150 square feet; and for lots exceeding 20,000 square feet the total floor area of any garage(s) and accessory buildings may not exceed 1,500 square feet; and in all cases the total floor area may not exceed the ground coverage of the dwelling, less any attached garage, except by conditional use permit. Any lots, which are not at least 100 feet wide at the front yard setback, require a conditional use permit for any additional garage or accessory

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building.

(D) *Garages.* No building permit may be issued for more than one private garage for each single-family dwelling, except by conditional use permit, except that lots in excess of 20,000 square feet may have two garages if total square area of both garages does not exceed 1,500 square feet or the ground coverage of the dwelling, whichever is less.

(E) *Lot coverage.* The total area of garages and accessory buildings for a two-family dwelling is limited to 750 square feet per unit, except by conditional use permit.

(F) *Limitation of structures.* No permit shall be issued for the construction of more than one accessory building and/or structure on any single lot except for an accessory building for storage not exceeding 150 square feet in addition to a detached garage, except by conditional use permit.

(G) *Encroachment.* Accessory buildings including those less than 120 square feet may not encroach into the required side and rear yard setbacks on required easements.

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(H) *Setback requirements.* Except as was otherwise noted, accessory buildings and uses for all principal uses other than single-family detached dwellings shall conform to the setback requirements specified for the respective zoning district in which they are located.

(I) *Height.* Except as allowed by conditional use permits, no accessory building shall exceed 15 feet in height.

(J) *Sequential requirements.* No accessory building or structure other than a fence or temporary construction may be constructed prior to the time of construction of the principal building or structure.

(K) *Number of accessory buildings.* In addition to a garage, not more than one accessory building or structure may be permitted on any single parcel, except by conditional use permit. Buildings such as gazebos, outdoor living rooms, pool enclosures, and similar buildings may be constructed in addition to garages and accessory buildings subject to the coverage requirements under this section. (2005 Code, § 11.59)

§ 153.24 HOME OCCUPATIONS.

(A) *General.* The regulation of home occupations within residential structures is intended to ensure that the occupational use is clearly accessory or secondary to the principal dwelling use and that compatibility is maintained with surrounding residential uses.

(B) *Application.* For purposes of this section, home occupations, as defined in this chapter, shall be further defined to distinguish permitted home occupations from conditionally permitted home occupations. Accordingly, all home occupations which satisfy the permitted home occupation criteria, shall be considered as permitted accessory uses. Home occupations which fail to satisfy the permitted home occupation criteria in the R-1 Single-Family Residential District shall be prohibited. Home occupations which fail to satisfy the permitted home occupation criteria in other districts shall require a conditional use permit, as provided for in the conditional use provisions of this chapter and may be established upon conditions set forth in the approved permit.

(C) *Permitted occupations.* Permitted home occupations in the R-1 Single-Family Residential District shall consist of:

(1) Businesses which require no special space within the principal building to be designed or arranged for such use, so that it would require any major internal or external alterations or involve construction or features not customary to dwellings (either by color, materials or construction, lighting, sound or noise, vibration or electrical interferences, and the like);

(2) Businesses that will not generate pedestrian or vehicular traffic beyond that is reasonable or normal to the district in which located;

(3) Businesses which employ only residents of the premises;

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(4) Businesses which use partly or exclusively, no more than 25% or 150 square feet of one floor, whichever is least, including accessory buildings;

(5) Businesses which require no signs other than personal or address signs; and

(6) Businesses which primarily render services off the premises, in contrast to those which require customers to come directly to the premises for the business service to be rendered.

(D) *Permitted occupations in other districts.* Permitted home occupations in other districts shall consist of:

(1) Businesses which require no unreasonable use of materials or mechanical equipment not recognized as being part of and compatible with normal household use;

(2) Businesses that will not generate pedestrian or vehicular traffic beyond that is reasonable or normal to the district in which located;

(3) Businesses that will not involve the unreasonable or inappropriate use of commercial vehicles for delivery of occupational materials to or from the premises;

(4) Businesses where no accessory building or space outside of the principal building shall be exclusively used;

(5) Businesses which require no special space within the principal building to be designed or arranged for such use so that it would require any major internal or external alterations or involve construction features not customary to dwellings (either by color, materials, or construction, lighting, sound or noise, vibration, or electrical interference, and the like);

(6) The home occupation shall be conducted by a member of the family residing in the dwelling unit with not more than one employee who is not a member of the family residing in the dwelling unit;

(7) Businesses which use partly or exclusively, no more than 25% or 300 square feet of one floor, whichever is least, including accessory buildings; and

(8) Businesses signs per § 153.32.

(E) *Conditionally permitted occupations.* Conditionally permitted home occupations in districts other than the R-1 Single-Family Residential District shall consist of those home occupations which do not meet the requirements of division (D) above.

(F) *Bed and breakfast facilities.*

(1) *District application.* Bed and breakfast facilities are allowed within any Residential District of the city subject to the approval of a conditional use permit.

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(2) *Conditions of approval.* A bed and breakfast facility may be allowed provided that:

(a) A maximum of four bed and breakfast units may be established in a structure;

(b) The facility shall have a state license (hotel and food), and comply with building and fire codes as may be required or applicable;

(c) The facility shall be owner or manager occupied;

(d) The principal structure shall have a minimum size of 1,500 gross square feet and shall be located on a lot which meets the minimum lot size of the district in which it is located;

(e) All bed and breakfast units shall be established within the principal structure;

(f) Not more than the equivalent of one full-time person shall be employed by the bed and breakfast facility who is not a resident of the structure;

(g) Dining and other facilities shall not be open to the public but shall be used exclusively for registered guests and residents;

(h) No liquor may be sold on the premises;

(i) Two off-street parking spaces shall be provided for the home plus one space for each bed and breakfast unit;

(j) Not more than one identification sign not exceeding two square feet in area may be attached to each wall which faces a street. The sign shall be reflective of the architectural features of the structure and may not be internally illuminated or lighted between 10:00 p.m. and 6:00 a.m.; and

(k) Adequate lighting shall be provided between principal structure and the parking area for safety purposes. Any additional external lighting is prohibited.

(2005 Code, § 11.60)

§ 153.25 NONCONFORMING LOTS, STRUCTURES, AND USES.

(A) *Intent.* It shall be deemed nonconforming when, within the districts established by this chapter or amendments that may later be adopted, there exists lots, structures, and uses of land which were lawful before this chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendments. This chapter permits these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses not permitted in the district.

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(B) *Nonconforming lots of record.* In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of this chapter provided that it fronts on a public right-of-way and provided further than the width and area measurements are at least 75% the minimum requirements of this chapter. This provision shall apply provided that side yards and front yard setbacks shall conform to the regulations for the district in which the lot is located.

(C) *Nonconforming uses of land.* Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions.

(1) No such nonconforming use shall be enlarged or extended to occupy a greater area of land than was occupied at the effective date of this chapter.

(2) No such nonconforming use shall be moved in whole or part to any other portion of the lot or parcel occupied by such use at the effective date of this chapter.

(3) If any such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

(D) *Nonconforming structures.* Where a lawful structure exists at the effective date of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, elevation, or other characteristics, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

(1) No such structure may be enlarged or altered in a way which interests its nonconformity.

(2) Should such structure be destroyed by any means to an extent of more than 50% of its market value at any time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

(3) Should such structure be moved for any reason or any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(4) On any structure devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on a repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the cubic content of the building as it existed at the effective date of this chapter shall not be increased.

(5) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

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(E) *Nonconforming uses of structures and land in combination.* If a lawful use of structures or of structures and land in combination (hereinafter, use) exists at the effective date of this chapter that would not be allowed in the district under the terms of this chapter, that use may be continued so long as it remains otherwise lawful, subject to the following provisions.

(1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(2) Any nonconforming use may be extended throughout any parts of a building which were arranged or designed for such use at the time of adoption of amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

(3) Any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the Board of Adjustment, by making findings in the specific case, shall find that the proposed use is equally or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this chapter.

(4) Any nonconforming use which is replaced by a permitted or conditional use shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

(5) When a nonconforming use is discontinued or abandoned for more than one year, the nonconforming use shall not be resumed unless otherwise approved by the City Council.

(6) Where nonconforming use status applies to a structure and premises in combination, continuing use of the land in a nonconforming manner shall not be permitted if the structure is removed or destroyed.

(2005 Code, § 11.61)

§ 153.26 CONDITIONAL USE PERMITS.

(A) *Authority.* The Council may, after review and recommendation by the Planning Commission, grant a conditional use permit authorizing the development of uses listed as conditional uses in each of the Zoning Districts in this chapter or as otherwise enumerated in this section.

(B) *Findings.* No conditional use permit shall be granted unless the Planning Commission finds the following criteria have been met by a development proposal. The Planning Commission may attach such other conditions to the permit as it may deem necessary including:

(1) The proposed use is not in conflict with the comprehensive plan;

(2) The proposed use is not in conflict with the district plan for the area;

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- (3) The proposed use is not in conflict with the stated intent of the zoning district in which it is to be located;
- (4) The proposed use will not unreasonably harm the public health, safety, and welfare, create a nuisance, or create unreasonable congestion injurious to nearby properties;
- (5) The proposed use does not interfere with the creation of a beneficial environment within its own property boundaries and on adjoining properties;
- (6) The proposed use will not interfere with the provision of a reasonable economic benefit to the community; and/or
- (7) The provisions for interrelationship between the proposed development and contiguous and noncontiguous adjacent properties will not adversely affect pedestrian and vehicular movement and will not adversely affect the buffering of service facilities and parking areas.

(C) *Compliance.* Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity to the terms of each permit.

(D) *Review.* A periodic review of the permit and its conditions shall be maintained. The permit shall be issued for a particular use on a specific parcel and not for a particular person or firm.

(E) *Revocation.* A violation of any condition set forth in a conditional use permit shall be a violation of this chapter and may be terminated after an appropriate revocation hearing is held.

(F) *Discontinuance.* A conditional use permit shall become void one year after being granted by the City Council unless used.

(G) *Procedure.*

- (1) An application for a conditional use permit shall be submitted to the Zoning Administrator. A non-refundable application fee, as established from time to time by the Council to cover administrative costs and costs of the hearing, shall accompany each application. The Planning Commission or the Council may require any reasonable information it deems necessary. Upon receipt in proper form of the application and other required material, a public hearing shall be held.

(a) A notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the city at least ten days prior to the day of the hearing.

(b) A similar notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the conditional use permit relates.

(c) A copy of the notice and a list of the owners and addresses to which the notice was sent shall be made a part of the records of the proceedings.

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(d) 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 division (G) has been made.

- (2) Within 30 days after the conclusion of the public hearing, the Planning Commission shall transmit to the Council a written report containing its recommendations concerning the proposed conditional use. Such report shall be accompanied by findings of fact specifying the reasons for the recommendation. In any case where a conditional use permit is sought for the purpose of establishing a Planned Unit Development, the report of the Planning Commission shall contain specific findings as to the degree of compliance of the proposed development with the standards applicable to planned developments and as to the degree to which the proposed development advances the purposes for which planned developments may be approved.
- (3) Except in the case of an application for a conditional use permit to establish a Planned Unit Development District, the Council shall, within 30 days of the receipt of the report of the Planning Commission, grant or deny the conditional use or refer the matter back to the Planning Commission for further consideration. The Council shall not grant a conditional use unless it finds standards of this section have been satisfied.
- (4) The following divisions (G)(4)(a) through (G)(4)(d) are taken from the M.S. § 462.3595, as it may be amended from time to time.

(e) *Authority.* The governing body may, by ordinance, designate certain types of developments, including Planned Unit Developments, and certain land development activities as conditional uses under zoning regulations. Conditional uses may be approved by the governing body or other designated authority by a showing by the applicant that the standards and criteria stated in the ordinance will be satisfied. The standards and criteria shall include both general requirements for all conditional uses, and insofar as practicable, requirements specific to each designated conditional use.

