TITLE XV: LAND USAGE

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CHAPTER 150: GENERAL PROVISIONS

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GENERAL PROVISIONS

§ 150.01 DEDICATION OF LAND FOR PUBLIC USE.

(A) *General dedications.* Pursuant to M.S. § 462.358, as amended from time to time, the city does hereby require that, in all plats of subdivisions to be developed for residential, commercial, industrial or other uses, or as a planned development which includes residential, commercial and industrial uses, or any combination thereof, a reasonable portion of any proposed subdivision be dedicated to the public or preserved for public use as streets, roads, sewers, electric, gas, and water facilities, storm water drainage and holding areas or ponds and similar utilities and improvements.

(B) *Park dedications.*

(1) The city also requires that a reasonable portion of any proposed subdivision be dedicated to the public or preserved for conservation purposes or for public use as parks, playgrounds, trails, wetlands or public open spaces.

(2) The city hereby finds that as a general rule, it is reasonable to require that an amount of land equal in value to 10% of the undeveloped land proposed to be subdivided, be dedicated or reserved to the public for public use for parks, playgrounds, trails, wetlands, or open space. Should the land required by the city be dedicated have a greater fair market land value than the average fair market land value of the land in the plat, then the city shall only be authorized to require dedication of an amount of land equal to 10% of the fair market land value of all property being platted.

(3) The city shall have the option of requiring a cash contribution in lieu of the land dedication set forth. Contributions shall be in amounts set by City Council from time to time.

(e) Exemption from requirements of this:

1. A church, school, local government building, club and other non-profit organization which carries on its activities in and is located and based in the city may be exempt from the requirements of this by action of the Council granting exemption.

2. If the property has been platted and a park dedication fee has been recorded against a parcel upon which a building permit is applied for because of any of the aforementioned, the park dedication requirement may be released without payment by action of the Council.

3. The exemption provided hereby as not applicable to any organization building a structure that is not actually based in the city and occupying and carrying on its activities in the structure.

(f) When land is being replatted or resubdivided, and the city has requested and received dedications previously, then no further dedication shall be required for those purposes. When the land has not previously provided dedications or if additional dedications are needed, in the city's sole determination, then those dedications shall be required with the replat or resubdivision. (When structures are constructed on property which has previously been platted and on which plat no park dedication in cash or land was given to the city, a park dedication fee in accordance with the schedules hereinbefore set forth shall be paid at the time the building permit is issued. If the park dedication has been previously satisfied at the time of platting in accordance with the requirements then in existence, then no further fee shall be levied.)

(g) Land to be dedicated shall be suitable for the public use, and the city shall be required to accept land which it determines would not be needed for public uses or which would require extensive expenditures on the part of the public to make them useable, or is otherwise unsuitable.

(h) The actual dedications of any land as provided in shall be made at the time of the platting and as part of the platting, and any cash payments made in lieu of the land dedications shall be due and payable prior to the time final approval of the plat is given by the Council. However, at the request of any party submitting a plat, the Council at its exclusive discretion may determine the amount of cash payment required to be made of the developer at the time of final plat approval, and may enter into a contractual agreement with the developer to allow the payment to be deferred until a building permit or permits are issued for the lots in said plat. Any such deferment shall be in accordance with the provisions of a contract, the form of which shall be approved by the City Council, which shall designate the amount to be paid in lieu of park dedication for each specific lot in the plat. (Should the ultimate density originally presumed to be greater than the density originally presumed to determine the amount to be paid, the amount will be recomputed based on the actual density and the amount will be paid at the time of building permit issuance.)

(C) *Effective date.* This section shall be in force and effect from and after its passage and publication. (Ord. 84, passed 7-27-1994)

ADOPTED CODES

§ 150.15 MINNESOTA STATE BUILDING CODE.

(A) The Minnesota State Building Code, as adopted by the Commissioner of Administration pursuant to M.S. Ch. 16B.59 to 16B.75, as amended from time to time, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Administration, through the Building Codes and Standards Division is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this section. The Minnesota State Building Code is hereby incorporated in this section as if fully set out herein.

(B) (1) The application, administration, and enforcement of the code shall be in accordance with Minnesota State Building Code. The code shall be enforced within the extraterritorial limits permitted by M.S. § 16B.62, Subdivision 1, as amended from time to time, when so established by this section.

(2) This code shall be enforced by the Minnesota Certified Building Official designated by this municipality to administer the code.
(M.S. § 16B.65, Subdivision 1)

(3) The code enforcement agency of this municipality is called the building official for the city.

(C) (1) The issuance of permits and the collection of fees shall be as authorized in M.S. § 16B.62, Subdivision 1, as amended from time to time.

(2) Permit fees shall be assessed for work governed by this code. All such fees shall be set by Resolution of the City Council. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with M.S. § 16B.70, as amended from time to time.

(D) A violation of the code is a misdemeanor, as per M.S. § 16B.69, as amended from time to time.

(E) (1) The Minnesota State Building Code, established pursuant to M.S. §§ 16B.59 to 16B.75, as amended from time to time, allows the municipality to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code.

(2) The following optional provisions identified in the most current edition of the State Building Code are hereby adopted and incorporated as part of the building code for this municipality:

(a) Chapter 1306, Special Fire Protection Systems;

(b) Chapter 1335, Floodproofing Regulations, parts 1335.0600 to 1335.1200; and

(c) Appendix Chapter K (Grading), of the 2001 Supplements to the International Building Code.

(F) This section becomes effective from and after its passage and publication.
(Ord. 113, passed 4-14-2003)

§ 150.99 PENALTY.

Any person violating any provision of this chapter for which no specific penalty is provided shall be subject to § 10.99.

CHAPTER 151: FLOOD PLAIN MANAGEMENT

Section

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GENERAL PROVISIONS

§ 151.001 STATUTORY AUTHORIZATION.

The legislature of the state has, in M.S. Ch. 103(F) and M.S. Ch. 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council does ordain as follows.
(Ord. 150, passed 8-10-2009)

§ 151.002 FINDINGS OF FACT.

(A) The flood hazard areas of the city are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) *Methods used to analyze flood hazards.* This chapter is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

(C) *National Flood Insurance Program compliance.* This chapter is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 C.F.R. parts 59-78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
(Ord. 150, passed 8-10-2009)

§ 151.003 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize those losses described in § 151.002 (A) by provisions contained herein.
(Ord. 150, passed 8-10-2009)

§ 151.004 LANDS TO WHICH ORDINANCE APPLIES.

This chapter shall apply to all lands within the jurisdiction of the city shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the General Floodplain District.
(Ord. 150, passed 8-10-2009)

§ 151.005 ESTABLISHMENT OF OFFICIAL ZONING MAP.

The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this chapter. The attached material shall include the Flood Insurance Study for Goodhue County, Minnesota and incorporated areas and the Flood Insurance Rate Map Panels therein numbered 27049C0516E and 27049C0517E, both dated September 25, 2009, and prepared by the Federal Emergency Management Agency. The Official Zoning Map shall be on file in the Office of the City Clerk and the City Administrator.
(Ord. 150, passed 8-10-2009)

§ 151.006 REGULATORY FLOOD PROTECTION ELEVATION.

The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increase in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.
(Ord. 150, passed 8-10-2009)

§ 151.007 INTERPRETATION.

(A) In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(B) The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100 year) flood profile, the ground elevations that existed on the site at the time the community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the 100 year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.
(Ord. 150, passed 8-10-2009)

§ 151.008 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.
(Ord. 150, passed 8-10-2009)

§ 151.009 WARNING AND DISCLAIMER OF LIABILITY.

This chapter does not imply that areas outside the floodplain district or land uses permitted within such district will be free from flooding or flood damage. This chapter shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.
(Ord. 150, passed 8-10-2009)

§ 151.010 DEFINITIONS.

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

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

BASEMENT. Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

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.

FLOOD. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

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

FLOOD FRINGE. That portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term ***FLOODWAY FRINGE*** used in the Flood Insurance Study for Goodhue County, Minnesota and Incorporated Areas.

FLOODPLAIN. The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

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

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

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement).

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."

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

PRINCIPAL USE or ***STRUCTURE.*** All uses or structures that are not accessory uses or structures.

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 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. For the purposes of this chapter, the term ***RECREATIONAL VEHICLE***

shall be synonymous with the term “travel trailer/travel vehicle.”

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in Minnesota 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 a flood insurance study.

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

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in § 151.082 (A) of this chapter and other similar items.

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% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Within any consecutive 365 day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) 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.

(2) Any alteration of an historic structure, provided that the alteration will not preclude the structure’s continued designation as an historic structure. For the purpose of this chapter, ***HISTORIC STRUCTURE*** shall be as defined in 44 C.F.R., part 59.1.

VARIANCE. A modification of a specific permitted development standard required in an official control including this chapter to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation. (Ord. 150, passed 8-10-2009)

§ 151.011 ANNEXATIONS.

The Flood Insurance Rate Map panels adopted by reference into § 151.005 above may include floodplain areas that lie outside of the corporate boundaries of the city at the time of adoption of this

chapter. If any of these floodplain land areas are annexed into the city after the date of adoption of this chapter, the newly annexed floodplain lands shall be subject to the provisions of this chapter immediately upon the date of annexation into the city.
(Ord. 150, passed 8-10-2009)

ESTABLISHMENT OF ZONING DISTRICTS

§ 151.025 GENERAL FLOODPLAIN DISTRICT (GFD).

The General Floodplain District shall include those areas designated as Zone A, Zone AE, Zone A0, or Zone AH on the Flood Insurance Rate Map adopted in § 151.005. The General Floodplain District shall be considered an overlay zoning district to all existing land use districts in this community. The uses permitted in § 151.026 below shall only be allowable if not prohibited by any existing underlying zoning district regulations of the community. The requirements of this chapter shall apply in addition to other legally established regulations of the community and where this chapter imposes greater restrictions, the provisions of this chapter shall apply.
(Ord. 150, passed 8-10-2009)

§ 151.026 PERMITTED USES IN GENERAL FLOODPLAIN DISTRICT.

(A) The following uses shall be permitted uses in both the floodway and flood fringe portions of the General Floodplain District provided they do not involve structures, fill, obstructions, excavations or storage of materials or equipment:

(1) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

(2) Industrial-commercial loading areas, parking areas, and airport landing strips.

(3) Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trials.

(4) Residential lawns, gardens, parking areas, and play areas.

(B) All uses that would involve structures, fill obstructions, excavations or storage of materials or equipment shall only be permissible in the flood fringe portion of the General Floodplain District and shall: 1) be subject to

the floodway flood fringe evaluation criteria pursuant to § 151.027 below; and 2) be subject to the performance standards of § 151.040 of this chapter.
(Ord. 150, passed 8-10-2009)

§ 151.027 FLOODWAY/FLOOD FRINGE DETERMINATIONS IN GFD.

(A) Upon receipt of an application for a permit or other approval for a use within the General Floodplain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the floodway or flood fringe:

(1) A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.

