

TITLE XV: LAND USAGE

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CHAPTER 150: BUILDING REGULATIONS

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Cross-reference:

Shoreland use regulation, see Chapter 151

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BUILDING CODE**' 150.01 CODES ADOPTED.**

The Minnesota State Building Code, as adopted by the Commissioner of Administration, pursuant to M.S. " 326B.101 through 326B.194, as they may be amended from time to time, including all of the amendments, rules and regulations established, adopted and published from time to time by the State 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 subchapter. The State Building Code is hereby incorporated in this subchapter as if fully set out herein. (Ord. 84, passed 4-23-2003)

' 150.02 APPLICATION, ADMINISTRATION AND ENFORCEMENT.

(A) The application, administration and enforcement of the code shall be in accordance with State Building Code. The code shall be enforced within the extraterritorial limits permitted by M.S. ' 326B.121, as it may be amended from time to time, when so established by this subchapter.

(B) The code enforcement agency of the city is called the City Planning and Zoning Department.

(C) This code shall be enforced by the State Certified Building Official designated by the city to administer the code (M.S. ' 326B.133, as it may be amended from time to time). (Ord. 84, passed 4-23-2003)

' 150.03 PERMITS AND FEES.

(A) The issuance of permits and the collection of fees shall be as authorized in M.S. ' 16B.62, Subd. 1, as it may be amended from time to time.

(B) Permit fees shall be assessed for work governed by this code in accordance with the fee schedule, as amended by the City Commission from time to time. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with M.S. " 326B.121 and 326B.148, as they may be amended from time to time. (Ord. 84, passed 4-23-2003)

' 150.04 VIOLATIONS.

A violation of the code is a misdemeanor, per M.S. ' 326B.082, Subd. 16, as it may be amended from time to time. (Ord. 84, passed 4-23-2003)

' 150.05 OPTIONAL CHAPTERS.

The State Building Code, established pursuant to M.S. " 326B.101 to 326B.194, as they may be amended from time to time, allows the city to adopt by reference and enforce certain optional chapters of the most current edition of the State Building Code. The city elects not to adopt " 1306 and 1335. (Ord. 84, passed 4-23-2003)

CONSTRUCTION LICENSING, PERMITS AND REGULATION

' 150.20 BUILDING PERMITS REQUIRED.

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

(1988 Code, ' 4.02) Penalty, see ' 10.99

' 150.21 PERMIT FEES.

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

(1988 Code, ' 4.03)

' 150.22 COLLECTION OF BUILDING PERMIT FEES.

(A) For the purpose of this section:

(1) The act by the city of granting an application for a building permit, and the subsequent issuance of the permit, are deemed improvements to real estate; and

(2) The act by the owner of real estate of employing or entering into an agreement with a contractor or other person for construction, requiring a building permit, shall be deemed an appointment of the contractor or other person as the agent of the owner for the purpose of applying for the permit and incurring fees therefor, and the owner and the agent shall be jointly and severally liable for payment thereof.

(B) When the fee for a building permit has been determined, a statement shall be prepared by the city and mailed to the owner. If the fee remains unpaid for a period of more than 30 days after mailing, the city may collect the same in a civil action or, in the alternative and at the option of the city, as otherwise provided in this section.

(C) Each such account is hereby made a lien upon the premises improved. All the accounts which are more than 45 days past due may, when authorized by resolution of the Commission, be certified by the City Administrator to the County Auditor, and the City Administrator in so certifying shall specify the amount thereof, the description of the premises improved, and the name of the owner thereof. The amount so certified shall be extended by the Auditor on the tax rolls against the premises in the same manner as other taxes, and collected by the County Treasurer, and paid to the city along with other taxes.

(1988 Code, ' 4.04)

' 150.23 HOUSING CODE ADOPTED.

The Minnesota Building Code is hereby adopted by reference as though set forth verbatim herein and perpetually includes the most current edition.

' 150.24 PERMITS AND SPECIAL REQUIREMENTS FOR MOVING BUILDINGS.

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

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

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

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

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

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

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

(B) *Application.* The application for a moving permit shall state the dimensions, weight and approximate loaded height of the structure or building proposed to be moved, the places from which and to which it is to be moved, the route to be followed, the dates and times of moving and parking, the name and address of the mover, and the municipal utility and public property repairs or alterations that will be required by reason of the movement. In the case of a street moving permit or combined moving permit, the application shall also state the size and weight of the structure or building proposed to be moved and the street alterations or repairs that will be required by reason of the movement. All applications shall be referred to the City Administrator's office.

(C) *Permit and fee.*

(1) The moving permit shall state date or dates of moving, hours, routing, movement and parking. Permits shall be issued only for moving buildings by building movers licensed by the state, except that a permit may be issued to a person moving his or her own building, or a person moving a building which does not exceed 12 feet in width, 20 feet in length, or 16 feet in loaded height, nor shall a license be required of farmers moving their own farm buildings, nor of persons moving manufactured or modular homes.

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

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

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

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

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

(E) *Unlawful acts.*

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

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

(3) It is unlawful to move any building (including a manufactured home) if the point of origin or destination (or both) is within the city, and regardless of the route of movement, without having paid in full all real and personal property taxes, special assessments and municipal utility charges due on the premises of origin and filing written proof of the payment with the city.
(1988 Code, ' 4.11) (Ord. 15, passed 10-15-1991) Penalty, see ' 10.99

' 150.25 FOUNDATIONS.

(A) Any structure designed to be used as a dwelling shall be placed on a foundation constructed of masonry, concrete or treated wood.

(B) All footings supporting the foundation shall be constructed of solid masonry or concrete placed at a minimum depth of five feet below the finished grade; provided, that this section shall not apply to manufactured homes situated in a manufactured home park licensed by the state.
(1988 Code, ' 4.20)

MOBILE HOME PARKS

' 150.40 DEFINITIONS.

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

ACCESSORY SERVICE BUILDING. Any structure erected or used for residential purposes ancillary to the mobile home.

MOBILE HOME. An independent transportable, manufactured, single-family dwelling unit suitable for year around occupancy and containing the same water supply, waste disposal and electrical and gas conveniences as immobile housing.

MOBILE HOME LOT. A parcel of land within a mobile home park for the placement of a mobile home and the exclusive use of its occupants.

MOBILE HOME PARK. A contiguous parcel of land under single ownership which has been planned and improved for the placement of mobile homes for non-transient use.

MOBILE HOME STAND. The part of a mobile home lot which has been reserved and designed for the placement of a mobile home and accessory structures.

NONCONFORMING USES. A use lawfully in existence on the effective date of this subchapter and not conforming to the regulations where it is situated. The use is not **NONCONFORMING** if it could be authorized under a conditional use permit.

PERMIT. A written permit issued by the city allowing the construction, alteration and extension of a mobile home park pursuant to provisions of this subchapter.
(1988 Code, ' 4.21-1)

' 150.41 REQUIREMENTS.

In the construction, alteration or extension of a mobile home park all provisions of this subchapter and any other applicable provisions of the city code then in effect shall be met.
(1988 Code, ' 4.21-2)

' 150.42 UNLAWFUL ACTS.