(f) *Public hearings.* Public hearings on the granting of conditional use permits shall be held in the manner provided in M.S. § 462.357, Subd. 3, as it may be amended from time to time.

(g) *Duration.* A conditional use permit shall remain in effect as long as the conditions agreed upon are observed, but nothing in this section shall prevent the municipality from enacting or amending official controls to change the status of conditional uses.

(h) *Filing of permit.* A certified copy of any conditional use permit shall be filed with the County Recorder or Registrar of Titles of the county or counties in which the municipality is located for record. The conditional use permit shall include the legal description of the property included.
(2005 Code, § 11.62)

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§ 153.27 VARIANCES AND APPEALS.

(A) *Variances.* The Board of Zoning Adjustments and Appeals shall have the general authority to grant variances only if it is established that it is in harmony with the general purpose and intent of this chapter, and to attach such conditions to the variances as it deems necessary to assure compliance with the purpose of this chapter. A variance may be permitted if all of the following requirements are met:

(1) The property in question cannot yield a reasonable use if permitted to be used only under conditions allowed by the regulations governing the district in which it is located;

(2) The plight of the owner is due to unique circumstances not normally applicable to land holdings within the same district; and

(3) The variance, if granted, will not alter the essential character of the locality.

(B) *Public hearing.* A public hearing shall be set, noticed, and conducted by the Board of Zoning Adjustments and Appeals before any variance may be granted.

(C) *Appeals.* The Board of Zoning Adjustments and Appeals shall have the authority to hear and decide appeals from any order, requirement, decision, grant, or refusal made by the Zoning Administrator in the administration of this chapter.

(D) *Appeals and adjustments.* Appeals to the Board of Appeals and Adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the zoning ordinance. The Board of Appeals and Adjustments has the following powers with respect to the zoning ordinance:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance; and

(2) To hear requests for variances from the literal provisions of the ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of the ordinance. **UNDUE HARDSHIP** as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, 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 shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth-sheltered construction as defined in M.S. § 216c.06, Subd. 14, as it may be amended from time to time, when in harmony with the ordinance. The Board of Appeals and Adjustments or the governing body, as the case may be, may not permit as a variance any use that is not permitted under the ordinance for property in the zone where the affected person's land is located.

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The Board or governing body, as the case may be, may permit as a variance, the temporary use of a one-family dwelling as a two-family dwelling. The Board or governing body, as the case may be, may impose conditions in the granting of variances to ensure compliance and to protect adjacent properties. (2005 Code, § 11.63)

Statutory reference:

Related provisions, see M.S. § 462.357, as it may be amended from time to time

§ 153.28 REZONING.

(A) *Application.* Required information accompanying rezoning applications to change district boundaries shall contain the following:

- (1) The names and addresses of the petitioner or petitioners, and their signatures of the petition. (Must be legal property owner or option holder);
- (2) A specific description of the area proposed to be rezoned, the names and addresses of all owners of property lying within such area, and a description of the property owned by each;
- (3) The present district classification of the area and the proposed district classification;
- (4) Proposed use of the land (a statement of the type, extent, area, and the like);
- (5) Compatibility with the city's comprehensive plan (a statement of conditions warranting change in zoning);
- (6) A legal description of the property(ies) to be rezoned;
- (7) Must provide a registered land survey of property to be rezoned (showing location, dimensions, zoning of adjacent properties, existing uses, and buildings of adjacent properties within 350 feet of the proposed property to be rezoned); and
- (8) Additional information as may be requested by the Planning Commission.

(B) *Spot Zoning.* Spot zoning shall not be allowed. Any rezoning applied for where the area in which the applicant wishes rezoning is surrounded on four sides by an existing zoned district will be considered spot zoning. The Zoning Administrator shall make this determination before a rezoning application is accepted.

(C) *Procedure.*

(1) An application for amendment (rezoning) shall be submitted to the Zoning Administrator. A non-refundable application fee, as established from time to time by the Council to cover administrative

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costs and costs of the hearing, shall accompany each application. The Planning Commission or the Council may require any reasonable information it deems necessary. Upon receipt in proper form of the application and other required materials, a public hearing shall be held.

(a) A notice of time, place, and purpose of the hearing shall be published in the official newspaper of the city at least ten days prior to the day of the hearing.

(b) A similar notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the rezoning relates.

(c) A copy of the notice and a list of the owners and addresses to which the notice was sent shall be made a part of the records of the proceedings.

(d) 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 division (C) has been made.

(2) Within 30 days after the conclusion of the public hearing, the Planning Commission shall transmit to the Council a written report containing its recommendations concerning the proposed amendment to rezone.

(D) *Amendments.* A simple majority of all of the members of the Council is necessary to adopt a zoning amendment, except that the adoption or amendment of any portion of a zoning ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds majority vote of all members of the Council.

(2005 Code, § 11.64)

§ 153.29 INTERIM USE PERMITS.

(A) *Purpose.* The purpose and intent of allowing interim uses is: to allow a use for a limited period of time that reasonably utilizes the property where it is not reasonable to utilize it in the manner provided in the comprehensive plan; and to allow a use that is presently acceptable but that, with anticipated development, will not be acceptable in the future.

(B) *Application, public hearing, notice, and procedure.* The application, public hearing, public notice, and procedure requirements for an interim use permit shall be the same as those for a conditional use permit as provided in § 153.26.

(C) *Standards.* The Planning Commission shall recommend an interim use permit, and the Council shall issue such an interim use permit, only if they find that such use at the proposed location:

(1) Meets the standards of a conditional use permit set forth in M.S. § 462.3595;

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(2) Will terminate upon a date or event that can be identified with certainty;

(3) Will not impose, by agreement, additional costs on the public if it is necessary for the public to take the property in the future; and

(4) Will be subjected to, by agreement with the owner, any conditions that the City Council has deemed appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit.

(D) *Termination.* An interim use permit shall terminate upon the occurrence of any of the following events, whichever first occurs:

(1) The date stated in the permit;

(2) A violation of conditions under which the permit was issued;

(3) The occurrence of an event outlined in the permit that terminates the interim use; or

(4) The discontinuance of the use for a minimum of six months.

(2005 Code, § 11.65)

§ 153.30 FENCING AND SCREENING.

(A) *General.* Fences shall be permitted in all districts subject to the provisions hereinafter provided.

(B) *Location.* All fences shall be located entirely within 1 % of total frontage of property line of the private property of the person, firm, or corporation constructing or causing the construction of such fence.

(C) *Construction and maintenance.* Every fence shall be constructed in a substantial workmanlike manner and of substantial material reasonably suitable for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such fence which is, or has become dangerous to the public safety, health, or welfare, is a public nuisance, and the Building Official is hereby authorized to commence proper proceedings for the abatement thereof.

(D) *Barbed wire and electric fences.* Barbed wire and electric fences shall not be permitted, used, or constructed except in Industrial Districts as hereinafter provided or when related to permitted agricultural use, but in any case, not in boundary line fences.

(E) *Residential district fences.* All residential fences shall be placed within the property being fenced and conform to the property.

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(1) Fences alongside property lines shall not be more than six feet in height.

(2) Fences along any rear property line, which is also the rear property line of an abutting lot, shall not exceed six feet in height.

(3) Fences along a rear property line, which line constitutes the side lot line of an abutting lot, shall not exceed six feet in height.

(4) The screening provisions for Residential Districts shall supersede, where applicable, the provisions of this section.

(5) All posts or similar supporting instruments used in the construction of fences shall be faced inward toward the property being fenced.

(6) All fences shall not obstruct drainage.

(7) All fences located within a utility easement require a conditional use permit.

(F) *Business and industrial fences.*

(1) Business and industrial fences may be erected up to eight feet, fences in excess of eight feet in height shall require a conditional use permit.

(2) Fences which are primarily erected as a security measure may have arms projecting into the applicant's property on which barbed wire can be fastened commencing at a point at least seven feet above the ground. A conditional use permit shall be required for the use of barbed wire.

(3) The screening provisions for Business and Industrial Districts shall supersede, where applicable, the provisions of this division (F).

(G) *Required fencing and screening.* Where any commercial industrial use or multi-family of four or more units (such as structure, parking, or storage) abuts property zoned for residential use, that business, industry, or multi-family building shall provide screening along the boundary of the residential property. All fencing and screening specifically required by this section shall be subject to traffic visibility requirements of this section and shall consist of either a fence or a green belt planting strip as provided for below.

(1) A green belt planting strip shall consist of evergreen trees and/or deciduous trees and plants and shall be of sufficient width and density to provide an effective visual screen. This planting strip shall be designed to provide substantial visual screening a minimum height of six feet. The planting plan and type of plantings shall require the approval of the Planning Commission.

(2) A required screening fence shall be constructed of masonry, brick, wood, or metal. Such fences shall provide a solid screening effect six feet in height for multi-family uses and at least six feet

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in height for business and industrial uses unless otherwise specified. The design and materials used in constructing a required screening fence shall be subject to the approval of the Building Official.

(H) *Traffic visibility.* No fence, wall, or hedge shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two feet and eight feet where it will interfere with traffic or pedestrian visibility 30 feet from the intersecting curb line from a driveway or alley to a public way. The regulations shall apply unless it can be demonstrated to the Building Official that the structure provides an unobstructed view so as not to create a safety hazard.

(I) *Special purpose fences.* Fences for special purposes and fences differing in construction, height, or length may be permitted by the Building Official in any district of the city provided that reasons submitted by the applicant demonstrate the purpose is necessary to protect, buffer, or improve the premises for which such fence is intended. The Building Official may stipulate the height, location, construction, and type of special fence thereby permitted.

(2005 Code, § 11.71)

§ 153.31 ADDRESS NUMBERS - RESIDENTIAL AND COMMERCIAL.

(A) All houses and business buildings located in the city must have permanently attached address numbers on the front of each building.

(B) Address numbers must be:

(1) Legible from the adjacent street;

(2) Not less than three inches high for houses and four inches high for businesses;

(3) Not in script;

(4) Of a contrasting color to the building;

(5) Mounted as close as is possible to five feet above the standing level in front of the building;

and

(6) In conformity with § 153.32(V), as respects to numbering in heritage preservation sites and in the Historic District.

(2005 Code, § 11.72)

§ 153.32 SIGNS.

(A) *Purpose.* The purpose of this section is to protect, ensure, maintain, and regain the natural and scenic beauty and attractiveness of the roadsides throughout the city. By the construction of public roads, the public has created views to which the public retains a right to view and it is the intent of these

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standards to prevent the taking of this right. Signs are recognized as accessory uses and are permitted in all districts subject to the regulations of this chapter.

(B) *General provisions.* Some general provisions of the sign regulations include the following.

- (1) All sign installations require a building permit except for political signs, temporary signs, and real estate signs 16 square feet or less.
- (2) No sign shall be allowed that is a hazard to the public health, safety, convenience, welfare, or that prevents ingress or egress, from any door, window, or fire escape; that tends to accumulate debris as a fire hazard; or that is attached to a standpipe or fire escape.
- (3) The regulations contained herein do not apply to signs painted, attached by adhesive, or otherwise attached directly to or visible through windows and glass portions of doors.
- (4) No sign may be erected that, by reason of position, shape, movement, color, or any other characteristic, interferes with the proper functioning of a traffic sign or signal or otherwise constitutes a traffic hazard. No signs shall be permitted which would interfere with traffic control.
- (5) Private traffic circulation signs and traffic warning signs in alleys, parking lots, or in other hazardous situations may be allowed on private property, provided that such individual signs to not exceed three square feet and are utilized exclusively for the purposes intended.
- (6) Signs are prohibited within the public right-of-way of any street or easement.
- (7) In any zoning district, animal displays, lights directed skyward, pieces of sculpture, fountains, or other displays or features which do not clearly fall within the definition of a sign, but which direct attention to a product, place, activity, institution, organization, or business shall be considered a conditional use.
- (8) Signs giving off an intermittent or rotating beam or ray of light shall be prohibited.
- (9) No sign shall contain any indecent or offensive picture or written matter. The Zoning Administrator shall be given the authority to determine offensive nature. The Board of Appeals and Adjustments will decide any appeal.
- (10) In all zoning districts, one identification sign shall be required per building except accessory structures and residential buildings which shall only be required to display the street address or property number.
- (11) No sign shall be placed in the front five feet of any required setback in any district. Where an existing building occupies any part of all of the front five feet of the lot, signs shall be allowed to project up to eight feet from said building face or three feet from the curb, whichever is less, even if extended over the street right-of-way.