(2) Plan (surface view) showing elevations or contours of the ground, pertinent structures, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.

(3) Photographs showing existing land uses, vegetation upstream and downstream, and soil types.

(4) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

(B) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe and to determine the regulatory flood protection elevation. If a 100 year flood elevation is provided in the Flood Insurance Study adopted in § 151.005 of this chapter, then this elevation must be used in calculating the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations, Parts 6120.5000 - 6120.6200 and 44 C.F.R., Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

(1) Estimate the peak discharge of the regional flood;

(2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas; and

(3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

(C) The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the governing body. The governing body must formally accept the technical evaluation and the recommended floodway and/or flood fringe boundary or deny the permit application. The governing body, prior to official action, may submit the application and all supporting data and

analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the floodway and flood fringe boundaries have been determined, the governing body shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of §§ 151.025 - 151.028 and § 151.040 of this chapter. (Ord. 150, passed 8-10-2009)

§ 151.028 COMPLIANCE.

No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter. Within the floodway and flood fringe portions of the General Floodplain District, all uses not listed as a permitted use in § 151.026 shall be prohibited. In addition, a caution is provided here that:

(A) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this chapter and specifically §§ 151.080 - 151.082;

(B) Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this chapter and specifically § 151.110; and

(C) As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this chapter.
(Ord. 150, passed 8-10-2009)

FLOOD FRINGE

§ 151.040 STANDARDS FOR FLOOD FRINGE PERMITTED USES.

Permitted uses involving structures, fill, obstructions, excavations or storage of materials or equipment shall be subject to the following standards:

(A) All structures, including accessory structures, additions to existing structures and manufactured homes, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood

protection elevation. The finished fill elevation for structures shall be no lower than one foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon.

(B) The cumulative placement of fill where at any time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only when said fill is specifically intended to elevate a structure in accordance with § 151.040(A) of this chapter.

(C) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

(D) All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

(E) *Commercial uses.* Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times the velocity (in feet per second) the product number exceeds four upon occurrence of the regional flood.

(F) *Manufacturing and industrial uses.* Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in § 151.040 (E) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

(G) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100 year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(H) Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

(I) Standards for recreational vehicles are contained in § 151.082.

(J) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
(Ord. 150, passed 8-10-2009)

SUBDIVISIONS

§ 151.050 LAND SUITABILITY REVIEW CRITERIA.

No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the General Floodplain District shall be able to contain a building site outside of the floodway at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this chapter and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the floodplain, the floodway and flood fringe boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.
(Ord. 150, passed 8-10-2009)

§ 151.051 FLOODWAY/FLOOD FRINGE DETERMINATIONS IN THE GFD.

In the General Floodplain District, applicants shall provide the information required in § 151.027 of this chapter to determine the 100 year flood elevation, the floodway and flood fringe boundaries and the regulatory flood protection elevation for the subdivision site.
(Ord. 150, passed 8-10-2009)

§ 151.052 REMOVAL OF SPECIAL FLOOD HAZARD AREA DESIGNATION.

The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100 year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
(Ord. 150, passed 8-10-2009)

PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES

§ 151.065 PUBLIC UTILITIES.

All public utilities and facilities such as gas, electric, sewer, and water supply systems to be located in the floodplain shall be flood proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.
(Ord. 150, passed 8-10-2009)

§ 151.066 PUBLIC TRANSPORTATION FACILITIES.

Railroad tracks, roads, and bridges to be located within the General Floodplain District shall be permissible if placed in accordance with Minnesota Regulations, Parts 6120.5000 - 6120.6200. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
(Ord. 150, passed 8-10-2009)

§ 151.067 ON-SITE SEWAGE TREATMENT AND WATER SUPPLY SYSTEMS.

Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this section.
(Ord. 150, passed 8-10-2009)

MANUFACTURED HOMES/TRAVEL TRAILERS AND TRAVEL VEHICLES

§ 151.080 NEW MANUFACTURED HOME PARKS.

New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by § § 151.050 - 151.052 of this chapter.
(Ord. 150, passed 8-10-2009)

§ 151.081 REPLACEMENT MANUFACTURED HOMES - EXISTING PARKS.

(A) The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed

only if elevated in compliance with § 151.040 of this chapter. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with § 151.040(D), then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the governing body.

(B) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
(Ord. 150, passed 8-10-2009)

§ 151.082 RECREATIONAL VEHICLES.

Recreational vehicles that do not meet the exemption criteria specified in § 151.082(A) below shall be subject to the provisions of this chapter and as specifically spelled out in § 151.082(C) - (D) below.

(A) *Exemption.* Recreational vehicles are exempt from the provisions of this chapter if they are placed in any of the areas listed in § 151.082(B) below and further they meet the following criteria:

(1) Have current licenses required for highway use;

(2) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it; and

(3) The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

(B) Areas exempted for placement of recreational vehicles are:

(1) Individual lots of parcels of record.

(2) Existing commercial recreational vehicle parks or campgrounds.

(3) Existing condominium type associations.

(C) Recreational vehicles exempted in § 151.082(A) lose this exemption when development occurs on the parcel exceeding $500 for a structural addition to the recreational vehicle or exceeding $500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation requirements and the use of land

restrictions specified in §§ 151.025 - 151.028 and § 151.040 of this chapter. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

(D) New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five units or dwelling sites shall be subject to the following:

(1) Any new or replacement recreational vehicle will be allowed in the General Floodplain District provided the recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with § 151.040(D) of this chapter. No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100 year or regional flood.

(2) All new or replacement recreational vehicles not meeting the criteria of § 151.082(D)(1) above may, as an alternative, be allowed if in accordance with the following provisions. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. This plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of § 151.082(A)(1)-(2) of this chapter will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with § 151.067 of this chapter.
(Ord. 150, passed 8-10-2009)

ADMINISTRATION

§ 151.100 ZONING ADMINISTRATOR.

A Zoning Administrator or other official designated by the governing body shall administer and enforce this chapter. If the Zoning Administrator finds a violation of the provisions of this chapter, the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in § 151.999 of this chapter.
(Ord. 150, passed 8-10-2009)

§ 151.101 PERMITS, CERTIFICATION REQUIREMENTS AND RECORD KEEPING.

(A) *Permit required.* A permit issued by the Zoning Administrator in conformity with the provisions of this chapter shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance

and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

(B) *Application for permit.* Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

(C) *State and federal permits.* Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.

(D) *Certificate of zoning compliance for a new, altered, or nonconforming use.* It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this chapter.

(E) *Construction and use to be as provided on applications, plans, permits, variances and certificates of zoning compliance.* Permits or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter, and punishable as provided by § 151.999 of this chapter.

(F) *Certification.* The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this chapter. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

(G) *Record of first floor elevation.* The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.

(H) *Notifications for watercourse alterations.* The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to M.S. Ch. 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of the notification shall also be submitted to the Chicago Regional Office of the

Federal Emergency Management Agency (FEMA).

(I) *Notification to FEMA when physical changes increase or decrease the 100 year flood elevation.* As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the technical or scientific data.
(Ord. 150, passed 8-10-2009)

§ 151.102 APPEALS AND VARIANCES/DUTIES OF THE BOARD OF ADJUSTMENT.

(A) *Rules.* The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on the Boards by state law.

(B) *Administrative review.* The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this chapter.

(C) *Variances.* The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this chapter as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this chapter, any other zoning regulations in the community, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

(1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;

(2) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) 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; and

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(D) *Hearings.* Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board of Adjustment shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board of Adjustment shall submit by mail

to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

(E) *Decisions.* The Board of Adjustment shall arrive at a decision on such appeal or variance within 30 days. In passing upon an appeal, the Board of Adjustment may, so long as such action is in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board of Adjustment may prescribe appropriate conditions and safeguards which are in conformity with the purposes of this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter punishable under § 151.999. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten days of such action.

(F) *Appeals.* Appeals from any decision of the Board of Adjustment may be made, and as specified in this community's official controls and also by Minnesota Statutes.

(G) *Flood insurance notice and record keeping.* The Zoning Administrator shall notify the applicant for a variance that: 1) 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 2) Such construction below the 100 year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.
(Ord. 150, passed 8-10-2009)

§ 151.103 AMENDMENTS.

(A) The floodplain designation on the Official Zoning Map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he or she determines that, through other measures, lands are adequately protected for the intended use.

(B) All amendments to this chapter, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) technical conditions and criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten days written notice of all hearings to consider an amendment to this chapter and the notice shall include a draft of the chapter amendment or technical study under consideration.
(Ord. 150, passed 8-10-2009)

§ 151.110 NONCONFORMING USES.

A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions. Historic structures, as defined in § 151.010 of this chapter, shall be subject to the provisions of § 151.110 (A) - (E) of this chapter.

(A) No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.

(B) Any structural alteration to a nonconforming structure or nonconforming use in the floodway or flood fringe which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the flood proofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in divisions (C) and (F) below. A structural addition to a non conforming structure must be located outside of the floodway and must be elevated on fill to the regulatory flood protection elevation in accordance with § 151.040(A) of this chapter.

(C) The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50% of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50% of the market value of the structure, then the structure must be located outside of the floodway and must meet the standards of § 151.040 of this chapter for new structures.

(D) If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this chapter. The Assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses that have been discontinued for a period of 12 months.

(E) If any nonconforming use or structure is substantially damaged, as defined in § 151.010 of this chapter, it shall not be reconstructed except in conformity with the provisions of this chapter. The applicable provisions for establishing new uses or new structures in §§ 151.025 - 151.028 and § 151.040 of the chapter will apply depending upon whether the use or structure is in the floodway or flood fringe portion of the General Floodplain District. A substantially damaged nonconforming structure shall not be repaired/reconstructed if the nonconforming structure is located in the floodway.

(F) If a substantial improvement occurs, as defined in § 151.010 of this chapter, from any combination of a structural addition to the outside dimensions of the existing structure or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming structure, then the structural addition and the existing nonconforming structure must meet the requirements of § 151.040 of this chapter for new structures, depending upon whether the structure is in the floodway or flood fringe portion of the General Floodplain District. A nonconforming structure shall not be substantially improved if the structure is located in the

floodway.
(Ord. 150, passed 8-10-2009)

§ 151.999 PENALTY.

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

(B) Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

(1) In responding to a suspected ordinance violation, the Zoning Administrator and local government 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 availability to the guilty party. The community 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.

(2) When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the community's plan of action to correct the violation to the degree possible.

(3) The Zoning Administrator shall notify the suspected party of the requirements of this chapter and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the community. If the construction or development is already completed, then the Zoning Administrator may either: 1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or 2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.

(4) If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this chapter and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this chapter.
(Ord. 150, passed 8-10-2009)

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CHAPTER 152: ZONING CODE

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GENERAL PROVISIONS

§ 152.01 SHORT TITLE.

This chapter from the date of its adoption shall be known as the "Wanamingo Zoning Ordinance." (Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.02 PURPOSE.