It is unlawful for any person to:

(A) Park any mobile home on any street, highway or other public place, or on any tract of land owned by any person, whether the mobile home is occupied or unoccupied except as provided in this subchapter;

(B) Park or occupy any mobile home on the premises of any occupied dwelling or any lot which is not a part of the premises of any occupied dwelling either of which is situated outside of an approved mobile home park except, the parking of only one mobile home unoccupied in an accessory private garage building, or in a rear yard in any district, is permitted for a period not exceeding 30 days providing no living quarters shall be maintained or any business practiced in the mobile home while the mobile home is so parked or stored. A special permit may be issued for the temporary use of a mobile home as an office for a period not to exceed 180 days in connection with legal construction of a continuing nature in accordance with a valid building permit on that site. Not more than two such permits shall be issued for the same location or site, except upon special permission of the City Administrator upon a showing of good cause;

(C) Construct, alter or extend any mobile home park without a permit for the proposed activity issued by the Commission;

(D) Operate or allow to exist any area for the use of dependent mobile homes, transient mobile homes, travel trailers or campers in conjunction with a mobile home park;

(E) Use any part of any park for nonresidential purposes, except the uses that are required for the direct servicing and well being of park residents and for the management and maintenance of the park;
or

(F) Sell mobile homes in any park except the occasional sale of a mobile home located in a

mobile home stand and connected to the pertinent utilities by an owner occupant.
(1988 Code, ' 4.21-3) Penalty, see ' 10.99

' 150.43 MOBILE HOME PARK REQUIREMENTS.

(A) *Conditions.* Condition of soil, ground water level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion subject to unpredictable or sudden flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.

(B) *Site planning.* Site planning should adapt to individual site conditions, reflect advances in site planning techniques, and be adopted to the trends in design of the mobile home itself. An informal park type of site planning which conforms to existing terrain, existing trees, shrubs and rock formations is preferred and other natural site features shall be preserved to the extent practical. Favorable views or outlooks should be emphasized by the plan. Service facilities throughout the mobile home park such as recreation buildings, laundry facilities, drying yards, storage facilities and recreation areas shall be arranged on a functional basis to provide convenient access from all mobile home stands.

(C) *Design.* The site, including mobile home stands, patios, structures and all site improvements shall be harmoniously and efficiently organized in relation to topography, the shape of the plot and the shape, size and position of structures and common facilities and with full regard to use, appearance and livability. Special attention should be given to new mobile home designs and the common appurtenances that are available.

(D) *Ground area.* Exposed ground surfaces in all parts of every mobile home park shall be protected with a vegetable growth, or covered with stone screenings, or paved, or covered with other solid material that is capable of preventing soil erosion and of eliminating objectionable dust. The mobile home site shall be sodded.

(E) *Drainage.* The ground surface in all parts of every mobile home park shall be graded and equipped to drain all surface water in a safe, efficient manner.

(F) *Number.* There shall be a maximum of five mobile homes per gross acre of mobile home park area. An accessory structure such as an awning, cabana, storage cabinet, carport, windbreak or porch which has a floor area exceeding 25 square feet, and has a top or roof, shall, for purposes of all separation requirements or covered land area be considered to be part of the mobile home park.

(G) *Park size.* There shall be a minimum area requirement of 20 acres with a minimum width of 200 feet for any mobile home park and a maximum of 55 acres for any mobile home park. No mobile home park shall be contiguous to or abutting another mobile home park.

(H) *Recreation.* In all mobile home parks accommodating or designed to accommodate 25 or more mobile homes there shall be constructed and maintained one or more recreation areas which shall be easily accessible to all park residents. The size of the recreation areas shall be based upon a minimum standard of 500 square feet for each mobile home. Recreation areas shall be so located as to be free of traffic hazards and should when the topography permits, be centrally located, shall provide suitable recreation equipment and shall be kept in good repair. Laundry or service buildings are not considered part of recreation facilities, unless specifically equipped for recreation purposes. Facilities in recreation areas shall be provided for both active and passive functions.

(I) *Boundary lines.* All mobile homes shall be located at least 30 feet from any mobile home park boundary line, including ones abutting upon a public street or highway.

(J) *Distance.* There shall be a minimum distance of 25 feet between an individual mobile home and adjoining pavement of a mobile home park street, or common parking area or other common areas.

(K) *Landscape.* All mobile home parks shall be provided with landscape screening such as fences or natural growth along any property boundary line sufficient to permit complete privacy for the residents of the park and to protect interests of adjacent landowners.

(L) *Separation.* Mobile homes shall be separated from each other and from other buildings and structures by at least 15 feet provided that mobile homes placed end-to-end may have a clearance of ten feet where opposing rear walls are staggered. (This requirement may be waived or relaxed by the Commission to permit grouping of mobile homes into courts or other appropriate arrangements.)

(M) *Accessory structure.* Any accessory structure which has a horizontal area exceeding 25 square feet, is attached to a mobile home or located within ten feet of its window, and has a top or roof that is higher than the nearest window shall, for purposes of all separation and covered area requirements, be considered to be part of the mobile home.

(N) *Sanitary sewers.* All mobile home parks shall have sanitary sewer facilities connected to a public sanitary sewer line. Each mobile home stand shall be treated as a separate service in calculating sanitary sewer connection and service charges.

(O) *Access.* Access to mobile home parks shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent streets. The entrance road connecting the park streets with a public street or road shall have a minimum road pavement width of 40 feet. Where only one access road is provided an emergency access shall be provided to permit ingress or egress of emergency fire and ambulance equipment in the event the main access is blocked. No parking shall be permitted on the park entrance street for a distance of 100 feet from its point of intersection with the public street.

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(P) *Streets*. Internal streets shall be hard surface of adequate width to accommodate anticipated traffic and shall meet the following minimum requirements.

(1) All streets shall have a minimum width of 30 feet back to back on curb.

(2) Deadend streets shall have cul-de-sac having an outside diameter of at least 75 feet. The streets shall not exceed 150 feet in length not including the turn-around.

(3) All mobile home parks shall be furnished with lighting units so placed and equipped with luminaires placed at the mounting heights as will provide the following average levels of illumination for the safe movement of pedestrians and vehicles at night:

(a) All parts of the park street systems: 0.2 footcandle;

(b) Service buildings and other general use areas: 0.4 footcandle;

(c) Potentially hazardous locations, such as major street intersections and steps or stepped ramps: 0.6 footcandle; and

(d) Interior walkway areas: 0.1 footcandle.

(4) All streets shall be provided with a paved concrete or bituminous surface of sufficient quality to meet the standards of the State Highway Department Specifications for a seven-ton axle load. All streets shall be equipped with concrete curb and gutter specification B-618 of the State Highway Department Standards. All streets, walks, water lines, sewer mains, recreation areas and other general use facilities within the park shall remain the property of the mobile home park owner for the purposes of cleaning, snow removal, repair, replacement and maintenance.

(5) All streets established in any mobile home park shall be subject to the applicable traffic and safety statutes and city code provisions.

(Q) *Parking*. Off-street parking areas shall be provided in all mobile home parks for the use of park occupants and guests and required vehicle parking spaces shall be so located as to provide convenient access to the mobile home. The areas shall be furnished at the rate of at least two car spaces for each mobile home lot. Additional off-street parking spaces shall be provided at the office, laundry building, recreation building and other general use sites within the mobile home park.

(R) *Storage*. All boats, boat trailers, hauling trailers, snowmobiles and other equipment not stored within the mobile homes or the utility enclosure that may have been provided shall be stored in a separate place provided by the mobile home park owner and not upon the lots occupied by mobile homes nor upon the streets within the mobile home park.

(S) *Walks.* A walk system shall be provided and maintained between locations where pedestrian traffic is concentrated and to community use areas. In addition, a walkway shall be provided from the vehicle parking place to each mobile home stand.

(T) *Mobile home stands and lots.*

(1) The area of the mobile home stand shall be improved to provide an adequate foundation for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation and overturning. The mobile home stand shall be so constructed as to prevent heaving, shifting or uneven settling under the weight of the mobile home as a result of frost action, inadequate drainage, vibration or other forces acting on the area or superstructure.

(2) The mobile home stand shall be provided with anchors for tie-downs such as case-in-place concrete **A**dead men[®], eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors or other devices securing the stability of the mobile home.

(3) Anchors and tie-downs shall be placed at least at each corner of the mobile home stand and each shall be able to sustain a minimum tensile strength of 2,800 pounds.