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(12) Billboard signs are prohibited within the city limits. Exception: signs operated by the city on city-owned property which display non-commercial information in the public interest shall be exempt from the provisions of this section. Such signs shall not exceed 50 square feet in area.

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

ADVERTISING SIGNS (BILLBOARDS). A sign which directs attention to a business, commodity, service, activity, or entertainment conducted, sold, or offered off the premises where such sign is located.

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

ELECTRIC SIGNS. A sign that is illuminated, in whole or in part, by the use of electric wiring.

IDENTIFICATION SIGN. A sign that identifies the occupant or activity within a lot or structure.

MARQUEE AND/OR FIXED AWNING SIGN. A sign on a permanent roof-like projection over an entrance to the front of a business.

TEMPORARY SIGN. A sign which will be removed within three months of placement or installation and does not exceed 64 square feet.

WALL SIGNS. A wall sign shall consist of any sign which is attached flat against or represented on the surface of a building wall. A ***WALL SIGN*** may have a depth of up to 15 inches.

(D) *Business signs.* In Commercial and Industrial Districts, on-site signs shall be permitted according to the following provisions.

(1) One monument or freestanding sign and one wall mounted sign identifying the premises shall be allowed. In structures with joint tenancy and individual outside entrances, each tenant can have its own wall sign.

(2) The maximum height of any freestanding sign shall be 25 feet from the ground to the top of the sign. A conditional use permit may be considered for taller signs.

(3) The total area of freestanding signage shall not exceed 100 square feet. Wall signs above individual entrances in structures with joint tenancy shall be a maximum of 32 square feet.

(4) Home occupation signs are permitted. One non-illuminated identification sign, not to exceed four square feet in area, for the following permitted uses: resident professional offices; home occupations; and boarding and lodging houses.

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(E) *Marquees and fixed awnings.*

- (1) Load capacity shall be so designed as to safely sustain a load of at least 40 pounds per superficial foot of its upper surface.
- (2) No marquee or fixed awning shall extend nearer than three feet to the curb line.
- (3) No marquee or fixed awning shall be, at any point, at a less height than ten feet above the sidewalk.
- (4) Construction, anchors, support, and materials used shall be approved by the Building Official before a permit is issued.

(F) *Electric signs.*

- (1) No more than one electric sign shall be attached to each face of the building for any one occupant thereof.
- (2) No electric sign placed at any angle over public property shall exceed 200 square feet in area.

(G) *Roof signs.* Roof signs are permitted only by conditional use in all districts.

(H) *Residential signs.*

- (1) Residential signs shall not exceed two square feet and bear only the name, address, and/or professional activity of the occupants of the premises.
- (2) Signs with an area greater than two square feet, but less than eight square feet, may be allowed upon the approval of the Planning Commission.
- (3) No dimension of a sign may be more than twice the other dimension.

(I) *Illuminated signs.* Illuminated signs may be permitted, but flashing signs, except ones giving time, date, temperature, weather, or similar public service information, shall be prohibited. No electrically illuminated signs shall be permitted in an area of five or more homes in close proximity. Illuminated signs shall be diffused or indirect so as not to direct rays of light into adjacent property or onto any public way.

(J) *Political signs.* All non-commercial signs of any size may be posted from August 1 in a state general election year until ten days following the state general election, and in the case of a primary or special election, from 30 days before the primary or special election to ten days after the election.

(K) *Construction signs.* Construction signs shall not exceed 32 square feet in area. Such signs shall be removed when the project is complete.

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(L) *Real estate signs.* Real estate signs for individual lots or structures may be placed in any yard provided such signs are not closer than ten feet to any property line and they do not exceed 16 square feet. Real estate signs may be erected for the purpose of selling or promoting a single-family or multiple-family residential project of ten or more dwelling units provided:

(1) Such signs shall not exceed 100 square feet in area;

(2) Only one such sign shall be erected on each road frontage with a maximum of two such signs per project;

(3) Such signs shall not be located closer than 100 feet to any neighboring residence; and

(4) Time limits may be imposed for review.

(M) *Mobile signs.* Mobile signs or other temporary signs on wheels or otherwise capable of being moved from place to place shall conform to the provisions of this chapter just as permanently affixed signs.

(N) *Sign maintenance.*

(1) *Painting.* The owner of any sign shall be required to have such sign properly painted at least once every two years, if needed, including all parts and supports of the sign, unless such parts or supports are galvanized or otherwise treated to prevent rust.

(2) *Areas around sign.* The owner or lessee of any sign shall keep the grass, weeds, or other growth cut and the area free from refuse between the sign and the street and also for a distance of six feet behind and at the end of the said sign.

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

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

(Q) *Other signs.* Any signs not covered by another section of this chapter would require a conditional use permit.

(R) *Signs permitted in Residential Districts.* Subject to the other conditions of this chapter, the following signs shall be permitted in all Residential Districts.

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(1) *Subdivision plat signs.* Temporary signs advertising a new subdivision plat provided such signs do not exceed 80 square feet in aggregate surface area, identifying only the plat in which they are located, are non-illuminated, and are erected only at dedicated street entrances to the plat. Such signs shall be removed if construction of subdivision improvements is not in progress on the plat within 60 days following the date of sign erection, or as soon as 80% of the lots are developed and sold.

(2) *Residential housing development sign.* One permanent residential housing development identification sign facing each bordering street shall be permitted for each development of 20 or more units. Such signs shall not exceed 32 square feet. Such signs shall be erected only at the dedicated street entrance, may be indirectly illuminated, and shall not exceed a height of eight feet above grade.

(3) *Club, lodge, office signs.* One non-illuminated identification sign not to exceed 12 square feet in area for the following uses: clubs; lodges; fraternities; and professional offices were permitted.

(4) *Civic, religious organizations, and other permitted nonresidential uses.* One illuminated or non-illuminated sign not to exceed 24 square feet in area. Such sign may include the following uses: offices of a civic, religious, or charitable organization; offices devoted to business management, professional services, trade associations, labor unions, insurance companies or agencies, banks, financial institutions, real estate offices, funeral homes, and the like.

(5) *Public and quasi-public use signs.* One illuminated or non-illuminated identification sign or bulletin board not to exceed a total of 12 square feet in area for the following uses: public schools; parochial schools; colleges; public libraries; museums; social and recreational buildings; park playgrounds; hospitals; sanitariums; charitable and religious institutions; churches; cemeteries; and government office buildings.

(S) *Signs permitted in B-1 (Neighborhood Business District) District.* Subject to other conditions of this chapter, the following signs shall be permitted in the B-1 District.

(1) Signs that are permitted in Residential Districts (same as division (R) above).

(2) A maximum of three business signs limited to one facing each bordering street, which shall not exceed in surface area a total of 50 square feet for all signs on each main building or each business in a series of attached businesses such as a shopping center. Such signs shall be wall signs or attached to a marquee.

(3) For business complexes of four or more separate stores in a B-1 District, one shopping center sign may be erected. Such sign shall be limited to a roof or freestanding sign not to exceed 100 square feet in area. Such requirements shall be applicable to the aggregate face area of a double-faced sign.

(T) *Signs permitted on other Nonresidential Districts.* The following signs shall be permitted in Nonresidential Districts where such uses are otherwise permitted in the district.

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(1) *Signs as permitted in Residential Districts.* Signs as permitted and regulated for the uses in the Residential District (same as division **(R)** above).

(2) *Business signs.* Each main building or business in a series of attached businesses, such as a shopping center, may have three business signs. Two of such business signs shall be limited to ten square feet in area. One business sign may be of any type to a maximum of 100 square feet in area.

(3) *Shopping center signs.* For business complexes of four or more separate stores, one shopping center sign may be erected. Such sign may be of any type to a maximum of 150 square feet in area.

(U) *Signs permitted in planned development.* Signs permitted in planned developments shall be as approved by the Planning Commission for each development. In no case shall signs in a residential planned development exceed the sign requirements stipulated in division (R) above, nor signs in a business planned unit development exceed the requirements of the B-1 District (division (S) above).

(V) *Sign standards in heritage preservation sites and within the Historic District.*

(1) All signage to be installed on buildings within the Historic District or on buildings designated as heritage preservation sites must be reviewed and approved by the Heritage Preservation Commission (HPC). A special HPC permit application shall be submitted in order for signage to be considered, and a detailed drawing of the proposed signage will be an integral part of each permit. All proposed signage shall comply with all conditions of this chapter regarding signage as well as the additional conditions hereinafter set forth.

(2) The HPC reviews each sign request on a case-by-case basis and reserves the right to deviate from any specific guideline if it determines that an application of the guideline would adversely affect a historic property or to make exception to these guidelines in the cases of non-contributing historic buildings if the exception would not adversely affect other adjacent historic properties.

(a) *Existing historic signs.* Maintenance or restoration of existing historical signs shall be mandatory.

(b) *Signs not permitted.* Signs advertising products or businesses not located in the building or on the lot on which the sign is displayed are prohibited.

(c) *Number of signs limited.* Signage will be limited to one sign per building. If a building has more than one tenant, this sign may display the name and address of the building and a directly of tenants. If a property is occupied by more than one tenant and list separate ground level entries for each tenant, the HPC may grant permission for additional signage. Corner properties will be allowed a sign on each street face.

(d) *Design criteria.* Lettering and numbering style for signage or identification will be of a contemporary period to the structure on which it is to be attached. Sign colors shall be limited to four per sign with at least three being the same hue, saturation, or brightness. Sign colors must be compatible

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with the colors of the building and its surroundings. Signs may list the building name and address. Advertising and tenant identification may be incorporated. Signs may display information such as the name of the firm or logo.

(e) *Removal of sign.* Signage must be removed from buildings if the tenant's business closes or moves, within 90 days from the date of vacancy.

(W) *Specific sign types.*

(1) *Painted signs.* Signs painted directly onto the wall surface of the building shall not be restricted as to size or lettering height. Painted signage will not be permitted on principal facades. Painted signage is permitted only on side or rear walls to restore documented historic signage. Contemporary painted signage on the side or rear walls may be permitted by the HPC upon a determination of no negative impact on the historic qualities of the building or district.

(2) *Surface applied individual lettering.* Individually formed letters which are attached to the wall surface of the building shall be unlimited to a maximum height of 18 inches and signage material shall be of metal, painted wood, or solid plastics with opaque matte finishes. Vacuum formed plastic or plastic with shiny finish will not be permitted as material for signage.

(3) *Surface applied panelized signs.* Signage constructed of a single piece or connected series of sign material to be applied to the wall surface shall not exceed 20 feet in length and four feet in height and may not cover or detract from architectural detail of the building. Signage materials shall be metal, painted wood, or solid plastics with opaque matte finishes. Vacuum formed plastic or plastic with shiny finish will not be permitted material for signage. Panelized sign will be centered within facade openings and placed above or below the belt line or separation between ground floor and second floor.