The purpose of this chapter is to promote the public health, safety, morals and general welfare of the people of the city and to protect agricultural land and to regulate the location, height, bulk, number of stories, size of buildings and structures, building coverage, the size of yards and open spaces, the density and distribution of population and the use of buildings and land, and provide for administration, enforcement and amendment thereof. (Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.03 LEGAL AUTHORITY.

This chapter is enacted pursuant to M.S. § 462, as amended from time to time.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.04 SCOPE.

This chapter shall be in effect in all areas lying within the city limits.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.05 COMPLIANCE.

No structure located within the city shall be erected or altered which does not comply with the regulations of this chapter, nor shall any structure or premises be used for any purpose other than a use permitted by this chapter. Permits for change are required.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.06 ABROGATION AND GREATER RESTRICTIONS.

(A) This chapter supersedes all provisions of any city zoning type ordinances including Ord. 44 and 68, except Ord. 58 relating to floodplain management.

(B) It is not otherwise intended by this chapter to repeal, abrogate, or impair any existing deed restrictions or ordinances other than zoning, however, in instances where these regulations are in conflict with another ordinance, the more restrictive regulation governs.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.07 DEFINITIONS.

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

ACCESSORY USE OR BUILDING. A subordinate building or structure detached from the principal building located on the same land and customarily incidental and subordinate to the principal building or use.

AGRICULTURE. The use of land for the purpose of growing food or fiber including farming, horticulture, pasturage, floriculture, viticulture, dairying and the necessary accessory uses for packing, treating and storage of products; provided however that the operation of any such accessory uses shall be secondary to that of the normal agricultural activity.

BUILDING. Any structure having a roof supported by columns or walls. When separated by division columns or walls without openings, each portion of the building shall be deemed a separate building.

BUILDING, HEIGHT OF. The vertical distance measured from the curb level to the highest point of the roof structure if a flat roof, to the deck line of mansard roofs, and the mean height level between eaves and ridge for gable, hip and gambrel roofs. For a building on a sloped or uneven site, the vertical distance of the building shall be measured from the average of the finished grade of the 4 outer corners of the building to the highest point of the roof.

CHURCH. A building or place used primarily for worship.

CONDITIONAL USE. A use or development of land as specified herein that would not be generally permitted but which may be allowed with appropriate restrictions and requirements deemed necessary by Council to assure compatibility with the site and the surrounding area.

CONDOMINIUM. A multi-unit building or place whereby the fee title to each unit is held independently of the others.

DISTRICT. A zoning district as depicted on the Zoning Map and regulated by provisions of this chapter.

DWELLING. A building or portion thereof, designed or used exclusively for residential occupancy but not including a motel, hotel, boarding house or lodging house.

ENERGY PRODUCTION. A set of devices whose primary purpose is to collect energy and convert (and possibly store) it into electric power by means of any combination of collecting, transferring, or converting energy.

FAMILY. Any number of individuals, related by blood, marriage or extended occupancy living together on the premises or in a single housekeeping unit, as distinguished from a person or group of persons occupying a motel, hotel, boarding house or lodging house.

FARM. Land used for the production of agricultural products.

FLOOR AREA RATIO (FAR). Total floor area of buildings divided by the property or site lot area and stated as a ratio.

GARAGE. An accessory building primarily for the storage or repair of self-propelled vehicles.

HOME. A dwelling or residence intended for occupancy by a family.

HOME, GROUP. A dwelling occupied by unrelated individuals, including the infirmed for care but not medical treatment, functioning as a single housekeeping unit.

MANUFACTURED HOME and ***MANUFACTURED BUILDING.*** The general term meaning a structure, transportable in 1 or more sections, which in the traveling mode, is 8 body feet or more in width or 40 or more feet 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 including the plumbing, heating, air conditioning and electrical systems contained therein: except that the term includes any structure which meets all of the requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development or the authorized agent or successor thereof, and complies with the standards established in the Minnesota Statutes, as amended. This general definition includes structures commonly knows as ***MOBILE HOMES***, as well as ***MANUFACTURED BUILDINGS*** built without a chassis and designed only for erection on permanent foundation and which possess roof lines such as conventional homes and buildings.

LAND. Property that can be legally described and conveyed as parcel, lot or block.

OVERLAY DISTRICT. Special regulations, as established by Council within an established District of this chapter.

RESIDENCE WIDTH MINIMUM. The minimum width of a major component of a residence.

SCHOOL. A building or place, public or private, used primarily for the educational activity of teaching.

SIGN. A name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public and which directs attention to a product, activity, person or institution.

SIGN, ADVERTISING. A sign which directs attention to a product, activity, person or institution which is not located on the lot or parcel of land where the sign is located.

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

UTILITY BUILDING. An accessory building or structure normally used in a residential zoning district for storage purposes.

YARD. A required open space of an owned lot or parcel devoted to lawn, ornamental landscaping, screen planting, fences, patios and similar appurtenances and permitted signs exclusive of buildings or parking lots. (Ord. 107B, passed 12-9-2002; Am. Ord. 118, passed 8-11-2003; Am. Ord. 143, passed 5-12-2008; Am. Ord. 148, passed 8-10-2009; Am. Ord. 177, passed 2-13-2017)

§ 152.08 OFFICIAL ZONING MAP.

(A) The boundaries of districts are established by this chapter are shown on the map entitled "Zoning Map." A permanent and updated copy of the Zoning Map is filed in the office of the City Administrator-Clerk/Treasurer.

(B) Boundaries between districts are, unless otherwise indicated, the center lines of highways, roads, streets, alleys, railroad right-of-way or such lines extended or lines parallel or perpendicular thereto, or section, half-section, quarter-section or platted as ownership lines.

(C) General limits of the overlay GFD, General Floodplain District are shown on the Zoning Map or as further determined by the Zoning Administrator.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.09 VALIDITY.

Should a court of competent jurisdiction declare any part of this chapter to be invalid, such decision shall not effect the validity of the remainder.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.10 EFFECTIVE DATE.

This chapter shall be in full force and effect upon due passage and publication in the manner provided by law.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

ZONING DISTRICTS

§ 152.25 GENERALLY.

For purposes of this chapter, the city may be divided into districts as follows:

(A) R-A, Agricultural District;

(B) R-1, Single Family Residential District;

(C) R-2, Single Family Residential District;

(D) R-3, Multi-Family Residential District;

(E) C-1, Central Commercial District;

(F) C-2, Highway Commercial District;

(G) I-1, Industrial District;

(H) I-2, Industrial Park District; and

(I) GFD, General Floodplain District (Overlay District).
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.26 R-A AGRICULTURAL DISTRICT.

(A) *Purpose.* To recognize a district that is best suited for the production of farm commodities; prevent scattered, non-farm development and encourage orderly development.

(B) *Permitted uses.*

(1) Agriculture, except commercial raising of animals and mechanical grain drying;

(2) One family detached dwellings on lands unsuited for agriculture;

(3) Public parks and recreation areas; and

(4) Golf courses, except club houses.

(C) *Permitted accessory uses.*

(1) Private garage;

(2) Private swimming pool;

(3) The keeping of not more than 2 boarders or roomers;

(4) Living quarters of persons employed on the premises; and

(5) Accessory uses and buildings customarily incident to use.

(D) *Conditional uses.*

(1) Planned Residential Development (PRD);

(2) Public services facilities relating to public water and sewer;

(3) Golf club house, country club and public swimming pool;

(4) Churches, schools;

(5) Railroad rights-of-way not including yards or shops;

(6) Nurseries and greenhouses not including retail sales;

(7) Cemetery and memorial gardens; and

(8) Energy production.

(E) In the event a platted lot of record at the time of this chapter contains more than 1 dwelling unit, the number of existing units continue to be permitted for the life of the present building.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.27 R-1 SINGLE FAMILY RESIDENTIAL DISTRICT.

(A) *Purpose.* This district is intended to provide low density residential area in areas served by public sewer and water and to accommodate use of low density residential areas within the early development portions of the city.

(B) *Permitted principal uses.*

(1) One family dwellings; and

(2) Golf courses, except club houses.

(C) *Permitted accessory uses.* Uses customarily incidental to permitted uses.

(D) *Conditional uses.*

(1) Planned Residential Development (PRD);

(2) Mobile Home Residential Development;

(3) Two-family dwellings only in the event the lot size is at least 25% in area, more than the minimum lot size requirement;

(4) Church; and

(5) Energy production.

(E) *Exemption.* Same as for R-A District.
(Ord. 107B, passed 12-9-2002; Am. Ord. 122, passed 2-14-2005; Am. Ord. 177, passed 2-13-2017)

§ 152.28 R-2 SINGLE FAMILY RESIDENTIAL DISTRICT.

(A) *Purpose.* This district is intended to provide low density residential areas in areas served by public sewer and water in areas not located within the early development portions of the city.

(B) *Permitted uses.* The purpose, permitted uses, conditional uses and exceptions are the same for the R-1 Single Family Residence Use District except that this district requires larger lot sizes and larger minimum dimensional requirements.

(C) *Exemption.* Same as for R-A District.
(Ord. 107B, passed 12-9-2002; Am. Ord. 122, passed 2-14-2005; Am. Ord. 177, passed 2-13-2017)

§ 152.29 R-3 MULTI-FAMILY RESIDENTIAL DISTRICT.

(A) *Purpose.* The major purpose of this district is to allow low-density multi-family dwellings (up to 16 units per acre) including apartments and townhouses in appropriate areas of the city.

(B) *Permitted uses.*

(1) Single-family residential units;

(2) Duplexes;

(3) Townhouses;

(4) Apartments;

(5) Condominiums;

(6) Public recreation including parks and playgrounds;

(7) Signs, subject to standards in § 152.51;

(8) Essential services, including telephone, cable, power lines, and necessary appurtenant equipment and structures; and

(9) Churches, chapels, temples, and synagogues.

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

(D) *Conditional uses.*

(1) Public and private schools;

(2) Cemeteries, memorial gardens, and funeral homes;

(3) Boarding or rental or rooms with a maximum of 1 roomer per unit;

(4) Group homes;

(5) Home occupations;

(6) Planned residential development; and

(7) Energy production.

(E) *Performance standards.*

(1) *Front yard regulations.*

Required Setback Distances	
Required Right-of-Way	***Road Classification***
70 ft.	State Highway
30 ft.	County Road
30 ft.	City Street

(2) *Side and rear yard regulations.*

Minimum side yard	6 ft.
Minimum rear yard	25 ft.

(3) *Lot area and density standards*

Minimum lot area for each multi-family dwelling	10,000 sq. ft.
Minimum lot area for each townhouse project	1 acre
Minimum density	16 units per acre

(4) *Minimum floor area.*

Multi-Family Dwellings of 3 or More Families	
Efficiency	500 sq. ft.
1 Bedroom	600 sq. ft.
2 Bedroom	750 sq. ft.
3 Bedroom	1,000 sq. ft.
Each additional bedroom requires	250 sq. ft. of additional min. floor area

Single-Family Dwellings	
One Story With Basement	850 sq. ft.
One Story Without Basement	1,000 sq. ft.
Split Level	960 sq. ft.
Split Entry	816 sq. ft.