(4) At least one shade tree (minimum of a six-foot whip) shall be placed and maintained near each mobile home stand.

(5) Enclosed storage lockers for garden tools and other equipment may be provided by either the mobile home owner or the licensee adjacent to the mobile home or at other place in the mobile home park as to be convenient to the unit for which it is provided. These lockers shall be no larger than 63 square feet, and shall be compatible with the surroundings and adjacent structures.

(6) Cooking shelters, barbecue grills and pits, and other facilities shall be so located, constructed, maintained and used as to minimize fire hazards and smoke nuisances both on the property on which used and on neighboring property. No open fire shall be permitted except in the facilities. No fuel shall be used or material burned which emits dense smoke or objectionable odors. Nothing in this division (T)(6) is to be construed to permit open burning.

(7) A patio shall be constructed on the ground beside each mobile home stand. This patio shall be no less than 200 square feet in area and constructed of concrete with four-inch minimum thickness or approved equal.

(U) *Structural requirements.*

(1) All mobile homes shall meet the construction, plumbing, electrical and mechanical standards of the state and the city.

(2) No mobile home may be inhabited by a greater number of occupants than that for which it was designed.

(3) Skirting shall be used on all mobile homes and shall be compatible with the mobile home

design.

(V) *Utilities.*

(1) All utilities shall be provided through underground service, including water, electricity, telephone, television cable and fuel for heating. No outside tanks or overhead wiring shall be permitted.

(2) Water facilities and sewage collection facilities shall be installed and maintained by the mobile home park owner and shall be constructed in accordance with the laws of the state, the recommendation of the State Health Department and the requirements of the city code. For purposes of water and sewer service, each mobile home stand shall be regarded as a separate unit.

(3) Fire hydrants meeting standards of the city shall be provided and shall be located within 500 feet of any mobile home, service building, or other structure in the mobile home park. Water mains within the park shall be of sufficient size to provide adequate water for fire fighting purposes.

(W) *Responsibilities of the mobile home park management.*

(1) The state licensee of a mobile home park shall operate the park in compliance with this subchapter and shall provide adequate supervision to maintain the mobile home park and its facilities and equipment in good repair and in a clean and sanitary condition.

(2) The park management shall notify mobile home park occupants of all applicable provisions of this subchapter and inform them of their duties and responsibilities under this subchapter.

(3) The mobile home park management shall supervise the placement of each mobile home on its mobile home stand which includes securing its stability and installing all utility connections.

(4) The mobile home park management shall maintain a register containing the names of all park occupants. The register shall be available to any authorized person inspecting the park.

(X) *Responsibilities of park occupants.*

(1) The mobile home park occupant shall comply with all applicable requirements of the city code and shall maintain his or her mobile home lot, its facilities and equipment in good repair and in a clean and sanitary condition.

(2) The park occupant shall be responsible for proper placement of his or her mobile home on its mobile home stand and proper installation of all utility connections in accordance with the instructions of the park management.

(3) No owner or person in charge of a dog, cat or other pet animal shall permit it to run at large or to commit any nuisance within the limits of any mobile home lot.

(Y) *Stand; connection.* A mobile home shall not be occupied for dwelling purposes unless it is properly placed on a mobile home stand and connected to water, sewerage and electrical utilities.

(Z) *Basement.* Each mobile home park shall be equipped with a central building at least 30 feet by 30 feet with a full basement. The basement shall be provided with a ceiling of pre-stressed concrete or equal. The basement shall be equipped with two entrances, one of which shall be directly from the outside. The basement shall be equipped with lavatory facilities.
(1988 Code, ' 4.21-4)

' 150.44 PERMITS FOR CONSTRUCTION.

(A) All applicants for permits to construct, alter or extend mobile home parks shall hold a pre-application conference with the Building Inspector and the City Administrator to review the proposed project and applicable city code provisions.

(B) All applications for permits shall be made to the City Administrator and shall contain the following:

- (1) Name and address of the applicant;
- (2) Legal relationship of the applicant to the mobile home park;
- (3) Location and legal description of the mobile home park;
- (4) Five copies of complete engineering plans and specifications of the mobile home park approved by a registered professional engineer, architect or by a recognized designing firm showing:
 - (a) The area and dimensions of the tract of land;
 - (b) The number, location and size of all mobile home lots;
 - (c) The location and width of roadways and walkways;
 - (d) The location of service buildings and any other proposed structures and park and recreation areas;
 - (e) Plans and specifications of the water supply and refuse and sewage collection systems;
 - (f) Plans and specifications of all buildings constructed or to be constructed within the mobile home park;
 - (g) The location and details of lighting and electrical systems;

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(h) Complete landscaping and drainage plans;

(i) A map of the general area and property adjacent to the mobile home park at a scale of one inch to 50 feet. The map shall show:

1. The park name, date, north point and scale;
2. Area of the proposed park to the nearest tenth of an acre;
3. Location of all area subject to inundation or storm water overflow and the location, width and direction of all water causes and existing drainage channels and structures;
4. Contour lines of the entire property, indicating topography showing intervals not greater than five feet;
5. Location, names and existing width of all adjoining and continuous highways, streets and ways;
6. Proposed plan for drainage, showing direction of flow and improvements;
7. Wooded areas showing location and size of existing trees;
8. Number and dimension of all park spaces and an enlarged detail of each typical space;
9. Location, width, direction of traffic flow and type of construction of all roadways within the proposed park;
10. Location of laundry facilities, drying yards, garbage disposal areas, storage areas and service yards; and
11. Location of all pedestrian walkways.

(5) Location, size, height and design of a site sign.

(C) All applications for permits shall be accompanied by the payment of the fee established by resolution of the Commission.

(D) Each application shall be filed with the City Administrator who shall refer it to the Planning Board. It shall study and investigate the application, hold the conferences and public hearings as may be necessary to ascertain the suitability of the location and the plan. It shall, within 60 days after its first meeting following receipt of the application, make recommendations to the Commission approving or disapproving the application in whole or in part, together with detailed comments thereon.

(E) The Commission shall review the recommendations of the Planning Board and shall grant or deny the permit and may attach whatever conditions it shall deem necessary to the granting of the permit.

(F) Any person whose application for a permit under this subchapter has been denied may request and shall be granted a hearing on the matter under the provisions of this subchapter.
(1988 Code, ' 4.21-5)

' 150.45 INSPECTIONS.

(A) The Building Inspector or other city officials are hereby authorized to make the inspections as are necessary to determine satisfactory compliance with this subchapter and regulations issued hereunder and may enter at reasonable times upon any private or public property for that purpose.

(B) It is the duty of the owners or occupants of mobile home parks, and mobile homes contained therein, or of the person in charge thereof, to give authorized city personnel free access to the premises at reasonable times for the purpose of inspection.

(C) It is the duty of every occupant of a mobile home park to give the owner of the park or his or her agent or employee access to any part of the mobile home park or its premises at reasonable times for the purpose of making the repairs or alterations as are necessary to effect compliance with this subchapter or with any lawful order issued pursuant to the provisions of this subchapter.
(1988 Code, ' 4.21-6)

' 150.46 NOTICES, HEARING AND ORDERS.

(A) Whenever upon inspection or complaint it is found that there are reasonable grounds to believe that there has been a violation of any provision of this subchapter or other applicable laws, written notice of the alleged violation shall be given to the person to whom the permit or license was issued. The notice shall include a statement of the reasons for its issuance, contain a description of necessary remedial action, allow a reasonable time for the performance of any act it requires, be served upon the owner or his or her agent by sending a copy thereof to his or her last known address, or by personal or substituted service. At the end of the period, the mobile home park shall be inspected and, if the conditions or practices have not been corrected, the license shall be suspended with written notice of the suspension as provided herein. Upon receipt of notice of the suspension, the person shall cease operation of the mobile home park except as provided herein.