(4) *Horizontal projecting signs.* Signs having a horizontal orientation which projects at a 90-degree angle from the wall surface shall not exceed a maximum total size of 25 square feet, maximum height of four feet and maximum thickness of ten inches. The lettering will not exceed a maximum height of 30 inches. Signs may be metal fabricated, surface mounted neon, neon in channelized letters, incandescent light bulbs, or wood. Backlit plastic sheets are prohibited. Horizontal projecting signs may project a maximum of six feet from the wall and shall be held away from the wall a minimum of eight inches for the clear detail projections and shall be placed between the ground floor and the second floor, aligned vertically with other similar signage on the street and so as to clear the sidewalk by a minimum of ten feet. A sign to be placed over a window opening will not be permitted. Lettering shall have a horizontal orientation.

(5) *Vertical project signs.* A sign having a vertical orientation which projects at a 90-degree angle from the wall surface will have a maximum height of eight feet, a maximum width of 30 inches, and a maximum thickness of ten inches. Permitted materials include metal fabricated signs, incandescent light bulbs, surface mounted neon, neon in channelized letters, and wood. Materials not permitted are backlit plastic sheets and/or animated signs. Vertical projecting signs may project a maximum of five feet and shall be held away from the facade a minimum of eight inches or to clear detail projections and

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shall be placed between the ground floor and second floor, aligned vertically with other signage on the street and so as to clear the sidewalk a minimum of ten feet. A sign to be placed over a window will not be permitted. Lettering shall have a vertical orientation.

(6) *Monument signs.* Any freestanding sign having a base which is of a greater dimension than the sign itself is permitted only on perimeter or open lots and on lots with front and side yard setbacks. A monument sign shall not exceed the maximum height of six feet, a maximum length of one-third of lot frontage or 12 feet, whichever is less, and must be parallel with or perpendicular to the street unless on a corner lot, in which case an orientation of 45 degrees is allowed.

(7) *Awning signage.* A sign incorporated within the material of a window awning will be restricted by the size of the awning which may not exceed individual window openings and the awning skirt or drop may not exceed 12 inches. Backlit awning signs are prohibited. Lettering will be restricted to side panels or front drop and shall be one consistent color. Logos or artwork shall be of no more than four colors of which three must be the same hue, saturation, and brightness.

(8) *Innovative artistic signs.* Signs of a type that cannot be classified by the previous listed signage type may be permitted by the HPC upon a determination of no negative impact on the historic qualities of the building or district and that the proposed signage adds to the aesthetic character of the building or district.

(9) *Lighted signs behind store windows.* A neon or lighted sign placed on the inside of a store window shall not exceed 10 % of the actual surface of the window opening and shall be a minimum of six inches distant from the perimeter of the window opening.

(10) *Glass applied signs.* The total outlined area of a sign applied to the inside surface of a store window shall not exceed 25% of the window opening in size.

(11) *Exterior temporary signage may be permitted by HPC.* (Holiday decorations are not considered signage).

(a) *Banners.* Banners, not exceeding a maximum size of 24 square feet and hung or draped so as not to cover or damage architectural detail, not obstruct the view of other buildings or features of the street or district, may be permitted for a period of one month and may be renewed for two additional one-month periods. Proper maintenance will be of major importance in considering renewal of a permit.

(b) *Building construction signs.* Building construction signs of a maximum size of three feet by five feet may be permitted for a period of one year and renewed for additional one-year periods.

(c) *Leasing signs.* Leasing signs of a maximum size of three feet by five feet may be permitted for a period of one year and renewed for additional one-year periods.

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(d) *Special events.* Signs for special events of a size and configuration as may be approved by the HPC on a case-by-case basis may be permitted for a period of one month and may be renewed for two additional one-month periods. Proper maintenance will be of a major importance in considering renewal of permit.

(e) *Maintenance.* All temporary signage must be maintained in such a manner that will not be detrimental to public safety or to the historic preservation of the building or district, and failure to properly maintain signage will result in the immediate recession of the permit.

(12) *Signage types not allowed.* The following signs will not be permitted:

- (a) Freestanding or surface applied billboards;
- (b) Roof-top signage;
- (c) Freestanding pole or pylon signs;
- (d) Plastic faced, backlit signs, or letters; and
- (e) Backlit awning signs.

(13) *Current signage grandfathered.* All signage currently evident on historic properties that do not conform to requirements of this chapter will be allowed to remain until such time as signage needs replacing or the business being constructed terminates or changes ownership.
(2005 Code, § 11.75)

§ 153.33 SERVICE STATION AND CAR WASH REGULATIONS.

(A) *B-1, B-2, and B-3 Districts.* The following may be conditionally permitted.

(1) Motor fuel stations subject to submission of a site plan conforming to the following design standards and a statement agreeing to performance of those standards.

(a) The parcel of land shall not be less than 100 feet by 100 feet with one side facing on a major thoroughfare.

(b) No curb cut on a major thoroughfare shall be within 50 feet, and no curb cut on a non-major thoroughfare shall be within 25 feet, of the intersection of the projected curb lines; no curb cut shall exceed 30 feet in width at the sidewalk line; the driveway installed with a curb cut shall not cause the public sidewalk to slope greater than one-fourth inch per foot; no more than three curb cuts shall be permitted except for one additional if the parcel has 150 feet or more frontage on a non-major thoroughfare.

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(c) The pump islands shall observe the required front yard setbacks where applicable, and protected by a curb at least six inches high except for approved driveway crossings.

(d) All of the area of the parcel except that covered by buildings and landscaping shall be surfaced to control dust and drainage. Drainage and surfacing plan to be approved by the Planning Commission.

(e) A six-foot decorative fence, or a 15-foot-wide planting strip and three-foot decorative fence shall be installed and maintained along the property line where said line abuts a residentially zoned parcel. Should the planting strip and fence combination be selected, the proposed planting plan shall be approved by the Planning Commission. Should the abutting residential area be zoned R-1 or R-2, a five-foot setback is to be provided between the abutting property line and any principal or accessory structure.

(f) A minimum of seven parking spaces shall be provided, none of which are within the service drives for the pumps nor within the required front yard; also, should the motor fuel station be a combined business, the portion of the site and structure devoted to such other business shall be calculated independently for determining parking to be provided. Where trucks are to be accommodated, parking spaces shall be provided at the ratio of four spaces (each having 12 feet by 50 feet minimum dimensions) for each service stall.

(g) All lights shall be so located or shielded that the resulting light pattern does not extend into abutting residential lots or the public right-of-way beyond the intensity of one footcandle.

(h) The sale or rental of trailers, autos, campers, boats, or other merchandise requiring outside storage shall be considered a separate business, shall be approved as a separate business, and shall not occupy the minimum area required to conduct a motor fuel station.

(i) All merchandise kept on the premises and displayed for sale, except for oil stored on the pump island, shall be kept within the building or its immediate environs.

(j) A perspective drawing, including elevations, shall be submitted for approval which indicates an architectural style compatible with adjacent existing or actually proposed developments.

(k) Provisions shall be made for on-lot receptacles for the storage of trash in areas which are screened from the public view.

(l) Where vending machines are proposed as an accessory use, they shall be incorporated into the design of the structure.

(m) All fuel storage tanks shall be placed underground and so located that they may be serviced without the tank truck extending beyond the property line.

(2) Car wash establishments subject to the submission of a site plan conforming to the following design standards and a statement agreeing to performance of these standards.

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(a) The minimum lot width shall be 125 feet of the front yard building setback line.

(b) No curb cut on a major thoroughfare shall be within 50 feet, and no curb cut on a non--major thoroughfare shall be within 25 feet, of the intersection of the projected curb lines; no curb cut shall exceed 30 feet in width at the sidewalk line; the driveway installed with a curb cut shall not cause the public sidewalk to slope greater than one-fourth inch per foot; no more than two curb cuts shall be permitted on any one public street.

(c) A side and rear yard setback of five feet shall be maintained between the parking area and any lot line adjacent to B-2, I-1, and I-2 Districts. A side and rear yard setback of 25 feet shall be maintained between any parking area and any lot line adjacent to B-1 Districts. A side and rear yard setback of 50 feet shall be maintained between any parking area and any lot line adjacent to R-1 through R-4 Districts.

(d) All of the area of the parcel except that covered by buildings and landscaping shall be surfaced to control dust and drainage. Drainage and surfacing plan to be approved by the Planning Commission.

(e) A six-foot decorative fence, or a five-foot wide planting strip and three-foot decorative fence shall be installed and maintained along the property line where said line abuts a residentially zoned parcel. Should the planting strip and fence combination be selected, the proposed planting plan shall be approved by the Planning Commission. Should the abutting residential area be zoned R-1 or R-2, a 50-foot setback is to be provided between the property line and any principal or accessory structure.

(f) Parking regulations include the following.

1. *Stacking spaces.* A minimum of three customer automobile stacking spaces shall be provided for each washing lane for automatic car washes.

2. *Customer service parking.* A minimum of three customer service parking spaces shall be provided for each washing land for automatic car washes.

3. *Self-service car washes.* A minimum of two outside customer parking spaces shall be provided for each enclosed self-service washing space. The foregoing required number of parking spaces shall be shown and designated on the site plan. Parking spaces as required by this section shall supersede parking space requirement imposed elsewhere in this chapter.

(g) Interior curbs shall be constructed within the property lines to separate driving and parking surfaces from landscaped areas. Interior curbs required by this section shall be a normal six inches in height.

(h) All lights shall be so located or shielded that the resulting light pattern does not extend into abutting residential lots or the public right-of-way beyond the intensity of one footcandle.

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(i) Selling or storage of commodities or services other than as defined in this section shall be conducted in conformance with the display and storage requirements of the zoning district in which the car wash is located.

(j) All washing facilities shall be completely within an enclosed building.

(k) A perspective drawing, including elevations, shall be submitted for approval which indicates an architectural style compatible with adjacent existing or proposed developments.

(l) Provisions shall be made for on-lot receptacles for the storage of trash in areas which are screened from the public view.

(m) Vacuuming facilities shall not be located along public streets and shall be completely screened from public streets and adjacent residential property.

(n) Where vending machines are proposed as an accessory use, they shall be incorporated into the design of the structure.

(o) Where gasoline sales are involved, all fuel storage tanks shall be placed underground and so located that they may be serviced without the tank truck extending beyond the property line.

(p) All wash water disposal facilities including sludge, grit removal, and disposal equipment shall be subject to the approval of the city and shall conform with all provisions of the city code regarding sewage and health provisions, and shall be designed so as not to affect detrimentally the city sewer system.

(B) *I-1 and I-2 Districts.* Motor fuel stations subject to submission of a site plan conforming to the following design standards and a statement agreeing to performance of these standards.

(1) The parcel of land shall not be less than 100 feet with one side facing on a major thoroughfare.

(2) No curb cut on a major thoroughfare shall be within 50 feet and no curb cut on a non-major thoroughfare shall be within 25 feet of the intersection of the projected curb lines; no curb cut shall exceed 30 feet in width at the sidewalk line; the driveway installed with a curb cut shall not cause the public sidewalk to slope greater than one-fourth inch per foot; no more than three curb cuts shall be permitted except for one additional if the parcel has 150 feet or more of frontage on a non-major thoroughfare.

(3) The pump islands shall observe the required front yard setback, and protected by a curb at least six inches high except for approved driveway crossings.

(4) All of the area of the parcel except that covered by buildings and landscaping shall be surfaced to control dust and drainage. Drainage and surfacing plan to be approved by the Planning Commission.

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(5) A minimum of seven parking spaces shall be provided, none of which are in the service drives for the pumps or the required front yard; also, should the motor fuel station be a combined business, the portion of the site and structure devoted to such other business shall be calculated independently for determining parking to be provided.

(6) All lights shall be so located or shielded that the resulting light pattern does not extend into abutting residential lots or the public right-of-way beyond the intensity of one footcandle.