(5) *General requirements.* Additional requirements for parking, signs, and other regulations are set for in §§ 152.50 *et seq*.
(Ord. 107B, passed 12-9-2002; Am. Ord. 143, passed 5-12-2008; Am. Ord. 177, passed 2-13-2017)

§ 152.30 C-1 CENTRAL COMMERCIAL DISTRICT.

(A) *Purpose.* To provide a centrally located district for retail sales, business and personal services, business and professional offices, specialized businesses depending on high volume of pedestrian traffic and convenience for multiple visit and use of commercial places.

(B) *Permitted principal uses.* Amusement establishments, apparel shops, bakeries and confectionery shops, banks and financial institutions, blueprinting and copying, catering, club and lodge halls,

department stores, dry cleaning, employment agencies, entertainment establishments, food stores, furniture stores, fraternal and charitable institutions, furriers, garages for the storage or service of motor vehicles, general retail sale, home repair, hotels and motels, hardware stores, laboratories, laundries, locksmith shops, offices, office supply stores, medical and dental supply stores, parking and loading lots, pawn shops, pet shops, photography studios, physical and health services, public utility structures, rental agencies, sports centers, taverns, ticket agencies, travel bureaus and variety stores.

(C) *Permitted accessory uses.*

(1) Off-street parking and loading;

(2) Signs; and

(3) Other uses customarily incidental to permitted uses.

(D) *Conditional uses.*

(1) Other commercial uses of the same general character;

(2) Car wash establishments;

(3) New and used automobile dealers;

(4) Automobile service stations with minor services;

(5) Drive-in restaurants;

(6) Multiple dwellings; and

(7) Energy production.

(E) *Limitations and conditions on uses.*

(1) Except for a hotel or motel building, multiple dwelling units and rooming units shall be permitted on the second or higher floors and on the first floor of a building provided the building contains commercial store frontage of at least 400 square feet on the first floor.

(2) Artificial lighting (glare) shall be directed away from nearby residential districts.

(3) An awning, canopy or marquee protruding from a building may extend over a public walkway a maximum of 10 feet but not to within 2 feet of any curb line.

(4) The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area so as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.

(5) All surfaces for drives, vehicular circulation, and/or parking shall be paved with bituminous, concrete, or acceptable impervious materials.
(Ord. 107B, passed 12-9-2002; Am. Ord. 132, passed 2-13-2006; Am. Ord. 163, passed 6-10-2013; Am. Ord. 177, passed 2-13-2017; Am. Ord. 180, passed 6-12-2017)

§ 152.31 C-2 HIGHWAY COMMERCIAL DISTRICT.

(A) *Purpose.* To provide a district adjacent to a major arterial street for businesses providing services to the motoring public and surrounding residential neighborhoods.

(B) *Permitted principal uses.* Automobile service stations, automobile car wash establishments, bowling alleys, roller skating rinks or sports centers, hotels, motels, drive-in theaters, restaurants, banks and retail stores, miniature golf courses, offices, restaurants, cafes or taverns, telephone booths, trailer and marine sales, and vending machines.

(C) *Permitted accessory uses.*

(1) Accessory uses customarily incident to permitted use;

(2) Off-street parking and loading; and

(3) Signs.

(D) *Conditional uses.* Other commercial uses of the same general character including energy production.

(E) *Special limitations and conditions on uses.*

(1) Automobile service stations:

(a) No buildings or structures, permanent or temporary, driveway surfaces, parking areas, advertising devices or other similar site improvement except: driveways traversing a public road boulevard, shall be located within 110 feet of any part of a Residential District.

(b) Automobile service station sites shall not have less than 120 feet of frontage to or from which access or egress at 2 or more locations is possible or not less than 100 feet if there is only 1 or no point of access.

(c) Pump islands shall be set back not less than 15 feet from any street right-of-way line and not less than 25 feet from any non-street property line and not less than 50 feet from any Residence District.

(d) Hydraulic hoists, pits and all lubrication, greasing, washing, repair and diagnostic equipment shall be used and enclosed within a building.

(e) Interior curbs of not less than 6 inches in height shall be constructed to separate driving surfaces from sidewalks, landscaped areas and street traveled ways.

(f) All driving surfaces shall be constructed and maintained in the same manner as prescribed for parking lots.

(2) Automobile car wash establishments:

(a) Automobile car wash establishments shall be subject to the same limitations and conditions as are specified for automobile service stations.

(b) Sufficient off-street area to provide space for automobiles waiting to be serviced shall be provided.

(c) All wash water disposal shall conform to all applicable ordinances and shall be designed so as not to adversely effect any sewer system.

(3) Drive-in restaurants shall be subject to the same limitations and conditions as specified for automobile service stations.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.32 I-1 INDUSTRIAL DISTRICT.

(A) *Purpose.* This district is intended and designed to accommodate large, relatively self-contained and isolated area intended to be used for industrial activities whose potential nuisance or hazard generation is moderately low.

(B) *Permitted principal uses.*

(1) Any use permitted in the I-2 Industrial Park District; and

(2) Any other industrial use not in conflict with § 90.02 defining and regulating nuisances and not listed as a conditional use or prohibited use in this district.

(C) *Permitted accessory uses.* Industrial or business buildings and structures for a use accessory to the principal permitted use or permitted conditional use.

(D) *Conditional uses.*

(1) Any use permitted within the C-1 Central Commercial District; and

(2) Any use listed as a conditional use in the I-2 Industrial Park District.

(E) *Prohibited uses.* Any uses that engage in activities that may result in intrusions such as glare, vibration, or noise, and emissions of odor, gases, fumes, smoke, dust, or other noxious particulate matter including toxic materials that are deemed to be adverse to the purpose as stated within the general provisions of this chapter.

(F) *Limitations and conditions on uses.* The intrusions and omissions described in division (E) of this section that are not deemed to be adverse to the purpose as stated within the general provisions of this chapter must nevertheless not exceed the standards set by the Minnesota Pollution Control Agency.
(Ord. 107B, passed 12-9-2002; Am. Ord. 133, passed 5-8-2006; Am. Ord. 177, passed 2-13-2017)

§ 152.33 I-2 INDUSTRIAL PARK DISTRICT.

(A) *Purpose.* This district is intended and designed to provide an environment suitable for mixed commercial, light industrial, and warehouse development. The overall character of this district is intended to have an office/warehouse character with uses that do not create appreciable nuisances or hazards, or that will provide a pleasant, nuisance and hazard free environment. It is intended that the permitted uses be compatible and not detrimental to adjacent properties.

(B) *Permitted principal uses.*

(1) Fuel sales and service stations, to include accessory retail sales and food services uses, which are fully contained within the principal use structure;

(2) Auto-oriented businesses including auto repair establishments, auto washes, servicing of motor freight vehicles and heavy construction equipment with directly related accessory materials and parts sales for such repair and servicing (not including new or used vehicle sales), and accessory materials and parts warehousing which is related to and dependent upon such uses;

(3) Professional offices;

(4) Building materials/products sales;

(5) Cartage and express facilities;

(6) Government and public utility buildings and structures;

(7) Radio and television stations and studios;

(8) Transportation terminals;

(9) Warehousing and storage facilities;

(10) Wholesale business and office establishments;

(11) Commercial printing and publishing establishments;

(12) Light industrial including manufacturing, compounding, assembling, processing, packaging, treatment, or storage of products and materials uses, except waste materials, not in conflict with § 90.02 defining and regulating nuisances and not listed as a conditional use or prohibited use in this district; and

(13) Contractors offices, shops and yards including building, electrical, heating, ventilating and air conditioning, masonry, printing, plumbing, refrigeration, and roofing.

(C) *Permitted accessory uses.* Light industrial, commercial or business buildings and structures for a use accessory to the principal permitted use or permitted conditional use.

(D) *Conditional uses.*

(1) Open or outdoor service, sale and rental as a principal or accessory use;

(2) Accessory, enclosed retail, rental or service activities other than that allowed as a permitted use;

(3) Commercial/industrial planned unit development;

(4) Commercial recreation facilities;

(5) Animal kennels and facilities for boarding, breeding or training; and

(6) Energy production.

(E) *Prohibited uses.*

(1) Garbage, waste materials, offal, dead animals or refuse incineration or storage;

(2) Manufacture or storage of bulk fertilizer;

(3) Manufacture of ethanol;

(4) Manufacture or storage of gun powder, fireworks or other explosives;

(5) Slaughter houses and stock yards; and

(6) Any uses which create excessive hazards, noise, vibrations, smoke, dust, odors, heat, glare or other objectionable intrusions or emissions beyond the property boundaries.

(F) *Special limitations and conditions on uses.*

(1) *General provisions.*

(a) No galvanized or unfinished steel, galvalum or unfinished aluminum buildings (walls or roofs), except those specifically intended to have a corrosive designed finish such as corten steel shall be permitted in this district.

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

(c) All surfaces for drives, vehicular circulation, and/or parking shall be paved with bituminous, concrete, or acceptable impervious materials.

(d) All pervious surfaces shall be seeded, sodded, or receive such other landscape treatment as approved by the City Council. A landscape plan shall be submitted with the building/site development plans, and shall be subject to City Council approval.

(e) Parking, driveway, and circulation standards and requirements shall be subject to the review and approval of the City Engineer and shall be based upon the specific needs of the operation and shall accommodate large vehicle equipment and semi-trailer/tractor trucks.

(f) Exterior building finishes shall consist of materials comparable in grade and quality to the following:

1. Brick;

2. Natural stone;

3. Decorative concrete block;

4. Cast in place concrete or pre-cast concrete panels;

5. Wood, provided the surfaces are finished for exterior use and wood of proven exterior durability is used, such as cedar, redwood, and/or cypress;

6. Curtain wall panels of steel, fiberglass and aluminum, (nonstructural, non-load bearing); provided such panels are factory fabricated and finished with a durable non-fade surface and their fasteners are of a corrosion resistant design; and

7. Glass curtain wall panels.

(2) *Special provisions.*

(a) All buildings constructed of curtain wall panels of finished steel, aluminum or fiberglass shall be required to be faced with brick, wood, stone, architectural concrete cast in place or pre-cast concrete panels on wall surfaces abutting public rights of way, residential uses, or public areas. The metal or fiberglass shall be covered at a minimum of 4 feet;

(b) The city may grant a deferment to a developer of industrial metal buildings or building additions from the exterior wall design requirements of this section when the building or building addition will be constructed in more than 1 phase.

1. The deferment shall be until the second construction phase is complete or 5 years, whichever is less.

2. The developer shall provide the city with an irrevocable letter of credit for an amount 1-1/2 times the estimated cost of the required exterior wall treatment. The bank letter of credit shall be subject to the approval of the City Attorney. The letter of credit shall secure compliance with this section.