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(B) Any person affected by any notice issued in connection with the enforcement of this subchapter or other applicable law may request and shall be granted a hearing on the matter before the Commission. The person shall file with the City Administrator a written petition requesting the hearing and setting forth a brief statement of the grounds therefor within ten days after the notice was served. The filing of the request for a hearing shall operate as a stay of the notice and of the suspension except in the case of an order issued under this section. When no petition for the hearing shall have been filed within ten days following the day on which notice of suspension was served, the license shall be deemed to have been automatically revoked at the expiration of the ten-day period.

(C) Upon receipt of the petition, a time and place for the hearing shall be set and the petitioner shall be given written notice thereof. At the hearing, the petitioner shall be given an opportunity to be heard and to show why the notice should be modified or withdrawn. The hearing shall be commenced not later than ten days after the day on which the petition was filed unless continued for good cause upon request of petitioner.

(D) After the hearing, the Commission shall make findings as to compliance with the provisions of this subchapter and shall issue an order in writing sustaining, modifying or withdrawing the notice which shall be served. Upon failure to comply with any order sustaining or modifying a notice, the license of the mobile home park affected by the order shall be revoked.

(E) A summary of the proceedings at such a hearing, including the findings and decision of the Commission together with a copy of every notice and order related thereto shall be entered as a matter of public record but a transcript of the proceedings need not be taken. Any person aggrieved by the decision may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this state.

(1988 Code, ' 4.21-7)

' 150.47 NONCONFORMING USES.

Any lawful nonconforming use of land existing at the date of enactment of this subchapter may be continued, except that any nonconforming use or buildings may not be:

(A) Changed to another nonconforming use;

(B) Re-established after discontinuance for one year if it involves a substantial building; or after discontinuance for any period in other cases;

(C) Extended; or

(D) Rebuilt after damage exceeding 50% of its value.

(1988 Code, ' 4.21-8)

' 150.48 ADMINISTRATION.

This subchapter shall be administered and enforced by the Building Inspector and other city officials as may be designated. The Building Inspector may institute in the name of the city any appropriate actions or proceedings against a violator as provided by law.

(1988 Code, ' 4.21-9)

' 150.49 LICENSE TO BE RENEWED ANNUALLY.

Pursuant to M.S. ' 327.15, a mobile home operator is renew his or her license to operate annually.

CHAPTER 151: SHORELAND USE REGULATION

Section

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GENERAL PROVISIONS**' 151.01 STATUTORY AUTHORIZATION AND POLICY.**

(A) *Statutory authorization.* This shoreland ordinance is adopted pursuant to the authorization and policies contained in M.S. Chapter 103F, as it may be amended from time to time, Minnesota Regulations, Parts 6120.2500 through 6120.3900, and the planning and zoning enabling legislation in M.S. Chapter 462, as it may be amended from time to time.

(B) *Policy.* The uncontrolled use of shorelands of the city affects the public health, safety and general welfare by affecting the quality of public waters, and by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The legislature of the state has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the city.

(C) *General application and interpretation.* This section shall apply to all development, construction, land alteration and subdivision occurring within the shoreland areas of the city. **SHORELAND AREAS** are defined as land located within 1,000 feet from the ordinary high water mark of Lake Minnewaska.
(Ord. 31, passed - -1995)

' 151.02 GENERAL PROVISIONS.

(A) *Jurisdiction.* The provisions of this chapter shall apply to the shorelands of the public water bodies as classified in " 151.20 or 151.21. Pursuant to Minn. Regulations, Parts 6120.2500 through 6120.3900, no lake, pond or flowage less than ten acres in size in municipalities or 25 acres in size in unincorporated areas need to be regulated in a local government=s shoreland regulations. A body of water created by a private use where there was no previous shoreland may, at the discretion of the City Commission, be exempt from this chapter.

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

(C) *Administration and enforcement.* The City Administrator, acting in cooperation with the Police Department, is responsible for the administration and enforcement of this chapter. Violation of any of the provisions of this chapter or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or conditional uses, shall constitute a misdemeanor and shall be punishable as provided in ' 151.04(B), and as provided in " 10.99 and 153.008. Violations of this chapter can occur regardless of whether or not a permit is required for a regulated activity pursuant to ' 151.04(A). All remedies for noncompliance enumerated in ' 153.008(D) are available to compel compliance with this chapter.

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

(E) *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. 31, passed - -1995)

' 151.03 DEFINITIONS.

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

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

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

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

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

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

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

COMMERCIAL PLANNED UNIT DEVELOPMENTS. Typically used to provide transient, short-term lodging spaces, rooms or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are **COMMERCIAL PLANNED UNIT DEVELOPMENTS**.

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

COMMISSIONER. The Commissioner of the Department of Natural Resources.

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

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

DUPLEX, TRIPLEX and QUAD. A dwelling structure on a single lot, having two, three and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

PLANNED UNIT DEVELOPMENT. Has the meaning given by ' 153.074.

PUBLIC WATERS. Any waters as defined in M.S. ' 103G.005, Subd. 15 and 18, as they may be amended from time to time.

RESIDENTIAL PLANNED UNIT DEVELOPMENT. A planned unit development where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives and full fee ownership residences would be considered a **RESIDENTIAL PLANNED UNIT DEVELOPMENT**. To qualify as a **RESIDENTIAL PLANNED UNIT DEVELOPMENT**, a development must contain at least five dwelling units or sites.

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

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

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

SEWAGE TREATMENT SYSTEM. A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in ' 151.42.

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

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

SHORELAND. Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond or flowage. The limits of ***SHORELAND*** may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.

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

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

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

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

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

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

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

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

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

WETLAND. A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular.
(Ord. 31, passed - -1995)

' 151.04 ADMINISTRATION.

(A) *Permits required.*

(1) A permit issued pursuant to " 150.01 through 150.05 is required for the construction of buildings or building additions, (including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by ' 151.37. Each application for an activity subject to this chapter shall include the necessary information so that the city administrator can determine the site=s suitability for the intended use and that a compliant sewage treatment system will be provided.

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(2) Permits shall stipulate that any identified nonconforming sewage treatment system, as defined by ' 151.42, shall be reconstructed or replaced in accordance with the provisions of this chapter.

(3) A zoning certificate is required for each activity requiring a permit as specified in this section. This certificate will specify that the use of land conforms to the requirements of this chapter. Application for and issuance of the certificate shall be governed by ' 153.008(B).

(B) *Variance.*

(1) A variance may only be granted in accordance with M.S. Chapter 462, as it may be amended from time to time, and in the manner set forth in ' 153.008(F). A variance may not circumvent the general purposes and intent of this chapter. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest.

(2) The Board of Adjustment shall hear and decide requests for variances in accordance with ' 153.008(F). When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in division (C)(2) below shall also include the Board of Adjustment=s summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

(3) For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

(C) *Notifications of the Department of Natural Resources.*

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

(2) A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner=s designated representative and postmarked within ten days of final action.

(Ord. 31, passed - -1995)

' 151.05 PLANNED UNIT DEVELOPMENTS (PUDS).

(A) *Types of PUDs permissible.* Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use districts in which they are an allowable use are identified in the land use district descriptions in ' 151.21, and the official zoning map.

(B) *Application for and processing of PUDs.* Application for a planned unit development shall be made and the application shall be processed in the manner set forth in ' 153.074(A).

(C) *Final development plan.* The final development plan submitted pursuant to ' 153.074(B) must include the following documents:

(1) A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at ten-foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial or a combination of the two;

(2) A property owners association agreement (for residential PUDs) with mandatory membership, and all in accordance with the requirements of division (F) below;

(3) Deed restrictions, covenants, permanent easements or other instruments that: properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft and construction of commercial buildings in residential PUDs; and ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in division (F) below;

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

(5) Those additional documents as requested by the Planning Commission that are necessary to explain how the PUD will be designed and will function.