(7) Where trucks are to be accommodated, parking spaces shall be provided at the ratio of four spaces (each having 12 feet by 50 feet minimum dimensions) for each service stall. The sale or rental of trailers, autos, campers, boats, or other merchandise requiring outside storage shall be considered a separate business, shall be approved as a separate business, and shall not occupy the minimum area required to conduct a motor fuel station.

(8) A perspective drawing, including elevations, shall be submitted for approval which indicates an architectural style compatible with adjacent existing or proposed developments.

(9) Provisions shall be made for on-lot receptacles for the storage of trash in areas which are screened from public view.

(10) Where vending machines are proposed as an accessory use, they shall be incorporated into the design of the structure.

(11) All fuel storage tanks shall be placed underground and so located that they may be serviced without the tank truck extending beyond the property line.
(2005 Code, § 11.76)

§ 153.34 OFF-STREET PARKING AND LOADING REGULATIONS.

(A) *Schedule of off-street parking requirements.* Off-street parking spaces shall be provided for buildings and uses as specified in the following schedule.

<i>Off-Street Parking</i>	
<i>Types of Uses</i>	<i>Requirements</i>
Automobile repair shops	3 spaces for each repair stall plus 1 space for each employee
Banks	1 space per 250 feet of gross floor area
Bowling alleys	3 spaces for each alley
Churches, auditoriums, and other places of assembly	1 space for each 4 seats
Drive-in banks	Reserve space equal to 3 times the number of drive-in window units
Dwelling, efficiency	1 space per dwelling unit

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<i>Off-Street Parking</i>	
<i>Types of Uses</i>	<i>Requirements</i>
Dwelling, multi-family	2 spaces per dwelling unit
Dwelling, single-family	2 spaces per dwelling unit
Dwelling, two-family	2 spaces per dwelling unit
Funeral homes	1 space for each 15 seats with a minimum of 10 spaces
General retail	1 space per 150 square feet of floor area for stores over 2,000 square feet of floor area, 1 space per 300 square feet of floor area for stores under 2,000 square feet
Hospitals, clinics	1 space for each 300 square feet of floor area
Hotels, motels	1 space per sleeping unit
Industrial and manufacturing	1 space for 2 employees of the largest shift or 2,000 square feet of floor area, whichever is greater
Manufactured home park	2 spaces per lot
Nursing homes, convalescent homes	1 space for each 4 residents or patients plus 1 space for each 2 employees
Restaurants, night clubs, and clubs over 1,000 square feet	1 space per each 75 square feet of floor area

(B) *Mixed uses.* In cases of mixed uses, the parking spaces required shall be the sum of the requirements for the various individual uses, computed separately.

(C) *Design standards.*

(1) All off-street automobile parking facilities shall be designated with appropriate means of vehicular access to a street or alley as well as maneuvering areas. Detailed plans shall be submitted to the proper official for approval for all curb cuts or driveway openings before a permit may be obtained therefor.

(2) Parking areas shall be paved with an asphaltic or concrete surfacing, afford adequate drainage, and shall have bumper guards where needed.

(3) Off-street parking areas for one- or two-family uses shall be in the rear, side yards, garage, carport, upon a well-defined driveway or in an area not to exceed 12 feet in width abutting the driveway on one side only in the front yard. The parking area designated in the front yard abutting the driveway shall be surfaced with either concrete, asphalt, or in cases of existing gravel driveway, gravel may be used for such additional parking.

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(4) Off-street parking for multiple-family units of three or more shall park on a designated parking lot. In no case, unless approved by the Building Official in the issuance of a building permit or by the City Council in cases of conditional uses, shall parking be permitted on the front yard.

(D) Loading regulations. All required loading berths shall be off-street and shall be located on the same lot as the building or use to be served. A loading berth shall not be located less than 100 feet from the intersection of two street rights-of-way in a district. Loading berths shall not occupy the required front yard space. The minimum number of loading spaces shall be:

(1) Retail sales and service stores and offices: one loading berth for each 10,000 square feet of floor area;

(2) Manufacturing, fabrication, processing, and warehousing: one loading berth for every 5,000 to 20,000 square feet of floor area, plus one loading berth for each additional 10,000 square feet of floor area;

(3) Uses not specifically noted shall be determined by the City Council with a recommendation from the Planning Commission; and

(4) If, in the application, a fractional number is obtained, one loading space shall be provided for that fraction.

(2005 Code, § 11.77)

§ 153.35 ZONING ADMINISTRATOR.

An administrative staff member designated by the city shall be responsible for the enforcement of this chapter. The duties of the Zoning Administrator shall be as follows:

(A) Examine all applications pertaining to the use of land, buildings, or structures; and grant approval of, and issue permits or take other appropriate action on such applications when in conformance with the provisions of this chapter;

(B) Keep a record of all nonconforming uses within the several zoning districts of the city;

(C) Periodically inspect buildings, structures, and uses of land to determine compliance with the terms of this chapter;

(D) Notify the City Attorney of any violations of a provision of this chapter, indicating the nature of the violation;

(E) Take any action authorized by this chapter, the city code, or other existing laws to ensure compliance with or to prevent violation of its provisions;

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(F) Maintain permanent and current records, including all maps, amendments, conditional uses, and variances;

(G) Maintain current files of all permits, zoning certificates, certificates of zoning compliance, and, on request, provide information to any person having a proprietary or tenancy interest in any specific property or to any individual seeking an understanding or clarification of the regulations and procedures stipulated in this chapter; and

(H) Attend all scheduled Planning Commission and Zoning Board of Appeals and Adjustments meetings and hearings in an ex-officio capacity.
(2005 Code, § 11.80)

§ 153.36 PUBLIC HEARINGS.

The procedures for holding a public hearing whenever such is required under the provisions of this chapter or other law shall be as follows.

(A) *Setting of hearings.* For all requests brought before the Zoning Board of Appeals and Adjustments or the Planning Commission for which a public hearing is required by this chapter, or other law, the body in charge of conducting the hearing shall select a reasonable time and place for the public hearing on the request.

(B) *Notice of hearings.*

(1) Notice of public hearings shall be given not more than 30 days and not less than ten days before the hearing by publication at least once in the official newspaper of the city. Such notice shall include the time and place of the hearing, a description of the contents of the request to be heard and its purpose, and the address or location of the property to which the requests apply.

(2) In addition to the published notice, a separate notice by mail shall be required for all property owners affected and within a distance of 350 feet from the boundaries of such area, where a request concerning amendment to zoning district boundaries for areas of five acres or less will be the subject of the hearing. Such notices shall be sent by the office of the City Administrator and addresses taken from current city records, or those of the County Auditor, shall be deemed sufficient for such notification.

(3) A copy of the list of the owners and addresses to which the notice was sent shall be attested to by the City Administrator, and shall be made a part of the records of the proceedings. The failure to give mailed notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this requirement has been made.

(4) In addition to any other notice provided for herein, when the matter to be heard involves amendment to zoning district boundaries, a sign shall be placed upon the premises proposed to be

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rezoned for at least the length of time prior to hearing that proposed notice is given, stating substantially: "This property proposed to be rezoned from _____ District to _____ District. Hearing Date _____"

(C) *Conduct of hearing.* Any person may appear and testify at a public hearing either in person or by a duly authorized agent or attorney. Applications for variances or conditional uses and the owner or owners of property in or within 1,000 feet of property under consideration for a rezoning action by amendment to this chapter, shall have the following rights in addition to any others they possess by law:

- (1) *The right to have subpoenas issued;*
- (2) *The right to cross-examine all adverse witnesses; and*
- (3) *The right to present witnesses on their own behalf.*

(D) *Administrative procedures and recordings at public hearing.* The body responsible for the hearing shall designate one from among the membership or ex officio membership to record all pertinent data and comments at the hearing for later preparation as a written public record. Such written record shall be filed with the City Administrator within a reasonable period of time, but in no event, later than 30 days from the date of hearing. The hearing shall be conducted in an orderly manner according to rules of procedure established or accepted by the city. The Chairperson or Acting Chairperson of the responsible body shall conduct the hearing and shall require that all participants furnish name, address, and position of interest prior to comment on the subject under consideration during such hearing.

(E) *Continuance; determination.* The responsible body may close the hearing or schedule a date, time, and place for a continuance of the same, subject to the requirements of the matter under consideration. Following closure, the responsible body shall meet to make the appropriate determination which shall be prepared and filed as a written public record in the office of the City Administrator. In no event shall such determination be made later than ten days from the date of the hearing and the written record of the same filed not later than 30 days from the date of hearing.

(F) *State hearing requirement.* No zoning ordinance or amendments thereto shall be adopted until a public hearing has been held thereon by the planning agency or by the governing body. A notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the municipality at least ten days prior to the day of the hearing. When amendment involves changes in district boundaries affecting an area of five acres or less, a similar notice shall be mailed at least ten days before the day of hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the amendment relates. For the purpose of giving mailed notice, the person responsible for mailing the notice may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to

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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 subdivision has been made.
(2005 Code, § 11,81)

Statutory reference:

Related provisions, see M.S. § 462.357, Subd. 3, as it may be amended from time to time

§ 153.37 SCHEDULE OF FEES, CHARGES, AND EXPENSES.

The Council, by ordinance, may establish a schedule of fees, charges, and expenses and a collection procedure for zoning permits, certificates of zoning compliance, conditional use permits, appeal application, and other matters pertaining to this chapter. This schedule of fees shall be available in the office of the Zoning Administrator and may be altered or amended only by the Council by ordinance.
(2005 Code, § 11.82)

§ 153.38 AMENDMENTS.

Any action to amend the provisions of this chapter shall be governed by the following.

(A) *Authority.* This chapter and the zoning district map may be amended from time to time by ordinance duly enacted by the Council; provided, however, that no such amendment shall be enacted except in accordance with the procedures of this section.

(B) *Initiation.* Proposed changes or amendments may be initiated by the Council, by the Planning Commission or by any one or more owners of real estate in the city.

(C) *Procedure.*

(1) When any proposed change or amendment is initiated by the Council, it shall transmit its proposal to the Planning Commission for a study and report thereon.

(2) When any proposed change or amendment is initiated by affected property owners, an application for such amendment, addressed to the Council, shall be filed in triplicate with the Zoning Administrator. No fee shall be charged unless such application relates to a zoning district amendment, which fee shall cover administrative costs and accompany the application. Such application shall be filed at least three weeks prior to the requested date of the public hearing on the proposed amendment. The application shall be in such form and contain such information as shall be prescribed from time to time by the Planning Commission, but shall in all instances contain the following information:

- (a) The applicant's name and address;
- (b) The precise wording of any proposed amendment to the text of this chapter; and

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property: (c) In the event that the proposed amendment would change the zoning district of any

1. A legal description and street address of the property proposed to be reclassified;
2. The name and address of the owner or owners of said property;
- reclassified; 3. The present zoning district and existing uses of the property proposed to be
4. The area of the property proposed to be reclassified, stated in square feet or acres, or fraction thereof; and
5. A map, drawn to scale, clearly showing the property proposed to be reclassified and its present zoning classification and existing uses.

(3) A public hearing shall be set, advertised, and conducted by the Planning Commission in accordance with this chapter.

(4) Within 30 days following the conclusion of the public hearing, the Commission shall transmit to the Council its recommendation in the form of a written report.

(5) Within 30 days of the receipt of the report of the Planning Commission, the Council shall refuse, or, by ordinance duly enacted, adopt the proposed amendment.

(6) In any case where a written protest against the proposed amendment signed by the owners of 20 % of the frontage proposed to be altered, or by the owners of 20 % of the frontage immediately adjacent or across the alley therefrom, or by the owners of 20 % of the frontage directly opposite the frontage proposed to be altered, is filed with the City Administrator before the adoption of any such amendment, the proposed amendment shall not be passed except by a favorable vote of two-thirds of the Council.