(3) *Exceptions.* Exceptions to the provisions of division (F) of this section may be granted as a conditional use permit by the City Council, provided that:

(a) The proposed building maintains the quality and value intended by this district;

(b) The proposed building is compatible and in harmony with other structures within the district; and

(c) The proposed use shall not, in the judgement of the City Council, be adverse or detrimental to adjacent properties, or the general area.
(Ord. 107B, passed 12-9-2002; Am. Ord. 132, passed 2-13-2006; Am. Ord. 133, passed 5-8-2006; Am. Ord. 177, passed 2-13-2017)

§ 152.34 GFD GENERAL FLOODPLAIN DISTRICT (OVERLAY DISTRICT).

(A) *Purpose.* The purpose of the section is to protect the floodplain within the various districts by recognizing the importance of the Goodhue County Floodplain Study for the City of Wanamingo by the Federal Emergency Management Agency.

(B) *Jurisdiction.* The city intends to protect the floodplain and developments within the district. The floodplain is generally shown on the Zoning Map as an overlay district. Further regulations are imposed as contained within Ord. 58 Wanamingo Floodplain Management Ordinance.

(C) *Other requirements.* Specific requirements as related to dimensions, parking and loading as they apply to uses within zoning districts are tabulated on the following pages under the titles of:

(1) Tabulation of dimensional requirements; and

(2) Minimum parking and loading requirements.

(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.35 NA NATURE AND SCENIC-WILDLIFE DISTRICT.

(A) *Purpose.* The purpose of this section is preservation, conservation, and protection of the natural beauty for future appreciation.

(B) *Permitted uses.*

(1) Planting and caring for flowers, bushes and trees;

(2) Hiking and rest area seating; and

(3) Preserving a walking trail.

(C) *Prohibited uses.* Any act that endangers or destroys the natural area, such as any construction or use of motorized vehicles.

(D) *Exemptions.* No exemptions or conditional uses will be granted.

(E) *Jurisdiction.* This area includes 20 acres (more or less) bounded on the north by the property lines of homes currently in Mingo View, on the east by the corporate limits, on the south by the river and on the west by the river. The revised map is part of this amendment.

(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.36 DIMENSIONAL REQUIREMENTS (MINIMUM).

	A-R Agri. Res.	***R-1 Sgl-Fam.***	***R-2 Sgl-Fam.***	***R-3 Multi-Fam.***	***C-1 Crtl Comm.***	***C-2 Hwy. Com.***	***I-1 Ind.***	***I-2 Ind.Prk***
Bldg. Setback								
Front Line Property	50 ft.	20 ft.	25 ft.	20 ft.	-	30 ft.	-	50 ft.
Side Line Property	20 ft.	6 ft.	6 ft.	6 ft.	-	20 ft.	-	10 ft.
Back Line ft. Property – Dwelling	20 ft.	25 ft.	25 ft.	25 ft.	10 ft.	20 ft.	20 ft.	30 ft.

	A-R Agri. Res.	*R-1 Sgl-Fam.*	*R-2 Sgl-Fam.*	*R-3 Multi-Fam.*	*C-1 Crtl Comm.*	*C-2 Hwy. Com.*	*I-1 Ind.*	*I-2 Ind.Prk*
Back Line Property – Accessory Use	10 ft.	10 ft.	10 ft.	10 ft.				

Wanamingo - Land Usage

	A-R Agri. Res.	*R-1 Sgl-Fam.*	*R-2 Sgl-Fam.*	*R-3 Multi-Fam.*	*C-1 Crtl Comm.*	*C-2 Hwy. Com.*	*I-1 Ind.*	*I-2 Ind.Prk*
From R-1 or R-2 District	-	-	-	-	-	30 ft.	30 ft.	30 ft.
Residence Width Min.	20 ft.	20 ft.	20 ft.	20 ft.	-	-	-	-
Lot Size								
One Family Residence	1 acre (2)	5,000 sq. ft.	9,000 sq. ft.	9,000 sq. ft.	-	-	-	-
Two Family Residence	1.25 acre (2)	6,250 sq. ft.	11,250 sq. ft.	10,000 sq. ft.	-	-	-	-
Lot Width (1)	100 ft.	40 ft.	60 ft.	100 ft.	25 ft.	100 ft.	40 ft.	100 ft.
Lot Depth	200 ft.	100 ft.	100 ft.	100 ft.	100 ft.	200 ft.	100 ft.	200 ft.

	A-R Agri. Res.	*R-1 Sgl-Fam.*	*R-2 Sgl-Fam.*	*R-3 Multi-Fam.*	*C-1 Crtl Comm.*	*C-2 Hwy. Com.*	*I-1 Ind.*	*I-2 Ind.Prk*
Floor Area Ratio -	-	-	-	3/1	1/1	2/1	1/1	

(Ord. 107B, passed 12-9-2002; Am. Ord. 122, passed 2-14-2005; Am. Ord. 143, passed 5-12-2008; Am. Ord. 177, passed 2-13-2017; Am. Ord. 191, passed 7-8-2019)

§ 152.37 PARKING AND LOADING REQUIREMENTS (MINIMUM).

Use	*Off-street Loading Spaces*	*Parking Spaces*
Residences (1 and 2 family)	-	Two/dwelling unit – 1 enclosed
Apartments	-	1.5/dwelling unit
Commercial Buildings	-	Two sq. ft. of parking per 1 sq. ft. of bldg. space but not less than 3 spaces
Industrial Buildings	One/each bldg. plus 1/each 40,000 sq. ft. of gross floor area	Adequate to serve employees and the visiting public
Churches	-	One/each 4 seats
Public Halls	-	Equal in number of 30% capacity
Schools	1/each building plus 1/each 200,000 sq. ft. of gross floor area	1 space/2 employees plus 1 space/7 students over age 16
Recreation Facilities	same	same
Hospital and Medical Facilities	1/each building plus 1/each 100,000 sq. ft. of gross floor area	1 space/every 2 employees plus 1 space/each doctor, 1 space/each 2 beds

NOTES TO TABLE:
(1) An off-street parking space shall be located on or convenient to the piece of property proposed for development and shall be comprised of an area of not less than 300 square feet of maneuvering and storage area.
(2) Within the C-1 Central Commercial District, and at the option of the Council, the city may require payment toward a parking improvement program that would supply off-street parking spaces as an alternative to provision of parking to satisfy district parking requirements.

(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

GENERAL REGULATIONS

§ 152.50 PLANNED RESIDENTIAL DEVELOPMENT.

(A) The purpose of PRD regulations is to provide flexibility to the strict application of residential development on parcels of at least 4 acres within any Residential District in the interest of improved development. Regulations are in addition to those of the specific district.

(B) Lot sizes may be less than sizes or dimensions specified within the District and open spaces may be held in common. At least 25% of the parcel must be landscaped.

(C) Streets must be surfaced but may be private or held in common. Subdivision standards may be relaxed. PRD developments must be served by public sewer and water.

(D) Except for minimum setbacks from parcel boundaries all setback requirements may be relaxed.

(E) No building height limitations are established except that the height limitations are established except that the height of building faces at the perimeter of the parcel shall not exceed the distance that the building is set back from parcel boundaries.

(F) All buildings must be constructed on foundations or otherwise be attached to the site.

(G) Building sites or condominium ownership sites or spaces may be sold or leased.

(H) In the event of private, common facilities or open spaces or the development of private streets the method of management shall be established in the form of a home-owners association, agreement or other vehicle acceptable to the city.

(I) Density of dwelling units is limited to 10 housing units per acre for the development parcel of land. (Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.51 SIGNS.

(A) Street and highway directional signs, danger or hazard signs, privacy signs, on-farm product signs, political signs and temporary signs for events or the sale or rent of property and signs of a similar nature are exempted from these regulations.

(B) Flashing signs, or signs that may be a safety hazard are not permitted within any district.

(C) Information depicted on signs may include company names, symbols, and the type of use on site and may be lighted. Informational signs may be permitted to show information concerning events or may intermittently show time, temperature and news.

(D) Signs within Residential Districts (R-1 and R-2).

(1) Residential areas containing more than 8 dwelling units, group homes, churches, public buildings or other allowable uses are permitted to have 1 on-site sign adjacent to each public street and may have a face area not to exceed 100 square feet.

(2) Resident lots containing an allowable home occupation may display 1 sign of not more than 3 square feet in an area relating to the home occupation.

(3) Lighted signs are not permitted on 1- and 2-family residence property.

(E) Signs within C-1, C-2, I-1, I-2 Districts.

(1) Building mounted signs may protrude no more than 2 feet into a street right-of-way from the building face and have a surface area of not more than 2 square feet per lineal foot of lot frontage, or 10% of building face area, or 200 square feet in area, whichever is greater, and such signs may be illuminated. Buildings or uses having more than 1 street face may have signs of this standard adjacent to other streets.

(2) On-site freestanding signs may have a sign face on 2 sides of the total sign surface area remains unchanged.

(3) Name plate signs may be placed on the underside of any marque for each adjacent commercial use and may have a sign face (both sides) area of not to exceed 8 square feet.

(F) Sign heights.

(1) Residential area building mounted signs must be located below the second floor level of the building.

(2) Commercial and Industrial (C-1, I-1) District signs, wall mounted or free standing, must be located such that the top of the sign does not exceed 20 feet above the street grade except that any sign depicting only a symbol of not more than 100 square feet and flush mounted to the building may be located at any height on the building face.

(3) Commercial or Industrial (C-2, I-2) District signs, wall mounted or free standing, must be located such that the top of the sign does not exceed 40 feet above the street grade except that any sign depicting only a symbol of not more than 100 square feet and flush mounted to the building may be located at any height on the building face.

(G) Advertising signs.

(1) Advertising signs or billboards are allowed to be erected and maintained only on land within the Industrial and Commercial districts adjoining Trunk Highway 57 and 60.

(2) Advertising signs or billboards must be freestanding and are prohibited on rooftops, wall or structures.

(3) Advertising signs or billboards shall not be located within 300 feet of an existing residential use or within 1,750 feet of another advertising sign or billboard on either side of the public right-of-way. Distance requirements under this section shall be measured from the point of the advertising sign or billboard closest to the reference point along a straight line parallel to the ground level to the reference point. Reference point means the lot line of the residential use in the residential zone of the advertising sign or billboard for which distance requirements apply under this section.

(4) All advertising signs or billboards shall be constructed in a location not closer than 30 feet from any existing public right-of-way line.

(5) The size of any advertising sign or billboard, including all extensions, shall not exceed 450 square feet and the height of any advertising sign or billboard shall not exceed 35 feet as measured from ground level to the highest point of the advertising sign or billboard.

(6) All advertising signs or billboards and their components shall be maintained in good repair in a safe, neat, clean and attractive condition. An advertising sign or billboard in good repair is not corroded, does not have deteriorated paint or surfaces, and does not have loose members, broken parts, or similar deterioration.
(Ord. 107B, passed 12-9-2002; Am. Ord. 126, passed 7-11-05; Am. Ord. 177, passed 2-13-2017)

§ 152.52 PARKING LOTS AND DRIVEWAYS.