(D) *Site **A**suitable area@ evaluation.* Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in division (E) below.

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

<i>Shoreland Tier Dimensions</i>	

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	<i>Unsewered (feet)</i>	<i>Sewered (feet)</i>
Lake Minnewaska first tier	200	200
Second and additional tiers	267	200
Tributary streams (all tiers)	300	300

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

(E) *Residential and commercial PUD density evaluation.* The procedures for determining the **Abase@** density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the water body, but must not be transferred to any other tier closer.

(1) *Residential PUD **Abase@** density evaluation.* The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth, unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density and suitability analyses herein and the design criteria in division (F) below.

(2) *Commercial PUD **Abase@** density evaluation.*

(a) Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages or porches and basements, unless they are habitable space.

(b) Select the appropriate floor area ratio from the following table:

<i>Commercial Planned Unit Development Floor Area Ratios</i>		
<i>Average Unit Floor Area (Sq. Ft.)</i>	<i>Sewered Lots and First Tier on Unsewered Lots</i>	<i>Second and Additional Tiers</i>
200	0.040	0.020
300	0.048	0.024
400	0.056	0.028
500	0.065	0.032

<i>Commercial Planned Unit Development Floor Area Ratios</i>		
<i>Average Unit Floor Area (Sq. Ft.)</i>	<i>Sewered Lots and First Tier on Unsewered Lots</i>	<i>Second and Additional Tiers</i>
600	0.072	0.038
700	0.082	0.042
800	0.091	0.046
900	0.099	0.050
1,000	0.108	0.054
1,100	0.116	0.058
1,200	0.125	0.064
1,300	0.133	0.068
1,400	0.142	0.072
1,500	0.150	0.075
<p>*For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio used for 1,000 square feet.</p>		

(c) Multiply the suitable area within each tier by the floor area ratio for yield total floor area for each tier allowed to be used for dwelling units or tiers.

(d) Divide the total floor area by tier computed in division (E)(2)(c) above by the average inside living area size determined in division (E)(2)(a) above. This yields a base number of dwelling units and sites for each tier.

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(e) Proposed location and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analyses herein and the design criteria in division (F) below.

(3) *Density increase multipliers.*

(a) Increases in the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in " 151.35 through 151.42 are met or exceeded and the design criteria in division (F) below are satisfied. The allowable density increased in division (E)(3)(b) below. below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50% greater than the minimum setback, or the impact on the water body is reduced an equivalent amount through vegetative management, topography or additional means acceptable in the local unit of government and the setback is at least 25% greater than the minimum setback.

(b) Allowable dwelling unit or dwelling site density increases for residential or commercial planned unit developments:

<i>Density Evaluation Tiers</i>	<i>Maximum Density Increase Within Each Tier (Percent)</i>
First	50
Second	100
Third	200
Fourth	200
Fifth	200

(F) *Maintenance and design criteria.*

(1) *Maintenance and administration requirements.*

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

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

1. Commercial uses prohibited (for residential PUDs);
2. Vegetation and topographic alterations other than routine maintenance prohibited;

3. Construction of additional buildings or storage of vehicles and other materials prohibited; and
4. Uncontrolled beaching of watercraft prohibited.

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

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

(2) *Open space requirements.* Planned unit developments must contain open space meeting all of the following criteria:

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

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

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

(3) *Erosion control and stormwater management.* Erosion control and stormwater management plans must be developed and the PUD must:

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

(b) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must exceed 25% of the tier area, except that for commercial PUDs 35% impervious surface coverage may be allowed in the first tier of general development unit with an approved stormwater management plan and consistency with ' 151.37.

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

(a) Planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the State Department of Health and " 151.36 and 151.42. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage systems.

(b) Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased in accordance with division (E)(3) above for developments with density increases.

(c) Shore recreation facilities, including, but not limited to, swimming areas, docks and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth of groundwater and bedrock or other relevant factors. The number of spaces provided for continuous beaching, mooring or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

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

(e) Accessory structures and facilities, except water oriented accessory structures, must meet the required principal structure setback and must be centralized.

(f) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in ' 151.36 and are centralized.

(G) *Conversions.* Existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards are met.

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

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

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

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

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

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

(4) Existing dwelling unit or dwelling site densities that exceed standards in division (E) above may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.
(Ord. 31, passed - -1995)

SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS

' 151.20 SHORELAND CLASSIFICATION SYSTEM.

(A) The public waters of the city have been classified below consistent with the criteria found in Minn. Regulations, Part 6120.3300, and the Protected Waters Inventory Map for the county.

(1) *Lakes*. The only protected water basin found within the corporate limits is Lake Minnewaska, basin number 61-130. Lake Minnewaska is classified as a general development lake.

(2) *Tributaries*. The only protected watercourses found within the corporate limits are two tributaries to Minnewaska known as First Creek and as Perkins Creek. These tributaries have not been assigned a protected watercourse number on the County Protected Waters Inventory.

(B) The shoreland areas of Lake Minnewaska and the two tributaries identified above which are situated within the corporate limits shall be defined in ' 151.03, and as shown on the official zoning map.

(Ord. 31, passed - -1995)

' 151.21 LAND USE DISTRICT DESCRIPTIONS.

(A) *Criteria for designation*. The land use districts in division (B) below, and the delineation of a land use district=s boundaries on the official zoning map, must be consistent with the goals, policies and objectives of the comprehensive land use plan and the following criteria, considerations and objectives:

- (1) General considerations and criteria for all land uses:
 - (a) Preservation of natural areas;
 - (b) Present ownership and development of shoreland areas;
 - (c) Shoreland soil types and their engineering capabilities;

- (d) Topographic characteristics;
- (e) Vegetative cover;
- (f) In-water physical characteristics, values and constraints;
- (g) Recreational use of the surface water;
- (h) Road and service center accessibility;
- (i) Socioeconomic development needs and plans as they involve water and related land resources;
- (j) The land requirements of industry which, by its nature, requires location in shoreland areas; and
- (k) The necessity to preserve and restore certain areas having significant historical or ecological value.

(2) Factors and criteria for planned unit developments:

- (a) Existing recreational use of the surface waters and likely increases in use associated with planned unit developments;
- (b) Physical and aesthetic impacts of increased density;
- (c) Suitability of lands for the planned unit development approach;
- (d) Level of current development in the area; and
- (e) Amounts and types of ownership of undeveloped lands.

(B) *Land use district descriptions.* The land use districts provided below, and the allowable land uses therein for the given classifications of water bodies, shall be properly delineated on the official zoning map for the shorelands of this community. These land use districts are in conformance with the criteria specified in Minn. Regulations, Part 6120.3200, Subp. 3:

(1) *Land Use District for Lake Minnewaska, a general development lake.*

(a) *Special Protection District; uses.*

Agricultural: cropland and pasture	Permitted use
Agricultural feedlots	Conditional use
Extractive use	Conditional use

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Forest management	Permitted use
Mining of metallic minerals and peat	Permitted use
Parks and historic sites	Conditional use
Sensitive resource management	Permitted use
Single residential	Conditional use

(b) *Residential District; uses.*

Single residential	Permitted use
Semi-public	Conditional use
Parks and historic sites	Conditional use
Extractive use	Conditional use
Duplex, triplex quad residential	Permitted use
Forest management	Permitted use
Mining of metallic minerals and peat	Permitted use

(c) *High Density Residential District; uses.*

Residential planned unit developments	Conditional use
Single residential	Permitted use
Surface water oriented commercial*	Conditional use
Semi-public	Conditional use
Parks and historic sites	Conditional use
Duplex, triplex, quad residential	Permitted use
Forest management	Permitted use
*As accessory to a residential planned unit development	

(d) *Water Oriented Commercial District; uses.*

Surface water-oriented commercial	Permitted use
Commercial planned unit development**	Conditional use
Public, semi-public	Conditional use

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Parks and historic sites	Conditional use
Forest management	Permitted use
**Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of ' 151.05 are satisfied.	