(7) In any situation where a written report specifying a recommendation regarding the proposed amendment has not been transmitted to the Council within 30 days from the date of the public hearing, the Council may act on such proposal without a report from the Planning Commission.

(D) A simple majority of all of the members of the Council is necessary to adopt a zoning amendment, except that the adoption or amendment of any portion of a zoning ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds majority vote of all members of the Council.

(2005 Code, § 11.83)

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§ 153.39 AIRPORT ZONING REGULATIONS.

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

AIRPORT. The Pipestone Municipal Airport is located in Sections 18 and 19 of Gray Township, Pipestone County Minnesota.

AIRPORT ELEVATION. The established elevation of the highest point on the usable landing area which elevation is established to be 1,736 feet above mean sea level.

AIRPORT HAZARD. Any structure or tree or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land which is hazardous to persons or property because of its proximity to the airport.

DWELLING. Any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

HEIGHT. For the purpose of determining the height limits in all zones set forth in this section and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

LANDING AREA. The area of the airport used for the landing, taking off, or taxiing of aircraft.

NONCONFORMING USE. Any pre-existing structure, tree, natural growth, or use of land which is inconsistent with the provisions of this chapter or an amendment hereto.

NON-PRECISION INSTRUMENT RUNWAY. A runway having an existing or planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are planned or indicated on an approved planning document.

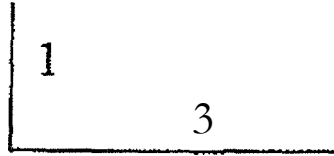
PERSON. An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

PLANNED. As used in this section, refers only to those proposed future airport developments that are so indicated on a planning document having the approval of the Federal Aviation Administration, the Department of Aeronautics, and the city.

RUNWAY. Any existing or planned paved surface or turf covered area of the airport which is specifically designated and used or planned to be used for the landing and/or taking off of aircraft.

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SLOPE. An incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.



Slope = 3: 1 - three feet horizontal to one foot vertical

SUBSTRUCTURE. An object constructed or installed by humans, including, but without limitations, buildings, towers, smokestacks, and overhead transmission lines.

TREE. Any object of natural growth.

VISUAL RUNWAY. A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an approved planning document.

WATER SURFACE. For the purpose of this section shall have the same meaning as land for the establishment of protected zones.

(B) *Airspace zones.* In order to carry out the purpose of this section, as set forth above, the following airspace zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, and Transitional Zone and whose locations and dimensions are as follows.

(1) *Primary 7.one.*

(a) All land that which lies directly under an imaginary primary surface longitudinally centered on a runway and extending:

1. Two hundred feet beyond each end of Runway 18/36; or
2. One hundred feet beyond each end of Runway 09/27.

(b) The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is:

1. Five hundred feet for Runway 18/36; and
2. Two hundred feet for Runway 09/27.

(2) *Horizontal 7.one.* All land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation, or a height of 1,886 feet above mean sea level, the perimeter

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of which is constructed by swinging arcs of 6,000-foot radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs.

(3) Conical Zone. All that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20 to one for a horizontal distance of 4,000 feet as measured radially outward from the periphery of the horizontal surface.

(4) Approach Zone.

(a) All that land which lies directly under an imaginary approach longitudinally centered on the extended centerline at each end of a runway. The elevation inner edge of the approach surface is at the same width and as, and coincides with, the end of the primary surface. The approach surface inclines upward and outward at a slope of:

- 1. 40:1 for Runway 18/36; and*
- 2. 30:1 for Runway 09/27.*

(b) The approach surface expands uniformly to a width of:

- 1. Three thousand five hundred feet for Runway 18/36, at a distance of 10,000 feet;*
- 2. Two thousand two hundred fifty feet for Runway 09/27, at a distance of 10,000*

and

feet.

(5) Transitional Zone. All that land which lies directly under an imaginary surface extending upward and outward at right angles to the runway centerline and centerline extended at a slope of seven to one from the sides of the primary surfaces and from the sides of the approach surfaces until they intersect the horizontal surface or the conical surface.

(C) Height restrictions. Except as otherwise provided in this section, and except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow in any of the imaginary airspace zones created in division (B) above so as to project above any of the imaginary airspace surfaces described in division (B) above. Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.

(D) Safety Zone boundaries. In order to carry out the purpose of this section, as set forth above and also, in order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Pipestone Municipal Airport, and furthermore to limit population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property in case of an accident, there are hereby created and established the following land use Safety Zone.

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(1) *Safety Zone A.* All land in that portion of the approach zones of a runway, as defined in division (B) above, which extends outward from the end of the primary surface a distance equal to two-thirds of the planned length of the runway, which distance shall be:

- (a) Two thousand eight hundred sixty-seven feet for Runway 18/36; and
- (b) One thousand seven hundred thirty-three feet for Runway 09/27.

(2) *Safety Zone B.* All land in that portion of the approach zones of a runway, as defined in division (B) above, which extends outward from Safety Zone A, a distance equal to one-third of the planned length of the runway, which distance shall be:

- (a) One thousand four hundred thirty-three feet for Runway 18/36; and
- (b) Eight hundred sixty-seven feet for Runway 09/27.

(3) *Safety Zone C.* All that land which is enclosed within the perimeter of the horizontal zone, as defined in division (B) above, and which is not included in Zone A or Zone B.

(E) *Use restrictions.*

(1) *General.* Subject at all times to the height restrictions set forth in division (C) above, no use shall be made of any land in any of the safety zones defined in division (D) above which creates or causes interference with the operations of radio or electronic facilities on the airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

(2) *Zone A.* Subject at all times to the height restrictions set forth in this division (E) and to the general restrictions contained in division (E)(1) above, areas designated as Zone A shall be restricted to those uses which will not create, attract, or bring together as assembly of persons thereon. Permitted uses may include agriculture, light outdoor recreation (non-spectator), cemeteries, and auto parking.

(3) *Zone B.* Subject at all times to the height restrictions set forth in division (C) above, and to the general restrictions contained in division (E)(1) above, areas designated as Zone B shall be restricted in use as follows.

- (a) Each use shall be on a site whose area shall not be less than three acres.
- (b) Each use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage.
- (c) Each site shall have no more than one building plot upon which any number of structures may be erected.

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(d) A building plot shall be a single, uniform, and non-contrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total site area.

Site Area At Least (Acres)	But Less Than (Acres)	Ratio of Site Area Building Plot	Building Plot Area (Square Feet)	Max Site Population (15 Persons Per Acre)
3		12:1	10,900	45
	4	12:1		
4		10:1	17,400	60
	6	10:1		
6		8:1	32,600	90
	10	8:1		
10		6:1	72,500	150
	20 and up	6:1		
20		4:1	218,000	300

(e) The following uses are specifically prohibited in Zone B: churches; hospitals; schools; theaters; stadiums; hotels and motels; trailer courts; camp grounds; and other places of public or semipublic assembly.

(4) *Zone C.* Zone C is subject only to height restrictions set forth in division (C) above and to the general restrictions contained in this division (E).

(F) *Airport zoning map.* The several zones herein established are shown on the Pipestone Municipal Airport Zoning Map consisting of one sheet, prepared by Howard Needles Tammen and Bergendoff, and dated November 11, 1975, attached hereto and made a part hereof, which map, together with such amendments thereto as may from time to time be made, and all notations, references, elevations, data, zone boundaries, and other information thereon, shall be and the same is hereby adopted as part of this section.

(G) *Nonconforming use; regulations non-retroactive.* The regulations prescribed by this section shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this section, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this section, and is diligently prosecuted and completed within two years thereof.

(H) *Permits.*

(1) *Future uses.* Except as specifically provided in divisions (H)(1)(a) to (H)(1)(c) below, no material change shall be made in the use of land and no structure shall be erected, altered, or otherwise

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established in any zone hereby created unless a permit therefor shall have been applied for and granted by the Zoning Administrator hereinafter provided for. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

(a) However, a permit for tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or on any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land contour, or topographic features, would extend the height limit prescribed for the respective zone.

(b) Nothing contained in this foregoing exception shall be construed as permitting or intending to permit any construction, alteration, or growth of any structure or tree in excess of any of the height limitations established by this section.

(c) The provisions of this section will not prevent the issuing of a permit for the erection of buildings or further development on those lots within the Skyway Industrial Park east of the airport not yet improved, but containing water or sewer service or streets as of the effective date of this section. However, all future development within the industrial park shall at all times be subject to the height restrictions contained in this section.

(2) *Existing uses.* Before any existing use or structure may be replaced, substantially altered, or repaired, or rebuilt within any zone established herein, a permit must be secured authorizing such placement, change, or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this section or any amendment thereto, or than it is when the application for a permit is made. Except an indication, all applications for such a permit shall be permitted.

(3) *Nonconforming uses abandoned or destroyed.*

(a) Whenever the Zoning Administrator determines that a nonconforming structure or tree has been abandoned or more than 50 % torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the granted applicable height limit or otherwise deviate from the zoning regulations. Whether application is made for a permit under this division (H) or not, the Zoning Administrator may order the owner of the abandoned, or partially destroyed nonconforming structure, at his or her own expense, to lower, remove, reconstruct, or equip the same in the manner necessary to conform to the provisions to this section. In the event the owner of the nonconforming structure shall neglect or refuse to comply with such order for ten days after receipt of written notice of such order, proceed to have the abandoned or partially destroyed nonconforming structure lowered, removed, reconstructed, or equipped and assess the cost and expense thereof against the land on which the structure is or was located.

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(b) Unless such an assessment is paid within 90 days from the service of notice thereof on the owner of the land, the sum shall bear the interest rate of 8 % per annum from the date of the cost and expenses is incurred until paid, and shall be collected in the same manner as are general taxes.

(I) *Variances.* Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his or her property, not in accordance with the regulations prescribed in this section, may apply to the Board of Adjustments, hereinafter provided for, for a variance from such regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and relief granted would not be in accordance with the spirit of this section; provided any variance so allowed may be subject to any reasonable conditions that the Board of Adjustments may deem necessary to effectuate the purposes of this section.

(J) *Hazard marking and lighting.*

(1) *Nonconforming uses.* The owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Zoning Administrator to indicated to the operators of airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the city.

(2) *Permits and variances.* Any permit or variance granted by the Zoning Administrator or Board of Adjustments as the case may be, may, if such action is deemed advisable to effectuate the purpose of this section and be reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question at his or her own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

(K) *Airport Zoning Administrator.* It shall be the duty of the City Building and Zoning Administrator (herein called Zoning Administrator) to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Administrator upon a form furnished by him or her. Permit applications shall be promptly granted or denied by him or her. Variance applications shall be forthwith transmitted by the Zoning Administrator for action by the Board of Adjustment hereinafter provided for.

(L) *Board of Adjustments.*

(1) *Establishment.* The Pipestone City/County Joint Airport Zoning Board shall serve as the Board of Adjustment under this section.

(2) *Powers.* The Board of Adjustments shall have and exercise the following powers:

(a) To hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this section;

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(b) *To hear and decide special exceptions to the terms of this section upon which such Board of Adjustment under such regulations may be required to pass; and*

(c) *To hear and decide specific variances.*

(3) *Procedures.*

(a) *The Board of Adjustments shall adopt rules for its governance and procedure in harmony with the provisions of this section. Meetings of the Board of Adjustments shall be held at the call of the Chairperson and at such other times as the Board of Adjustments may determine. The Chairperson, or in his or her absence, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustments shall be public. The Board of Adjustments shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Zoning Administrator and shall be a public record.*

(b) *The Board of Adjustments shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this section.*

(c) *The concurring vote of a majority of the members of the Board of Adjustments shall be sufficient to reverse any order, requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this section, or to affect any variation in this section.*

(M) *Appeals.*

(1) *Any person aggrieved, or any taxpayer affected by any decision of the Zoning Administrator made in his or her administration of this section may appeal to the Board of Adjustments. Such appeals may also be made by any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the Zoning Administrator is an improper application of this section as it concerns such governing body or board.*

(2) *All appeals hereunder must be commenced within 30 days of the Zoning Administrator's decision, by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustments all the papers constituting the record upon which the action appealed from was taken.*

(3) *An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustments, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustments on notice to the Zoning Administrator and on due case shown.*

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(4) The Board of Adjustments shall fix a reasonable time for hearing appeals, given public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(5) The Board of Adjustments may, in conformity with the provisions of this chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances, and to that end shall have all the powers of the Zoning Administrator.