(A) All parking lots, entrances and areas shall be surfaced with a dust-free, all-weather, durable material and must be well drained.

(B) Parking lots within the C-2 and I-2 Commercial and Industrial Districts shall be setback at least 15 feet from public street property lines and 20 feet from side or back property lines that abut any Residence District.

(C) *Residential driveways.* Within Residential Districts (R-1 and R-2), all driveway surfaces which provide motor vehicle access from the public roadway to adjacent private property shall be paved with bituminous, concrete, or acceptable impervious materials within 30 days of issuance of the certificate of occupancy of any dwelling. If the certificate of occupancy is used after October 15, during any year, the construction must be completed by June 30 of the next calendar year.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017; Am. Ord. 200, passed 8-8-2022)

§ 152.53 SCREENWALLS AND FENCES.

(A) All outside storage areas, not including outside sales or display space, must be screened with an acceptable fence or wall of a pattern that will opaque at least 80% of view to a maximum height of 8 feet.

(B) Front yard fences within Residential Districts are limited to 30 inches in height and may opaque no more than 20% of view.

(C) Side and rear yard fences must be placed at least 3 feet from the property line, or may be on the property line with written consent from adjoining property owner(s), at a maximum height of 8 feet.

(D) A local building permit is required through the City Hall. The Zoning Administrator shall approve screenwall and fencing permits.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.54 LANDSCAPE PLANTING.

(A) (1) Sod or seed shall be installed as follows: Beginning 10 feet behind the furthest rear point of the building constituting the main dwelling and extended parallel with the building to the side yard lot lines, then running along the side yard lot lines to the curb in front of the building in R-1, R-2, and R-3 Districts.

(2) Sodding/seeding shall be completed within 30 days of issuance of the certificate of occupancy of any building to be built on the lot. If the certificate of occupancy is issued after October 15, during any year, the installation of sod/seed must be completed by June 30 of the next calendar year.

(B) Landscape screen planting is required within required side and back property line building setback areas that are adjacent to R-1 and R-2 Districts.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.55 HOME OCCUPATIONS.

Occupations of a business nature are permitted within residences. No more than 25% of the floor area of permitted buildings may be devoted to the home occupations and all occupational activities must take place within buildings or within an area enclosed by a fence or screen wall. Signs are regulated by the general regulations. Home occupations are limited to ones that do not include activities that infringe on the rights of neighboring residences in the forms of intrusions including traffic and parking.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.56 MOBILE HOME RESIDENTIAL DEVELOPMENT.

(A) Mobile home developments are permitted only within the R-1 and R-2 Districts and by conditional use permit as a Planned Residential Development.

(B) Internal streets must serve all units and must permit 2 moving lanes of traffic.

(C) Parking per dwelling unit is required by the parking and loading requirements however spaces need not be enclosed. Group parking areas may be provided to serve needs of the residents however spaces for the storage of recreation vehicles, boats, trailers and the like shall be accomplished by the provision of a separate group screened area.

(D) Each mobile home must be attached to the site for wind protection and be enclosed or skirted.

(E) Area-wide landscape planting is required including landscape screen planting at the perimeter of the development within required side and backyard setbacks.

(F) License requirements of the city and state apply.

(G) Residence width minimum requirements do not apply.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.57 ACCESSORY AND UTILITY BUILDING.

(A) In Residential Districts:

(1) No accessory buildings or utility buildings on an interior lot may be located within 6 feet of the side lot line nor within 10 feet of the rear lot line.

(2) No accessory building or utility building shall exceed the height of the principal building.

(3) No garage shall exceed 1,080 square feet of gross area nor shall any side of the garage exceed 36 lineal feet. No door or other access opening on a garage shall exceed 10 feet in height.

(4) Accessory buildings shall not occupy more than 25% of the rear yard.

(5) Pole type buildings shall not be allowed to be constructed or erected.

(6) Utility buildings shall not have a floor area exceeding 200 square feet, shall not be located closer than 10 feet from the principal building, and shall have concrete slab or other suitable foundation.

(7) No shipping container, semi-trailer, box van or trailer with or without axles or wheels shall be used as an accessory building or as a utility building.

(B) In Commercial and Industrial Districts: No accessory buildings may be located any place to the rear of the principal buildings, subject to the Building Code and fire zone regulations, except where prohibited by other sections of this chapter.

(C) In all Districts:

(1) Accessory buildings shall not be constructed prior to or in lieu of the principal building.

(2) Any accessory building shall be considered as an integral part of the principal building if it is located less than 6 feet from the principal building.
(Ord. 107B, passed 12-9-2002; Am. Ord. 143, passed 5-12-2008; Am. Ord. 148, passed 8-10-2009; Am. Ord. 177, passed 2-13-2017)

§ 152.58 MANUFACTURED/MOBILE HOMES.

Manufactured homes shall be permitted in all residential districts provided they meet the following standards:

(A) Exceed 20 feet in width at the narrowest side; and

(B) The dwelling is placed on a permanent frost-free continuous foundation beneath the entire exterior of the manufactured home in compliance with the Minnesota State Building Code.
(Ord. 118, passed 8-11-2003; Am. Ord. 177, passed 2-13-2017)

§ 152.59 RESTRICTING THE HEIGHT OF BUILDINGS AND STRUCTURES.

(A) The maximum heights of buildings and structures in the following zoning districts shall be as follows:

(1) R-1, Single-Family Residential District: 35 feet.

(2) R-2, Single-Family Residential District: 35 feet.

(3) R-3, Multi-Family Residential District: 45 feet.

(4) C-1, Central Commercial District: 35 feet.

(5) C-2, Highway Commercial District: 35 feet.

(6) I-1, Industrial District: 45 feet.

(7) I-2, Industrial Park District: 55 feet.

(B) The height limitations described in this section shall not apply to places of public assembly in churches, schools and other permitted public and semi-public buildings, provided that these are located on the first floor of such building and provided that for each 3 feet by which the height of such building exceeds the maximum height 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. The height limitations in this section shall also not apply to commercial grain elevators.
(Ord. 143, passed 5-12-2008; Am. Ord. 157, passed 2-13-2012; Am. Ord. 158, passed 3-12-2012; Am. Ord. 177, passed 2-13-2017)

§ 152.60 OPTING OUT OF M.S. § 462.3593.

Pursuant to authority granted by M.S. § 462.3593, Subd. 9, the city opts-out of the requirements of M.S. § 462.3593, which defines and regulates temporary family health care dwellings.
(Ord. 174, passed 8-8-2016)

ADMINISTRATION AND ENFORCEMENT

§ 152.70 RESPONSIBILITY.

(A) The responsibility of this chapter rests with the City Council. The Council may delegate certain responsibilities to the City Administrator-Clerk/Treasurer and may designate a Zoning Administrator for the purpose of performing technical tasks and advising the Council in the interest of proper administration of this chapter.

(B) Public actions shall be taken by the Council relating to applications brought to the attention of City Council, such as amendments, nonconforming uses, appeals, adjustments, conditional uses and variances.

(C) Zoning ordinance approval or the approval of amendments to the chapter may be acted upon by Council only following the placing of a notice of public hearing and holding a public hearing and approved by at least 2/3 vote of City Council.

(D) The Council serves as the Board of Adjustments and Appeals. All decisions within the responsibility of the Council are final except that any aggrieved party has the right to appeal of the decision to the District Court of the County.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.71 EXEMPTION; PUBLIC UTILITIES.

(A) Public utility uses, being essential for the operation within any zoning district, are exempted from provisions of this chapter and are permitted in any district following the filing of information concerning the intended improvement with the City Administrator-Clerk/Treasurer and the receipt of Council recommendations. This exemption relates to public utility poles, towers, telephone booths, wires, cables, conduits, vaults, pipes, mains, laterals, stations, substations or other associated transmitting, distributing or relocating facilities.

(B) Normal maintenance and replacement of existing public utility facilities and property service connections information need not be filed with the City Council.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.72 AMENDMENTS.

(A) This chapter shall not be amended until a public hearing has been held. The Council may initiate an amendment or consideration for amendment may be initiated by petition of an owner or owners of the actual property or by petition of 10 or more adult residents of the city.

(B) Prior to amending this chapter, the city shall place a public notice in the official newspaper of the city stating the purpose of the amendment and establishing a public hearing in this regard. The notice must be placed in the newspaper at least 10 days in advance of the public hearing.

(C) If the amendment involves changing zoning district boundaries of an area of 5 acres or less, the city shall mail a notice of the public hearing at least 10 days in advance of the public hearing to each owner of property located wholly or partly within 350 feet of the property to which the amendment relates.

(D) Following the public hearing, the Council may deny, approve or approve the amendment with modifications. Approval requires at least 2/3 vote of City Council.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.73 ZONING ADMINISTRATOR.

The Council may direct responsibilities to the Zoning Administrator as follows:

(A) Review applications received for permits as required by this chapter;

(B) Determine and approve building permits that appear to be in conformance with this chapter;

(C) Keep records of permits applied for, issued or directed to Council for consideration;

(D) Perform responsibilities of the Building Inspector for Chapter 151 of this code of ordinances;

(E) Keep records of non-conforming uses, variances and special use permits;

(F) Determine non-conforming uses;

(G) Inspect properties for chapter compliance;

(H) Notify person responsible for violations and discontinuance of illegal uses; and

(I) Maintain permanent files and maps, and provide other assistance as directed by City Council.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.74 DEPUTY CLERK.

The Council may direct responsibilities to the City Administrator-Clerk/Treasurer as follows:

(A) Receive applications as required by this chapter;

(B) Forward applications to the Zoning Administrator;

(C) Collect fees, as may be determined, in the name of the city;

(D) Place public notices in the newspaper and notify owners of property as may be required;

(E) Furnish copies of this chapter's provisions and the zoning map to the public; and

(F) Assume responsibility for Zoning Administrator responsibilities and perform other tasks as directed by the City Council.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.75 NONCONFORMING USE AND STRUCTURES.

(A) *Building and uses.* Except as otherwise provided herein, any nonconforming use at the time of adoption of this chapter may be continued after the adoption of this chapter, but shall not be expanded, changed or enlarged except in conformity with the provisions of this chapter.

(B) *Discontinuance.*

(1) If any non-conforming use is discontinued for a period of more than 1 year, or any non-conforming building or structure is removed or destroyed by fire or other peril to the extent of 50% of its previous market value, any subsequent use or occupancy of land or premises shall be conforming use or occupancy.

(2) The Council may order the discontinuance of any use that is found to be non-conforming and in conflict with the purpose as stated within the general provisions of this chapter.

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

(C) *Signs.* Any sign existing at the time of adoption of this chapter which does not conform to the regulations of this chapter may be discontinued within a reasonable time. Such sign may be maintained, but the Council may notify the owner of non-conformance and may establish a date upon which the sign shall be removed or otherwise placed in conformance with this chapter. The reasonable period for amortization of a sign shall be no less than 3 years and no more than 10 years.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.76 CONDITIONAL USE PERMITS.