(e) *General Use District; uses.*

Commercial	Permitted use
Commercial planned unit development**	Conditional use
Industrial	Conditional use
Public, semi-public	Permitted use
Extractive use	Conditional use
Parks and historic sites	Conditional use
Forest management	Permitted use
Mining of metallic minerals and peat	Permitted use
**Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of ' 151.05 are satisfied	

(2) *Land Use District for First Creek and for Perkins Creek, tributaries to Lake Minnewaska.*

(a) *Special Protection District; uses.*

Forest management	Permitted use
Sensitive resource management	Permitted use
Agricultural: cropland and pasture	Permitted use
Agricultural feedlots	Conditional use
Parks and historic sites	Conditional use
Extractive use	Conditional use
Single residential	Conditional use
Mining of metallic minerals and peat	Permitted use

Glenwood - Land Usage

(b) *Residential District; uses.*

Single residential	Permitted use
Semi-public	Conditional use
Parks and historic sites	Conditional use
Extractive use	Conditional use
Duplex, triplex quad residential	Conditional use
Forest management	Permitted use
Mining of metallic minerals and peat	Permitted use

(c) *High Density Residential District; uses.*

Residential planned unit developments	Conditional use
Single residential	Permitted use
Surface water oriented commercial*	Conditional use
Semi-public	Conditional use
Parks and historic sites	Conditional use
Duplex, triplex, quad residential	Permitted use
Forest management	Permitted use
*As accessory to a residential planned unit development	

(d) *Water Oriented Commercial District; uses.*

Surface water-oriented commercial	Permitted use
Commercial planned unit development**	Conditional use
Public, semi-public	Conditional use
Parks and historic sites	Conditional use
Forest management	Permitted use
**Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of ' 151.05 are satisfied	

(e) *General Use District; uses.*

Commercial	Permitted use
Commercial planned unit development**	Conditional use
Industrial	Conditional use
Public, semi-public	Permitted use
Extractive use	Conditional use
Parks and historic sites	Conditional use
Forest management	Permitted use
Mining of metallic minerals and peat	Permitted use
**Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of ' 151.05 are satisfied.	

(C) *Use and upgrading of inconsistent land use districts.*

(1) (a) The land use districts adopted in " 153.020 through 153.024, as they apply to the shoreland areas, and their delineated boundaries on the official zoning map, are not consistent with the land use district designation criteria specified in division (B) above.

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

(2) When a revision to a land use district designation on a protected body of water is considered, the land use district boundaries and use provisions therein for all the shoreland areas within the jurisdiction of this chapter on the protected waters must be revised to make them substantially compatible with the framework in divisions (A) and (B) above.

(3) When an interpretation question arises about whether a specific land use fits within a given **Ause@** category, the interpretation shall be made by the Board of Adjustment. When a question arises as to whether a land use district=s boundaries are properly delineated on the official zoning map, this decision shall be made by the City Commission.

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

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(b) The City Commission will direct the City Administrator to provide additional information for this water body as is necessary to satisfy divisions (A) and (B) above.

(5) The City Commission must make a detailed finding of fact and conclusion when taking final action that this revision, and the upgrading of any inconsistent land use district designations on the water body, are consistent with the enumerated criteria and use provisions of this section. (Ord. 31, passed - -1995)

ZONING AND WATER SUPPLY/SANITARY PROVISIONS

' 151.35 LOT AREA AND WIDTH STANDARDS.

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

(A) *Unsewered land within 1,000 feet of Lake Minnewaska.*

	<i>Riparian Lots</i>		<i>Non-Riparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
Single	20,000	100	40,000	150
Duplex	40,000	180	80,000	265
Triplex	60,000	260	120,000	375
Quad	80,000	340	160,000	490

(B) *Sewered land within 1,000 feet of Lake Minnewaska.*

	<i>Riparian Lots</i>		<i>Non-Riparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
Single	15,000	75	10,000	75
Duplex	26,000	135	17,500	135
Triplex	38,000	195	25,000	190
Quad	49,000	255	32,500	245

(C) *Tributary stream lot width standards.* There is no minimum lot size requirements for tributary streams. The riparian and non-riparian lot width standards for single, duplex and quad residential developments for tributary streams are:

	<i>Sewered</i>	<i>Non-Sewered</i>
Single	75	100
Duplex	115	150
Triplex	150	200
Quad	190	250

(D) *Additional special provisions.*

(1) Residential subdivisions with dwelling unit densities exceeding those in the table in division (B) above can only be allowed if designed and approved as residential planned unit developments under ' 151.05. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line. The sewer lot area dimensions in division (B) above can only be used if publicly owned sewer system service is available to the property.

(2) One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in this section, provided the following standards are met:

(a) For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit;

(b) A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and

(c) A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.

(3) Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:

(a) They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots;

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(b) If a controlled access lot is used for docking, mooring or over-water storage of more than six watercraft, then the width of the lot (keeping the same lot depth) must be increased by 5% of the requirements for riparian residential lots for each watercraft beyond six;

(c) Controlled access lots must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and

(d) Covenants or other equally effective legal instruments must be developed that specify which lots owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities including swimming, sunbathing or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on condition.

(Ord. 31, passed - -1995)

' 151.36 PLACEMENT, DESIGN AND HEIGHT OF STRUCTURES.

(A) *Placement of structures on lots.*

(1) When more than one setback applies to a site, structures and facilities must be located to meet all setbacks.

(2) Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.

(3) Structures shall be located as follows.

(a) *Structure and on-site sewage system setbacks (in feet) from ordinary high water level.*

<i>Public Water</i>	<i>Structures</i>		<i>Sewage Treatment System</i>
	<i>Unsewered</i>	<i>Sewered</i>	
Lake Minnewaska	75	50	50

<i>Public Water</i>	<i>Structures</i>		<i>Sewage Treatment System</i>
	<i>Unsewered</i>	<i>Sewered</i>	
Tributary streams	100	50	75
*One water-oriented accessory structure designed in accordance with division (B) below may be set back a minimum distance of ten feet from the ordinary high water level			

(b) *Additional structure setbacks.* The following additional structure setbacks apply, regardless of the classification of the water body:

<i>Setback From:</i>	<i>Setback (in feet)</i>
Top of bluff	30
Unplatted cemetery	50
Right-of-way line of federal, state or county highway	50
Right-of-way line of town road, public street or other roads and streets not classified	20

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

(d) *Uses without water-oriented needs.* Commercial, industrial, public and semi-public uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(B) *Design criteria for structures.*

(1) *High water elevations.* Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

(a) For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;

(b) For rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data is available. If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under these three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and

(c) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

(2) *Water-oriented accessory structures.* Each lot may have one water-oriented accessory structure not meeting the normal structure setback in division (A) above if the water-oriented accessory structure complies with the following provisions:

(a) The structure or facility must not exceed ten feet in height, exclusive of safety rails and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;

(b) The setback of the structure or facility from the ordinary high water level must be at least ten feet;

(c) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;

(d) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;

(e) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and

(f) Water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

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

(a) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties and

planned unit developments;

(b) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties and planned unit developments;

(c) Canopies or roofs are not allowed on stairways, lifts or landings;

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

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

(f) Facilities such as ramps, lifts or mobility paths for physically disabled persons are also allowed for achieving access for shore areas, provided that the dimensional and performance standards of divisions (B)(3)(a) through (B)(3)(e) above are complied with in addition to the requirements of Minn. Regulations, Chapter 1340.