(N) *Judicial review.* Any person aggrieved, or any taxpayer affected by a decision of the Board of Adjustments, or any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the Board of Adjustments is illegal may present to the County District Court a verified petition setting forth that the decision or action is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the Court within 30 days after the decision is filed in the office of the Board of Adjustments. The petitioner must exhaust the remedies provided in this section before availing himself or herself of the right to petition a Court as provided by this section.

(O) *Conflicts.* Where there exists a conflict between any of the regulations or limitations prescribed in this section and any other regulations applicable to the same are, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or regulation shall govern or prevail.
(2005 Code, § 11.90) Penalty, see § 153.99

§ 153.40 TEMPORARY STORAGE CONTAINERS.

(A) *Purpose.* The purpose of this section is to regulate the use of temporary storage containers within the city. These regulations are intended to preserve and protect the visual quality and character of neighborhoods, and promote the safety and health among the residents and businesses of the City by ensuring the use of such storage containers does not become a public nuisance.

(B) *Residential Districts.* A temporary storage container may be used in a residential district, provided it is kept in compliance with all of the following:

(1) No more than one temporary storage container may be kept on a property at any time;

(2) The temporary storage container may be on a property for no more than 15 consecutive days, or no more than a cumulative of 30 days in 12-month period. The keeping of a temporary storage container in excess of either of these limits shall require an interim use permit from the City;

(3) The temporary storage container shall comply with the accessory structure setback for the applicable zoning district;

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(4) The temporary storage container shall not be placed on the paved portion of a public street, on a sidewalk, or in any way so as to render dangerous for travel a public right-of-way or interfere with maintenance of any portion of the right-of-way;

(5) The temporary storage container shall be of a neutral color on at least 75 percent of the exterior surface, excluding the bottom;

(6) The temporary portable storage container shall be maintained in a reasonably sound condition, with no visible holes, rust, or peeling paint; and

(7) The temporary portable storage container shall have attached to it a placard that includes the date of placement on the property, the date that removal is scheduled to occur, and the local telephone number of the owner of the container.

(C) *Business Districts.* Temporary storage containers may be used in a business district, provided it is kept in compliance with all of the following:

(1) A maximum of two temporary storage containers per property are allowed. An interim use permit is required if more than a combined total of two temporary storage containers is located on a property;

(2) No temporary storage container shall exceed four hundred (400) square feet, unless expressly authorized in an interim use permit;

(3) The temporary storage container is counted toward impervious surface requirements;

(4) The temporary storage container may only be located in the side or rear yard of a property, and shall not be located within the front yard setback, on greenspace, in a right-of-way, or other areas on which the placement of a structure is prohibited;

(5) The temporary storage container shall be screened with sight-obscuring fencing or landscaping approved by the Zoning Administrator;

(D) *Industrial Districts.* Temporary storage containers may be used in an industrial district, provided it is kept in compliance with all of the following:

(1) Temporary storage containers count towards impervious surface requirements;

(2) The temporary storage container shall not be located in the front yard setback, required greenspace, or in the right-of-way

(3) All temporary storage containers shall be properly screened with sight-obscuring fencing or landscaping approved by the Zoning Administrator and placed either in the side or rear yard of a property.

(E) *Standards.* The following standards apply to an allowed temporary storage container:

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- (1) It must be kept free of nuisances (grass, weeds, trash, vermin, holes, peeling paint, rust, damage, etc.) or it can be deemed a nuisance and be subject to legal action;
- (2) It shall not exceed four hundred (400) square foot each, except in a business district with the issuance of an interim use permit;
- (3) It shall not be used for any advertising purpose and shall be kept free of all alpha-numeric signage and writing, except for identifying information required by law and job trailers used on a construction site;
- (4) It shall not occupy any required off-street parking or loading areas;
- (5) It shall be placed so as to comply with setbacks applicable to the zoning district in which it is located;
- (6) It shall not be stacked on top of another temporary storage container;
- (7) Materials shall not be piled or stacked on, against, or next to a temporary storage container;
- (8) The maximum height of a temporary storage container is fifteen (15) feet; and
- (9) A temporary storage container in violation of this section shall be removed from the property within thirty (30) days of notification of the violation by the Zoning Administrator. An extension for the removal may be granted by the Zoning Administrator if a building permit is obtained for on-site construction to correct the violation.

§ 153.50 CANNABIS AND HEMP BUSINESSES

(A) *Authority.* The City is authorized by Minnesota Statutes, section 342.13(c) to adopt reasonable restrictions on the time, place, and manner of the operation of a cannabis business, including the adoption of zoning regulations under Minnesota Statutes, section 462.357. The city is also authorized to regulate the use of cannabis in public places under Minnesota Statutes, section 152.0263, subdivision 5. The intent of this Section is to comply with the provisions of Minnesota Statutes, chapter 342 and the rules promulgated thereunder. References to statutes shall include any amendments made to those sections and includes any successor provisions.

(B) *Definitions.* Unless otherwise noted in this Section, words and phrases contained in Minnesota Statutes, section 342.01, and any amendments made thereto or any successor provisions, and the rules promulgated pursuant to Minnesota Statutes, Chapter 342, shall have the same meanings in this Ordinance.

ADULT USE CANNABIS PRODUCT. As defined in Minnesota Statutes, section 342.01, subd. 4.

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CANNABIS CULTIVATOR. A business licensed to grow cannabis plants within the approved amount of space from seed or immature plant to mature plant. harvest cannabis flower from mature plant, package and label immature plants and seedlings and cannabis flower for sale to other cannabis businesses, transport cannabis flower to a cannabis manufacturer located on the same premises, and perform other actions authorized by Minnesota Statutes and the Office of Cannabis Management.

CANNABIS DELIVERY SERVICE. A business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.41, or such other law as may apply, to transport and deliver cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumable products to customers and perform other actions authorized by Minnesota Statutes and the Office of Cannabis Management.

CANNABIS EVENT ORGANIZER. A business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.39, or such other law as may apply, to hold a temporary cannabis event.

CANNABIS MANUFACTURER. A business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.31, or such other law as may apply, to manufacture cannabis concentrate, hemp concentrate, including hemp concentrate with a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent as measured by weight, artificially derived cannabinoids, adult-use cannabis products, lower-potency hemp edibles, and hemp-derived consumer products for public consumption and perform other actions authorized by Minnesota Statutes and the Office of Cannabis Management.

CANNABIS RETAILER. Any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form, including a retail location and the retail location(s) of a mezzo businesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, excluding lower-potency hemp edible retailers.

CANNABIS TESTING FACILITY. A business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.37, or such other law as may apply, to test immature cannabis plants and seedlings, cannabis flower, cannabis products, hemp plant parts, hemp concentrate, artificially derived cannabinoids, lower-potency hemp edibles, and hemp-derived consumer products.

CANNABIS TRANSPORTER. A business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.35, or such other law as may apply, to transport immature cannabis plants and seedlings, cannabis flower, cannabis products, artificially derived cannabinoids, hemp plant parts, hemp concentrate, lower-potency hemp edibles and hemp-derived consumer products as authorized by Minnesota Statutes and the Office of Cannabis Management.

CANNABIS WHOLESALER. A business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.33, or such other law as may apply, to sell immature cannabis plants and seedlings, cannabis flower, cannabis products, lower-potency hemp edibles, hemp-

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derived consumer products to cannabis microbusinesses, cannabis mezzo businesses, cannabis manufacturers, and cannabis retailers, to sell lower-potency hemp edibles to lower-potency hemp edible retailers and to perform other actions authorized by Minnesota Statutes and the Office of Cannabis Management.

DAYCARE. A location licensed with the Minnesota Department of Human Services to provide the care of a child outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

LOWER-POTENCY HEMP EDIBLE. As defined under Minnesota Statutes, section 342.01 subd. 50.

LOWER-POTENCY HEMP EDIBLE RETAILER. A business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.43, or such other law as may apply, to sell lower-potency hemp edibles.

MEDICAL CANNABIS BUSINESS. A business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, sections 342.47 through 342.515, or such other law as may apply, to cultivate, process, manufacture, package, and sell medical cannabis and cannabinoid products as authorized by Minnesota Statutes and the Office of Cannabis Management.

OFFICE OF CANNABIS MANAGEMENT ("OCM"). The Minnesota Office of Cannabis Management, which has the powers and duties set out in Minnesota Statutes, section 342.02.

PLACE OF PUBLIC ACCOMMODATION. A business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

PUBLIC PLACE. A public park or trail, public street or sidewalk; any enclosed, indoor area used by the general public, including, but not limited to, restaurants; bars; any other food or liquor establishment; hospitals; nursing homes; auditoriums; arenas; gyms; meeting rooms; common areas of rental apartment buildings, and other places of public accommodation.

RESIDENTIAL TREATMENT FACILITY. "Residential treatment facility" has the meaning given the term in Minnesota Statutes, section 245.462, subdivision 23.

SCHOOL. A public school as defined under Minnesota Statutes, section 120A.05, or a nonpublic school that must meet the reporting requirements under Minnesota Statutes, section 120A.24.

(C) *Medical Cannabis Business.* A Medical Cannabis Business shall be classified as a Cannabis Cultivator, Cannabis Manufacturer and/or a Cannabis Retailer, depending on the scope of its operations, for purposes of determining which zoning district the particular business may be located.

(D) *Operations.* Operation of a business of the types established by Minnesota Statutes, section 324.10 within the City shall comply with the provisions of this Ordinance and the following:

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(1) State License Required. Operation of a business of the types established by Minnesota Statutes, section 324.10 shall require a state license issued by the OCM in accordance with Minnesota Statutes.

(2) Building Code. The business shall comply with the provisions of all applicable building code requirements.

(3) Fire Code. The business shall comply with the provisions of all applicable fire code requirements.

(4) Zoning Ordinance. The business shall comply with Chapter 153 of the City Code.

(5) Hours of Operation:

(a) Cannabis businesses shall be limited to retail sale of cannabis, cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products between the hours of 10:00 a.m. and 9:00 p.m.

(b) Temporary cannabis events shall be limited to occur between the hours of 10:00 a.m. and 9:00 p.m.

(c) The hours of operation for all other cannabis business shall be limited to the hours of 7:00 a.m. to 10:00 p.m., unless extended by the City Council.

(6) Prohibited Activities. No cannabis business shall operate in a manner that violates, or fails to comply with, the provisions of Minnesota Statutes, Chapter 342, such other laws as may apply, and the following:

(a) Smoking Prohibited. No cannabis flower, cannabis products, or hemp-derived consumer products in a manner that involves the inhalation of smoke, aerosol, or vapor shall be used at any location where smoking is prohibited under Minnesota Statutes, section 144.414;

(b) Statutory Prohibitions. No cannabis business authorized to sell at retail shall sell any cannabis flower or cannabis products in violation of any of the prohibitions in Minnesota Statutes, Section 342.27, subdivision 12.

(7) Buffer Zones.