(A) *Criteria for review of conditional use permit application.* In review of a conditional use permit application, the Council shall consider the advice and recommendations of the Economic Development Authority. Each application shall be reviewed to determine the effect of the proposed use on the Comprehensive Plan and upon the health, safety and general welfare of occupants of surrounding lands. At a minimum, the Council shall make the following findings where applicable.

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

(2) The use will be sufficiently compatible or separated by distance or screened from adjacent residentially zoned or used land and there will be no deterrence to development of vacant land.

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

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

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

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

(7) The use will not cause traffic hazards or congestion.

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

(B) *Additional conditions.*

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

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

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

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

(d) Increasing the street width;

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

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

(g) Designating sites for open space; and

(h) Establishing a time limit.

(2) The Zoning Administrator shall set the date for the public hearing and shall have notice of the hearing published at least once in the legal newspaper, not less than 10 days nor more than 30 days prior to the hearing.

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

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

(5) Upon issuance of a conditional use permit by the Zoning Administrator the terms of the conditional use permit shall serve to regulate the use for which the conditional use permit was issued.

(6) Where a conditional use permit has been issued pursuant to the provisions of this chapter, such permit shall become null and void without further authorization by the city unless work thereon commences within 1 year of the date of granting such conditional use. A conditional use permit shall be deemed to authorize only 1 particular use and shall expire if that use shall cease for more than 12 consecutive months.

(7) In the event that the applicant violates any of the conditions set forth in the conditional use permit, the conditional use permit may be revoked by the Council.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.77 VARIANCE.

(A) *Purpose.* The purpose of variance procedures is to allow variations of the provisions of this chapter, and impose conditions and safeguards in the variances so granted, in cases where there are practical difficulties and particular hardships in the way of carrying out chapter provisions as related to unique characteristics of an individual property.

(B) *Required exhibits for variance.*

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

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

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

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

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

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

(4) The Zoning Administrator shall set the date for a public hearing and shall have a notice of the hearing published at least once in the legal newspaper, not less than 10 days nor more than 30 days prior to the hearing.

(5) The City Council shall hold a public hearing on the proposed variance and shall make a decision within 30 days after the public hearing. It shall recommend 1 of 3 actions – approval, denial, or conditional approval.

(6) No application by a property owner for a variance shall be submitted to the City Council within a 6-month period following a denial of such a request, except the council may permit a new application if, in the opinion of the Council, new evidence of change of circumstances warrant it.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

§ 152.78 PERMITS AND FEES.

(A) *Permits required.* From and after the effective date of this chapter, it is unlawful to construct, move or extend the outside dimensions or change the use of any land without first obtaining a building permit. Building remodeling or repair for a cost less than $1,000 does not require a permit under this chapter. No permit shall be issued pending any state required environmental review.

(B) *Application.* Any permit application for building, conditional use or variance shall be filed on forms supplied by the City Administrator-Clerk/Treasurer and shall include any information necessary in support of the application.

(C) *Filing fees.* The filing fees for each application shall be as follows:

(1) Rezoning or zoning amendment: $300.

(2) Planned residence development: $200.

(3) Conditional use: $300.

(4) Variance: $300.

(D) *Review costs.* In addition to the above filing fee, the applicant shall deposit or pledge to deposit with the city, the expected costs for technical review of the application. Any such deposits shall be placed in an escrow account to cover review costs and any unexpended amount shall be returned to the applicant. The city shall not pay interest on these deposits.
(Ord. 107B, passed 12-9-2002; Am. Ord. 136, passed 1-8-2007; Am. Ord. 177, passed 2-13-2017; Am. Ord. 201, passed 1-9-2023; Am. Ord. 205, passed 1-8-2024) Penalty, see § 152.99

§ 152.99 PENALTY.

Any person or entity who violates any provision of this chapter shall be advised in writing by the Zoning Administrator of the violation. In the event the violation is not corrected or complied with, the Zoning Administrator shall so advise the City Council. The City Council may order compliance with this chapter, may take action to prevent or terminate occupancy, and may establish a reasonable period of time for compliance. In the event that the violation is not corrected, the person or entity responsible for the violation may be charged with a misdemeanor and each day that a violation continues to exist shall constitute a separate offense punishable in accordance with state law.
(Ord. 107B, passed 12-9-2002; Am. Ord. 177, passed 2-13-2017)

CHAPTER 153: TELECOMMUNICATIONS TOWERS AND FACILITIES

Section

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§ 153.01 FINDINGS.

The City Council finds:

(A) The Federal Communications Act of 1934 as amended by the Telecommunications Act of 1996 ("the Act") governs the construction, placement, and modification of personal wireless service facilities. Consistent with the Act, the general purpose of this section is to manage the placement, construction, and modification of telecommunication towers, antennas and related facilities in order to protect the health, safety and welfare of the public, while not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the city.

(B) In furtherance of the goals of the city and within the framework of the Act and state law, the city will give due consideration to the city's comprehensive plan, zoning districts, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas. Specifically, the purposes of this section are:

(1) To manage the location of telecommunication towers and facilities;

(2) To protect residential areas and land uses from potential adverse impacts of telecommunication towers and facilities;

(3) To minimize adverse visual impacts of telecommunication towers and facilities through design, siting, landscaping, and innovative camouflaging techniques;

(4) To promote and encourage shared use and collocation of telecommunication towers and antenna support structures;

(5) To avoid damage to adjacent properties caused by telecommunication towers and facilities by ensuring that those structures are soundly and carefully designed, constructed, modified, maintained and promptly removed when no longer used or when determined to be structurally unsound;

(6) To ensure that telecommunication towers and facilities are compatible with surrounding land uses; and

(7) To facilitate the provision of wireless telecommunications services to the residents and businesses of the city in an orderly fashion.
(Ord. 183, passed 7-10-2017)

§ 153.02 DEFINITIONS.

For purposes of this chapter the following terms have the meanings given them, except where the context clearly indicates a different meaning:

ANTENNA. Means any device which is designed to transmit or receive any electromagnetic, microwave, radio, television, or other frequency energy waves, of any type, for any purpose, and which does not exceed 10 feet in height. Any such device which exceeds 10 feet in height shall be deemed a ***TOWER*** as used herein.

ANTENNA SUPPORT STRUCTURE. Means a building, water tower, or other structure, other than a telecommunications tower, which can be used for location of telecommunications facilities.

APPLICANT. Means a person who applies for a permit to develop, construct, build, modify or erect a tower or antenna under this section.

APPLICATION. Means the process by which the owner of a plot of land within the city or other person submits a request to develop, construct, build, modify or erect a tower or antenna upon that land.

ENGINEER. Means an engineer licensed by the State of Minnesota.

PERSON. Means any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

STEALTH. Means design features that blend a structure into the surrounding environment; examples of stealth facilities include, without limitation, architecturally screened roof mounted antennas, antennas integrated into architectural elements, and telecommunications towers designed to appear other than as a tower, such as light poles, power poles, and trees or other vertical structures as they normally appear in their existing environments.

TELECOMMUNICATIONS FACILITIES. Means cables, wires, lines, wave guides, antennas or any other equipment or facilities associated with the transmission or reception of telecommunications located or installed on or adjacent to a tower or antenna support structure. The term does not include:

(1) A satellite earth station antenna 2 meters in diameter or less located in an industrial or commercial district; or

(2) A satellite earth station antenna 1 meter or less in diameter, wherever located; or a tower.

TELECOMMUNICATIONS TOWER or ***TOWER.*** Means a self-supporting lattice, guyed, or monopole structure constructed from grade that supports telecommunications facilities.
(Ord. 183, passed 7-10-2017)

§ 153.03 DEVELOPMENT OF TOWERS; APPROVALS REQUIRED.

(A) *General construction prohibition.* Towers may not be constructed in any zoning district unless such use is a conditional use in the zoning district in which construction is proposed.

(B) *Conditional use permits required.* Towers may not be constructed in any zoning district unless a conditional use permit has been issued by the City Council.

(C) *Building permit required.* Towers may not be constructed in any zoning district unless a building permit has been issued by the Building Official.

(D) *City property.* The city may authorize the use of city property for towers in accordance with the procedures of this code. The city has no obligation to allow the use of city property for this purpose.

(E) *Zoning districts.* A tower is not a permitted use in any zoning district. A tower is a conditional use in agricultural and industrial districts.

(F) *Preferences.* Towers or antenna facilities shall be proposed for construction in the zoning district of highest preference unless the applicant demonstrates that siting in such district is infeasible. The following preferences exist for the siting of towers or antenna facilities, in order of preference:

(1) Agricultural; and

(2) Industrial.

(Ord. 183, passed 7-10-2017)

§ 153.04 APPLICATION PROCESS.

(A) A person desiring to construct a tower must submit an application for a building permit and a conditional use permit, to the Zoning Administrator.

(B) An application to develop a tower must include:

(1) Name, address, and telephone number of the applicant;

(2) Name, address, and telephone numbers of the owners of the property on which the tower is proposed to be located;

(3) Legal description of the parcel on which the tower is proposed to be located;

(4) Written consent of the property owner(s) to the application;

(5) A scaled site plan indicating the location, type and height of the proposed tower, the existing land uses and zoning of the subject parcel, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, drawings of the proposed tower showing elevation and other structures, topography, parking, and depicting the proposed tower design;

(6) A landscape plan showing specific landscape materials, method of fencing, and finished color and, if applicable, the method of camouflage and lighting;

(7) Documentation such as coverage maps showing the need for a tower at the proposed site in order to close a gap in the applicant's wireless telecommunications service, or a gap in the service provided by a person intending to place telecommunications facilities on the tower;

(8) An inventory of existing towers, antennas, or sites approved for towers or antennas, that are either within the city or are sited in a location from which the applicant could provide service within the city, including specific information about the location, height and design of each tower and documentation showing that such existing facilities are unavailable or unsuitable to meet the applicant's need for a tower;

(9) Separation distance of the proposed tower from the other towers described in the inventory of existing sites;

(10) A structural engineering report certifying the ability of the tower to accommodate co-location of additional wireless service provider facilities and a statement by the applicant regarding accommodation for co-location of additional antennas for future users;

(11) The setback distance between the proposed tower and the nearest platted residential property, and unplatted residentially zoned properties;

(12) Proof that all necessary consents or approvals have been applied for from appropriate federal, state or other local agencies;

(13) An application fee established from time to time by resolution of the City Council. In the event the city elects to consult with its attorney or a radio frequency (RF) engineer in review of the application, the applicant shall be required to fully reimburse the city for all such expenses; and

(14) Other information deemed by the Zoning Administrator to be necessary.
(Ord. 183, passed 7-10-2017)

§ 153.05 PERFORMANCE STANDARDS.

(A) *Collocation capability.* A new tower may not be built, constructed or erected in the city unless the tower is capable of supporting additional telecommunications facilities comparable in weight, size, and surface area to applicant's proposed facilities.