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

(5) *Steep slopes.* The City Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

(C) *Height of structures.* All structures in city residential districts, except churches and nonresidential agricultural structures, must not exceed 25 feet in height.
(Ord. 31, passed - -1995)

' 151.37 SHORELAND ALTERATION.

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping and protect fish and wildlife habitat.

(A) *Vegetation alterations.*

(1) Vegetation alteration necessary for the construction of structures and sewage treatment

systems and the construction of roads and parking areas regulated by ' 151.38 are exempt from the vegetation alteration standards that follows.

(2) Removal or alteration of vegetation, except for agricultural and forest management uses are regulated in ' 151.40(B) and (C), respectfully, is allowed subject to the following standards.

(a) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.

(b) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement from stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

1. The screening of structures, vehicles or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
2. Along rivers, existing shading of water surfaces is preserved; and
3. The above provisions are not applicable to the removal of trees, limbs or branches that are dead, diseased or pose safety hazards.

(B) Topographic alterations/grading and filling.

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

(2) Public road and parking areas are regulated by ' 151.38.

(3) Notwithstanding divisions (B)(1) and (B)(2) above, a grading and filling permit will be required for:

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

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

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

approvals:

(a) 1. Grading and filling in any type 2, 3, 4, 5, 6, 7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland:

- a. Sediment and pollutant trapping and retention;
- b. Storage of surface runoff to prevent or reduce flood damage;
- c. Fish and wildlife habitat;
- d. Recreational use;
- e. Shoreline or bank stabilization; and

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

2. The evaluation required by this section must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state or federal agencies such as a watershed district, the State Department of Natural Resources or the United States Army Corps of Engineers. The applicant will be so advised.

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

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

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

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

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

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

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

(i) Any alteration below the ordinary high water level of public waters must first be authorized by the commissioner under M.S. ' 103G.245, as it may be amended from time to time;

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

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

(5) *Connections to public waters.* Excavations where the intended purpose is connection to a public water such as boat slips, canals, lagoons and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

(Ord. 31, passed - -1995)

' 151.38 PLACEMENT AND DESIGN OF ROAD, DRIVEWAYS AND PARKING AREAS.

(A) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

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

(C) Public and private watercraft access ramps, approach roads and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of ' 151.37(B) must be met.

(Ord. 31, passed - -1995)

' 151.39 STORMWATER MANAGEMENT.

The following general and specific standards shall apply.

(A) General standards.

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

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

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

(B) *Specific standards.*

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

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

(3) New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
(Ord. 31, passed - -1995)

' 151.40 SPECIAL PROVISIONS FOR COMMERCIAL, INDUSTRIAL, PUBLIC/SEMIPUBLIC, AGRICULTURAL, FORESTRY AND EXTRACTIVE USES AND MINING OF METALLIC MINERALS AND PEAT.

(A) *Standards for commercial, industrial, public and semi-public uses.*

(1) Surface water-oriented commercial uses and industrial, public or semi-public uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards.

(a) In addition to meeting impervious coverage limits, setbacks and other zoning standards in this chapter, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.

(b) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.

(c) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards.

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1. No advertising signs or supporting facilities for signs may be placed in or about public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff.

2. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey need information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information, such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. In illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

3. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

(2) Uses without water-oriented needs must be located on lots or parcels without public water frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(B) *Agricultural use standards.*

(1) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Services, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

(2) Animal feedlots must meet the following standards:

(a) New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public water basins; and

(b) Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

(C) *Forest management standards.* The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provision of *Water Quality in Forest Management Best Management*

Practices in Minnesota.

(D) *Extractive use standards.*

(1) *Site development and restoration plan.* An extractive use site development and restoration plan must be developed, approved and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

(2) *Setbacks for processing machinery.* Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

(E) *Mining of metallic minerals and peat.* Mining of metallic minerals and peat, as defined in M.S. " 93.44 through 93.51, as they may be amended from time to time, shall be a permitted use provided the provisions of M.S. " 93.44 through 93.51, as they may be amended from time to time, are satisfied.

(Ord. 31, passed - -1995)

' 151.41 CONDITIONAL USES.

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

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

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

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

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

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

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

(2) *Conditions attached to conditional use permits.*

(a) The City Commission, upon consideration of the criteria listed above and the purposes of this chapter, shall attach such conditions to the issuance of the conditional use permits as it

deems necessary to fulfill the purposes of this chapter.

(b) These conditions may include, but are not limited to, the following:

1. Increased setbacks from the ordinary high water level;
2. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
3. Special provisions for the location, design and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
(Ord. 31, passed - -1995)

' 151.42 WATER SUPPLY AND SEWAGE TREATMENT.

(A) *Water supply.* Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the State Department of Health and the State Pollution Control Agency.

(B) *Sewage treatment.* Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as governed by Chapter 52.

(1) All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, **A**Individual Sewage Treatment Systems Standards, Chapter 7080@, a copy of which is hereby adopted by reference and declared to be a part of this chapter.

(2) On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in ' 151.36(A).

(3) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in divisions (B)(3)(b)1. through (B)(3)(b)4. below.

(a) If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

(b) Evaluation criteria:

1. Depth to the highest known or calculated ground water table or bedrock;
2. Soil conditions, properties and permeability;
3. Slope; and

4. The existence of lowlands, local surface depressions and rock outcrops.

(4) Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Minn. Rule Chapters 7080 through 7083.
(Ord. 31, passed - -1995)

' 151.43 NONCONFORMITIES.

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

(A) *Construction on nonconforming lots of record.*

(1) Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of 151.35 may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this chapter are met.

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

(3) If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of ' 151.35, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of ' 151.35 as much as possible.

(B) *Additions/expansions to nonconforming structures.*

(1) All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and others requirements of " 151.35 et seq. Any deviation from these requirements must be authorized by a variance pursuant to ' 151.37.

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

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

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

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

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

(C) *Nonconforming sewage treatment systems.*

(1) A sewage treatment system not meeting the requirements of ' 151.42 must be upgraded, at a minimum, at any time a permit or variance of any type is required or any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

(2) The City Commission has by formal resolution notified the commissioner of its program to identify nonconforming sewage treatment systems. The city will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time which will not exceed two years. Sewage systems installed according to all applicable local shoreland management standards adopted pursuant to M.S. " 105.485 or 103F.221 in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming. (Ord. 31, passed - -1995)

' 151.44 SUBDIVISION/PLATTING PROVISIONS.

(A) *Land suitability.* Each lot created through subdivision, including planned unit development authorized under ' 151.42 must be suitable in its natural site for the proposed use with minimal alteration. Suitability analysis by the city shall include an assessment regarding susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

(B) *Consistency with other controls.* Subdivisions must conform to all official controls of this community. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with ' 151.36 and ' 151.42 can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of ' 151.35, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding

tanks must not be approved.

(C) *Information requirements.* Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:

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

(2) The surface water features required in M.S. ' 505.02, Subd. 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

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

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

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

(6) A line or contour representing the ordinary high water level, the **A** toe and the **A** top of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

(D) *Dedications.* When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

(E) *Platting.* All subdivisions that create five or more lots or parcels that are two and one-half acres or less in size shall be processed as a plat in accordance with M.S. Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

(F) *Controlled access or recreational lots.* Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in ' 151.35.

(Ord. 31, passed - -1995)

CHAPTER 152: SUBDIVISION OF LAND

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Appendix A: Subdivision Review Checklist

GENERAL PROVISIONS

' 152.01 TITLE.

This chapter shall be known and may be cited as **AThe Glenwood Subdivision Ordinance@**.
(Ord. 66, passed 10-12-1999)

' 152.02 AUTHORITY AND PURPOSE.

(A) *Authority.* This chapter is adopted pursuant to the authority delegated to the city under M.S.
' 462.358, as it may be amended from time to time.