(a) Distances. Except as provided below, no cannabis business shall be located or operate within:

1. 1,000 feet of a school;
2. 500 feet of a residential treatment facility;
3. 500 feet of a daycare facility;

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4. 500 feet of an attraction within a public park that is regularly used by minors including, but not limited to, playgrounds and athletic fields;
5. 500 feet from another cannabis business; or
6. 500 feet from a church or place of religious assembly.

- (b) Measurement. Buffer distances shall be measured from the lot line of the property on which the cannabis business is placed to the structure identified in Section 153.50 (D)(7)(a).

(8) Nonconforming. A cannabis business lawfully established and operating in a location may continue to operate as a lawful nonconforming use if a school, residential treatment facility, daycare facility, or park is established within the required buffer distance. A cannabis business that becomes nonconforming is subject to the restrictions in Minnesota Statutes, section 462.357, subdivision 1e.

(9) Lower-Potency Hemp Edibles. The sale of lower-potency hemp edibles is subject to the restrictions and requirements of this subsection.

- (a) Age Restricted Areas. The sale of lower-potency hemp edibles is only allowed in places that limit admission to persons 21 years of age and older.

- (b) Storage. Lower-potency hemp edibles shall be stored in a locked case and may only be sold behind a counter.

(10) Indoor Operations.

- (a) A cannabis business shall be conducted entirely within a principal or accessory building as allowed by the City Code. All outside storage is prohibited.

- (b) All waste and recycling containers shall be kept within a principal or accessory building.

(11) Utilities.

- (a) The use shall be connected to public water, sanitary sewer, and stormwater utility systems.

(b) Public Water:

1. There shall be adequate capacity within the public water system, including wells, pump houses, water towers, pressure valves, and distribution pipes serving the property to accommodate the cannabis business.
2. Connection to the public water system shall comply with the City Code.

(c) Sanitary Sewer:

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1. There shall be adequate capacity within the sanitary sewer system, including collection pipes, lift stations, force mains, and wastewater treatment facilities serving the property to accommodate the cannabis business.
2. Discharges to the sanitary sewer system shall comply with the City Code.

(d) Storm Sewer. All discharges to the storm sewer utility system shall comply with the City Code.

(E) *Temporary Cannabis Events.*

(1) Cannabis Event Permit Required. A cannabis business licensed by the Office of Cannabis Management to conduct temporary cannabis events may only conduct an event in a zoning district in which the use is allowed, and then only upon obtaining a conditional use permit from the City.

(2) Consumption Prohibited. The consumption of adult-use cannabis products at a cannabis event is prohibited.

(3) Application Process. The following procedure shall apply for seeking a cannabis event permit for an event. A separate cannabis event permit is required for each event.

- (a) The applicant must complete and submit the City's cannabis event permit application form together with the applicable fee at least 60 days before the start of the proposed event. Incomplete applications will be returned to the applicant without processing. If the proposed cannabis event constitutes a special event under the City's regulations, the applicant is required to follow the applicable requirements to obtain a special events permit, and such approval shall also constitute the cannabis event permit for the particular event.
- (b) If approved, the cannabis event permit shall, at a minimum, indicate the event location, dates (not to exceed four days), daily operating hours, and the specific restrictions or requirements placed on the event. The types of restrictions and requirements placed on an event will vary depending on the anticipated size and may include, but are not limited to, traffic routing, parking, security, sanitation facilities, garbage, first aid, limitations on amplified music and public address systems, insurance coverages, and maximum attendance.

(4) Enforcement. The City may suspend or revoke a cannabis event permit if the event organizer fails to comply with the conditions placed on the permit in any material way after being informed of the violation and the need to correct it. The City may deny issuing a permit to an event organizer that failed to comply with any cannabis event permit issued within the preceding three years.

(F) *Use in Public Places.* No person shall use cannabis flower, cannabis products, lower potency hemp edibles, or hemp-derived consumer products in a public place or a place of public accommodation unless the premises is an establishment or an event licensed by the OCM to permit on-site consumption.

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(G) Retail Registration.

(1) The City shall administer regulations for cannabis and lower-potency hemp edible retailer registration.

(2) Registration Required:

(a) No individual or entity may operate a state licensed cannabis or lower-potency hemp edible retail business within the City without first registering with the City.

(b) Any cannabis or lower-potency hemp edible retail business that sells to a customer or patient without valid retail registration shall incur a civil penalty of up to \$2,000.00 for each violation.

(3) Registrations Limited. The number of registered cannabis retail businesses within the City shall be limited in accordance with the following provisions, whichever is less:

(a) The City shall limit the number of cannabis retail businesses to no more than one (1) registration for every twelve thousand, five hundred (12,500) residents within the City; and,

(b) If Pipestone County has one (1) active cannabis retail businesses registration for every twelve thousand five hundred (12,500) residents, the City shall not register additional state-licensed cannabis retail businesses.

(4) Certification. Pursuant to Minnesota Statutes, Chapter 342, within thirty (30) days of receiving a copy of a state license application from the OCM, the City shall certify on a form provided by the OCM whether a proposed cannabis or lower-potency hemp edible retail business complies with the City's building code, fire code and zoning ordinance.

(5) Process. The City shall issue a retail registration to a cannabis or lower-potency hemp edible retail business that adheres to the requirements of Minnesota Statutes, section 342.22, subject to the following procedures:

(a) Fees. A registration fee, as established in the City's fee schedule, shall be required to be paid by an applicant depending on the type of retail cannabis or lower-potency hemp edible business state-issued license applied for in accordance with the following:

(i) An initial retail registration fee shall not exceed five hundred dollars (\$500) or one-half (1/2) the amount of an initial state license fee established by Minnesota Statutes, section 342.11, whichever is less.

(ii) A renewal retail registration fee shall not exceed one thousand dollars (\$1,000) or one-half (1/2) the amount of a renewal state license fee established by Minnesota Statutes, section 342.11, whichever is less.

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(iii) The initial registration fee shall include the initial retail registration fee and the first annual renewal fee; a renewal retail registration fee shall be charged at the time of the second renewal and each subsequent renewal thereafter.

(iv) A medical combination business operating an adult-use retail location shall only be charged a single registration fee, not to exceed the lesser of a single retail registration fee, defined by this section, of the adult-use retail business.

(v) The registration fee shall be not be refunded once processed in accordance with this Section.

(b) Application. An applicant for a cannabis or lower-potency hemp edible retail business registration shall submit an application form, as provided by the City to include, but is not limited to, the following information:

(i) Full name of the property owner and applicant.

(ii) Address, email address, and telephone number of the applicant.

(iii) The address and parcel identification number for the property which the retail registration is sought.

(iv) Certification that the applicant complies with the requirements of local ordinances established pursuant to Minnesota Statutes, section 342.13.

The applicant shall include with the form:

(i) The registration fee as required in by this Section.

(ii) A copy of a valid state license or written notice of OCM license preapproval;

(iii) Certification of compliance with workers compensation insurance coverage requirements pursuant to Minnesota statutes, section 176.182.

(iv) Certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the property to which the application relates.

(c) Complete Application. The application shall be considered as being officially submitted when the Zoning Administrator determines that there is compliance with all the information requirements. If an application is determined to be complete, the Zoning Administrator shall inform the applicant as such and process the registration fee. If an application is determined to be incomplete, the Zoning Administrator shall provide the applicant written notice within fifteen (15) business days of receipt of the request stating the information that must be submitted to complete the application.

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(6) Zoning Administrator Decision:

(a) The Zoning Administrator shall review the application and shall determine, in consultation with other City staff as may be appropriate, if the request for registration complies with all applicable provisions of this Section.

(b) An application for registration of a cannabis or lower-potency hemp edible retail business that meets the requirements of this ordinance shall be approved.

(c) The Zoning Administrator shall deny an application for registration of a cannabis or lower-potency hemp edible retail business if:

(i) The cannabis retail business would exceed the maximum number of registered cannabis retail businesses permitted under this Section.

(ii) The cannabis or lower-potency hemp edible retail business does not comply with the requirements of this Section.

(d) The Zoning Administrator shall provide the applicant and property owner with written notice of their decision regarding the application.

(e) Appeal of an application for a cannabis or lower-potency hemp edible retail business registration being denied may be appealed in accordance with City's Zoning Ordinance.

(7) Renewal. The City shall renew an annual registration of a cannabis or lower-potency hemp edible retail business at the same time Office of Cannabis Management renews the license in accordance with the procedure established by this Section.

(8) Location Change.

(a) A registered cannabis or lower-potency hemp edible retail business shall be required to submit a new application for registration under this Section if it seeks to move to a new location still within the City.

(b) A previously registered cannabis or lower-potency hemp edible retail business that seeks to change locations within the City shall be subject to the location requirements established by this ordinance.

(9) Transfer Prohibited. A cannabis or lower-potency hemp edible retail business registration issued in accordance with this Section shall not be transferred.

(10) Inspections and Compliance Checks.

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(a) Pre-Registration Compliance Check. Prior to issuance of a cannabis or lower-potency hemp edible retail business registration, the City shall conduct a preliminary compliance check to ensure compliance with the provisions of this Section.

(b) Annual Compliance Checks. The City shall complete at minimum of one (1) compliance check per calendar year of every registered cannabis or lower-potency hemp edible retail business to assess if said business meets age verification requirements, as required under Minnesota Statutes, section 342.22 Subd. 4(b); Minnesota Statutes, section 342.24; and this Section.

(c) The City shall conduct a minimum of one (1) unannounced age verification compliance check at least once (1) per calendar year.

(d) Age verification compliance checks shall involve persons at least seventeen (17) years of age but under the age of twenty-one (21) who, with the prior written consent of a parent or guardian if the person is under the age of eighteen (18) years, attempt to purchase adult-use cannabis flower, adult-use cannabis products, lower potency hemp edibles, or hemp-derived consumer products under the direct supervision of a law enforcement officer or an employee of City.

(e) Any compliance check failures by a cannabis or lower-potency hemp edible retail business under this Section shall be reported to the OCM.

(11) Suspension of Registration

(a) When Suspension is Warranted. The city may suspend a cannabis or lower-potency hemp edible retail business's registration if it violates this ordinance or poses an immediate threat to the health or safety of the public. The City shall immediately notify the business in writing the grounds for the suspension.

(b) Notification to OCM. The City shall immediately notify the OCM in writing the grounds for the suspension. The OCM will provide the city and the cannabis or lower-potency hemp edible retail business a response to the complaint within seven calendar days and perform any necessary inspections within 30 calendar days.

(c) Length of Suspension. The suspension of a cannabis or lower-potency hemp edible retail business registration may be for up to 30 calendar days, unless OCM suspends the license for a longer period. The business may not make sales to customers if their registration is suspended.

(d) The city may reinstate a registration if it determines that the violations have been resolved. The City shall reinstate a registration if OCM determines that the violation(s) have been resolved.

(e) Civil Penalties. Subject to Minnesota Statutes, section 342.22, subd. 5(e), the city may impose a civil penalty, as specified in the City's Fee Schedule, for registration violations, not to exceed \$2,000.

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§ 153.99 PENALTY.

(A) (1) Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including state statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

(2) Any person, firm, or corporation who violates any provision of this code, including state statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a fine of not more than \$300.

(3) In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

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(4) The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for violation.
(2005 Code, § 11.99)

(B) Every person who shall construct, establish, substantially change, alter, or repair any existing structure or use, or permit the growth of any tree without having complied with the provision of § 153.39, shall construct, establish, substantially change, or substantially alter or repair any existing growth or structure or permit the growth of any tree except as permitted by such permit or variance, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$300 or imprisonment for not more than 90 days, or by both. Each day a violation continues to exist shall constitute a separate offense. The Airport Zoning Administrator may enforce all provisions of § 153.39 through such proceedings for injunctive relief and other relief as may be proper under the laws of M.S. § 360.073, as it may be amended from time to time, and other applicable law.
(2005 Code, § 11.90)

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