(B) *Setback requirements.* A tower must comply with the following setback requirements:

(1) Setback requirements for towers are measured from the base of the tower to the property line of the parcel on which it is located.

(2) Towers shall have a minimum setback from any property line equal to the height of the tower plus 10 feet, unless otherwise provided in this section.

(3) A tower located next to a residential zone shall have a setback equaling the height of the tower plus 100 feet.

(4) The minimum spacing between tower locations is 1 mile.

(5) A tower setback may be reduced by variance to allow for the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device or similar structure.

(Ord. 183, passed 7-10-2017)

§ 153.06 ENGINEER CERTIFICATION.

Towers must be designed and certified by an engineer to be structurally sound and in conformance with the Uniform Building Code, and any other standards set forth in this code.
(Ord. 183, passed 7-10-2017)

§ 153.07 TOWER DESIGN.

A tower shall be designed to ensure that visual intrusiveness and impacts on nearby properties is mitigated to the greatest extent feasible.

(A) *Height restriction.* A tower may not exceed the lesser of 195 feet in height or the minimum height necessary to provide adequate coverage in the city by the provider of wireless service. Measurement of tower height must include the tower structure itself, the base pad, and any telecommunications facilities attached thereto. Tower height is measured from grade.

(B) *Lighting.* Towers may not be artificially lighted except as required by the Federal Aviation Administration. If so required, lighting shall be of a type, color and intensity so as to minimize visual intrusiveness, particularly at night.

(C) *Exterior finish.* Towers not requiring Federal Aviation Administration painting or marking must have an exterior finish as approved in the site plan.

(D) *Fencing.* Fences constructed around or upon parcels containing towers, antenna support structures, or telecommunications facilities must be constructed as approved in the site plan.

(E) *Landscaping.* Landscaping on parcels containing towers, antenna support structures or telecommunications facilities must be in accordance with landscaping requirements as approved in the site plan. Utility buildings and structures accessory to a tower must be architecturally designed to blend in with the surrounding environment and to meet such setback requirements as are compatible with the actual placement of the tower. Ground mounted equipment must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood.

(F) *Accessory buildings and equipment.* No more than 1 accessory building is permitted per tower. Accessory buildings may be no be more than 200 square feet in size.

(G) *Security.* Towers must be reasonably posted and secured to protect against trespass. All signs must comply with applicable sign regulations.

(H) *Design.* Towers must be of stealth design as approved in the site plan unless the city determines that such design is infeasible due to the lack of vertical structures in the vicinity of the proposed site.

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

(J) *Types of towers.* Towers must be self-supporting without the use of guys, wires, cables, beams or other means.

(K) *Tower materials.* All metal towers shall be constructed of, or treated with, corrosion-resistant material.

(L) *Equipment housing.* Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated as to be screened from view by landscaping. All support structures shall be reasonably protected against climbing.
(Ord. 183, passed 7-10-2017)

§ 153.08 NON-TOWER FACILITIES.

Telecommunications facilities are permitted only as follows:

(A) Telecommunications facilities are a conditional accessory use in the Agricultural and Industrial Districts, provided that the owner of such telecommunications facilities, by written certification to the Building Official, establishes the following facts at the time plans are submitted for a building permit:

(1) That the height from grade of the telecommunications facilities and antennae support structure does not exceed the maximum height from grade of the antenna support structure by more than 20 feet;

(2) That the antenna support structure and telecommunications facilities comply with the Uniform Building Code; and

(3) That telecommunications facilities located above the primary roof of an antenna support structure are set back 1 foot from the edge of the primary roof for each 1 foot in height above the primary roof of the telecommunications facilities. This setback requirement does not apply to antennas that are mounted to the exterior of antenna support structures below the primary roof; such antennas may protrude more than 6 inches from the side of the antenna support structure.

(B) Notwithstanding anything to the contrary contained in this section, telecommunications facilities are a permitted accessory use on antenna support structures owned or otherwise under the physical control of the city,

a school district, or the state or federal government provided a conditional use permit has been issued by the City Council and provided further that the owner of such a telecommunications facility, by written certification to the Building Official, establishes the following facts at the time plans are submitted for a building permit:

(1) That the height from grade of the telecommunications facilities and antennae support structure does not exceed the maximum height from grade of the antenna support structure by more than 20 feet;

(2) That the antenna support structure and telecommunications facilities comply with the Uniform Building Code; and

(3) That telecommunications facilities located above the primary roof of an antenna support structure are set back 1 foot from the edge of the primary roof for each 1 foot in height above the primary roof of the telecommunications facilities. This setback requirement does not apply to antennas that are mounted to the exterior of antenna support structures below the primary roof; such antennas may protrude more than 6 inches from the side of the antenna support structure.
(Ord. 183, passed 7-10-2017)

§ 153.09 REMOVAL OF TOWER OR TELECOMMUNICATION FACILITIES.

Abandoned or unused towers and associated above-ground facilities must be removed within 90 days of the cessation of operations of the telecommunications facility at the site unless an extension is approved by the City Council. Any tower and associated telecommunications facilities that are not removed within 90 days of the cessation of operations at a site are declared to be public nuisances and may be removed by the city and the costs of removal assessed against the property pursuant to state law and this code. The conditional use permit shall establish an amount to be posted by bond, letter of credit, cash or equivalent by the applicant that will cover the projected cost of removal of towers or telecommunications facilities in the event of abandonment.
(Ord. 183, passed 7-10-2017)

§ 153.10 ADDITIONAL REQUIREMENTS.

(A) *Structural inspections.* The city may conduct inspections at any time, upon reasonable notice to the property owner and the tower owner to inspect the tower for the purpose of determining if it complies with the Uniform Building Code and other construction standards provided by the city code, federal and state law. The city's expense related to such inspections will be borne by the tower owner or property owner. Based upon the results of an inspection, the Building Official may require repair, modification or removal of a tower.

(B) *Radiation emission inspections.* The owner of a telecommunications facility shall provide the city with current, technical evidence of compliance with FCC radiation emission requirements at the city's reasonable request.

(C) *Maintenance.* Towers and telecommunication facilities must be maintained in accordance with the following provisions:

(1) Tower owners must employ ordinary and reasonable care in construction and use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage, injuries, or nuisances to the public.

(2) Tower owners must install and maintain towers, telecommunications facilities, wires, cables, fixtures and other equipment in compliance with the requirements of the National Electric Safety Code and all Federal Communications Commission, state, and local regulations, and in such a manner that they will not interfere with the use of other property.

(3) Towers, telecommunications facilities, and antenna support structures must be kept and maintained in good condition, order, and repair.

(4) Maintenance or construction on a tower, telecommunications facilities or antenna support structure must be performed by qualified maintenance and construction personnel.

(5) All tenants on towers must comply with radio frequency emissions standards of the Federal Communications Commission.

(6) If the use of a tower is discontinued by the tower owner, the tower owner must provide written notice to the city of its intent to discontinue use and the date when the use will be discontinued.
(Ord. 183, passed 7-10-2017)

§ 153.11 FAILURE TO COMPLY; PERMIT REVOCATION.

(A) If the permittee fails to comply with any provision of the city code, federal or state law or the conditional use permit requirements, the city may impose penalties for noncompliance, or it may revoke the permit in accordance with the following provisions.

(B) Except as provided in division (C) below, a permit revocation shall be preceded by written notice to the permittee of the alleged violation(s), the opportunity to cure the violation(s) during a period not to exceed 30 days following receipt of the written notice and a hearing before the City Council at least 15 days after receiving written notice of the hearing. The hearing shall provide the permittee with an opportunity to show cause why the permit should not be revoked.

(C) If the city finds that exigent circumstances exist requiring immediate permit revocation, the city may revoke the permit and shall provide a post-revocation hearing at least 15 days after permittee's receipt of written notice of the hearing.

(D) Any decision to revoke shall be in writing and supported by substantial evidence contained in a written record.
(Ord. 183, passed 7-10-2017)

§ 153.12 NO PERMITS REQUIRED.

No permits are required for the following:

(A) Household television antennas extending less than 15 feet above the highest point of a residential structure.

(B) Satellite dish receiving antennas 2 meters or less in diameter.

(C) Adjustment, repair or replacement of the elements of an antenna, provided that such work does not constitute a clear safety hazard.

(D) Antennas and antenna support structures used by the city for city purposes.

(E) Emergency or routine repairs, reconstruction, or routine maintenance of previously approved facilities, or replacement of transmitters, antennas, or other components or previously approved facilities which do not create a significant change in visual impact or an increase in radio frequency emission levels, and provided that such work does not constitute a clear safety hazard.

(F) Two-way communication transmitters used on a temporary basis by 911 emergency services, including fire, police and emergency aid or ambulance service.

(G) Radio transceivers normally hand-held or installed in moving vehicles, such as automobiles, watercraft, or aircraft. This includes cellular phones.
(Ord. 183, passed 7-10-2017)

§ 153.13 RIGHT-OF-WAY.

Except as approved by the city, no part of any telecommunications tower or telecommunications facilities, nor any lines, cable, equipment, wires or braces shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk or property line.
(Ord. 183, passed 7-10-2017)

§ 153.14 INSURANCE.

The applicant shall provide evidence satisfactory to the city that its tower and telecommunication facilities thereon are adequately insured for injury and property damage. Upon request, the holder of a conditional use permit issued under this chapter shall submit to the City Clerk a photocopy of a certificate of insurance showing that the tower or antenna facility is insured for that calendar year.
(Ord. 183, passed 7-10-2017)

§ 153.15 VARIANCES.

(A) The applicant may apply for a variance from the provisions of this section to the extent expressly indicated herein.

(B) A variance may be granted if the applicant shows by clear and convincing evidence that it or its tenants cannot meet reasonable service quality needs of end users in the city without a variance from the requirements of this section.

(C) If the applicant makes the showing required by division (B) above, the City Council must consider all of the following additional factors in determining whether to grant a variance:

(1) Whether the variance is in harmony with the general purposes and intent of this chapter;

(2) Whether the variance is consistent with the comprehensive plan;

(3) Whether the applicant proposes to use the property in a reasonable manner not permitted by this chapter or the city code;

(4) Whether unique circumstances apply to the property which do not apply to other properties in the same zone or vicinity and result from lot size or shape, topography, or other circumstances that were not created by the applicant or the owner of the property or their predecessors;

(5) Whether the variance would alter the essential character of the neighborhood; and

(6) Whether the variance requested is the minimum variance that would alleviate the practical difficulties.

(D) A variance will be granted only in instances where the strict enforcement of the requirements of this section would cause practical difficulties. Economic conditions alone do not constitute practical difficulties.

(E) The City Council may impose such conditions upon the premises benefited by a variance as may be necessary to comply with the standards established by this chapter or to reduce or minimize the effect of such variance upon other properties in the neighborhood and to better carry out the intent of the variance. The condition must be directly related to and must bear a rough proportionality to the impact created by the variance. (Ord. 183, passed 7-10-2017)