(B) *Purpose.*

(1) The purpose of this chapter is to protect the public health, safety and general welfare.

(2) Specifically, this chapter:

(a) Encourages well-planned, efficient and attractive subdivisions by establishing adequate standards for design and construction;

(b) Provides for the health and safety of residents by requiring the necessary services, such as properly designed streets and adequate water and drainage service;

(c) Places the cost of improvements against those benefitting from the improvements;

(d) Safeguards the interests of the public, property owners, the subdivider and the city;
and

(e) Protects environmentally-sensitive areas.

(Ord. 66, passed 10-12-1999)

' 152.03 DEFINITIONS.

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

ADEQUATE PUBLIC FACILITIES. Facilities determined to be capable of supporting and servicing the physical area and designated intensity of the proposed subdivision as determined by the governing body.

APPLICANT. A developer submitting an application for development.

AREA OF BENEFIT. An area of land which is designated by the Planning Commission as receiving benefits from, or creating the need for the construction, acquisition or improvement of a public facilities project.

ARTERIAL ROAD. A road which serves, or is designed to serve heavy flows of traffic and is primarily a route between communities.

BLOCK. A tract of land bounded by streets or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways or boundary lines of municipalities.

BOARD OF ADJUSTMENT. The Zoning Board of Adjustment established pursuant to the city zoning ordinance (Chapter 153).

BOULEVARD. The area that is between the improved surface of a street and the street's right-of-way.

BOND. Any form of a surety bond in an amount and form satisfactory to the governing body. All **BONDS** shall be approved by the governing body whenever a bond is required by these regulations.

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

CAPITAL IMPROVEMENT. A public facility with a life expectancy of three or more years, to be owned and operated by, or on behalf of, the local government.

CERTIFY. Whenever these regulations require that an agency or official certify the existence of some fact or circumstance, the municipality by administrative rule may require that the certification be made in any manner, oral or written, which provides reasonable assurance of the accuracy of the certification.

COLLECTOR ROAD. A road intended to move traffic from local roads to arterial roads. A **COLLECTOR ROAD** serves a neighborhood or large subdivision and should be designed so that no residential properties face onto it.

CONTIGUOUS. Lots are contiguous when at least one boundary line of one lot touches a boundary line or lines of another lot.

CUL-DE-SAC. A local street with only one outlet that terminates in a vehicular turnaround and has an appropriate terminal for the safe and convenient reversal of traffic movement.

DEDICATION. The deeding of land by a developer or landowner to the public.

DEVELOPER. The owner, of land proposed to be subdivided, or its representative, who is responsible for any undertaking that requires review and/or approval under these regulations.

DEVELOPMENT AGREEMENT. Agreement between the governing body and developer through which the governing body agrees to vest development use of intensity or refrain from interfering with subsequent phases of development through new legislation in exchange for the provisions of public facilities or amenities by the developer in excess of those required under current community regulations.

DWELLING UNIT. A building designed and intended for human habitation.

EASEMENT . A right to use property owned by someone else, usually for a specific purpose, such as the placing of utilities.

FINAL PLAT. The map of a subdivision, to be recorded after approval by the City Commission, and any accompanying materials as described in these regulations.

FRONTAGE. The part of a lot that touches a road, street or watercourse.

IMPROVEMENTS. Facilities which aid in land development. **IMPROVEMENTS** include items such as: streets, sewer and water lines, curbs, sidewalks, street lights, fire hydrants and street signs.

GOVERNING BODY. The body of the local government having the power to adopt ordinances.

HEALTH DEPARTMENT and **HEALTH OFFICER.** The agency and person designated by the governing body to administer the health regulations of the local government.

HEALTH, SAFETY OR GENERAL WELFARE. The purpose for which municipalities may adopt and enforce land use regulations for the prevention of harm or promotion of public benefit to the community; commonly referred to as police power.

LOCAL GOVERNMENT. The municipality of Glenwood.

LOCAL GOVERNMENT ATTORNEY. The licensed attorney designated by the governing body to furnish legal assistance for the administration of these regulations.

LOCAL GOVERNMENT ENGINEER. The licensed engineer designated by the governing body to furnish engineering assistance for the administration of these regulations.

LOCAL ROAD. A road which functions to provide access to abutting properties and to other roads from individual properties, and to provide right-of-way beneath it for utilities, including sewer, water and storm drainage pipes.

LOCAL ROAD, LIMITED. A road which functions to provide access to abutting properties and to other roads from individual properties, and to provide right-of-way beneath it for utilities, including sewer, water and storm drainage pipes. A **LOCAL ROAD-LIMITED** is designed wholly for traffic within a particular subdivision or neighborhood, provided that the street shall not serve, or be intended to serve more than 30 dwelling units.

LOT. A piece of land divided from a larger parcel.

LOT COVERAGE. The amount of a total lot covered by buildings.

LOT IMPROVEMENT. Any building, structure, place, work of art or other object situated on a lot.

MASTER PLAN. A comprehensive plan for development of the local government prepared and adopted by the City Commission, pursuant to state law, and including any part of the plan separately adopted and any amendment to the plan, or parts thereof.

METES AND BOUNDS. A description of real property which is not described by or referenced to a plat or block shown on a map, but is described by starting at a known point and describing the bearings and distances of lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by describing lines or portions thereof.

MINIMUM LOT SIZE. The smallest lot or parcel that can be built on in a particular land use zone, or the smallest lot that can be created by dividing a larger parcel.

OFFICIAL MAP. The map established by the governing body, showing the streets, highways, parks and drainage systems, and adopted and established by law, and any amendments or additions adopted by the governing body resulting from the approval of subdivision plats by the Planning Commission and the subsequent filing of approved plats.

PARCEL. A lot or group of lots under a single ownership or control.

PLANNED UNIT DEVELOPMENT (PUD). A zoning development management approach to physical growth which may combine housing, commercial, light manufacturing and/or open-space uses in the same zone, while maintaining an overall density comparable to conventional development.

PLANNING COMMISSION. The local government's Planning Commission, established in accordance with the law.

PRELIMINARY PLAT. The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Planning Commission for approval.

PUBLIC FACILITIES PROJECT. Any and all public improvements, the need for which is directly or indirectly generated by development.

PUBLIC HEARING. An adjudicatory proceeding held by the Planning Commission preceded by published notice and actual notice to certain persons, and at which certain persons, including the applicant, may call witnesses and introduce evidence for the purpose of demonstrating that plat approval should or should not be granted. The rules of civil procedure binding on the courts shall not, however, bind the Planning Commission or City Commission.

REGISTERED LAND SURVEYOR. A land surveyor properly licensed and registered in the state.

RIGHT-OF-WAY. A strip of land occupied, or intended to be occupied, by a street, sidewalk, electric-transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees or for any other special use. The usage of the term **RIGHT-OF-WAY** for land platting purposes shall mean that every **RIGHT-OF-WAY** hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining the right-of-way and not included within the dimensions or areas of the lots or parcels. **RIGHTS-OF-WAY** shall be dedicated to public use by the maker of the plat on which the right-of-way is established.

SKETCH PLAT. A sketch preparatory to the preliminary plat which enables the subdivider to save time and expense in reaching general agreement with the Planning Commission as to the form of the plat and the objectives of these regulations. It does not need to be completed by an engineer or any other professional. A **SKETCH PLAT** should include information which demonstrates the applicant has given consideration to the impact of the development on adjoining properties, traffic flow, utility services and topography.

STRUCTURE. Anything constructed or erected.

SUBDIVISION. The division or redivision of a lot, tract or parcel of land regardless of how it is to be used, into two or more lots either by plat or by metes and bounds description; or the division or redivision of land involving dedication of a new park, playground, street or other public right-of-way facility; or the vacation, realignment or any other changes in existing streets, alleys, easements, recreation areas, water or other public improvements or facilities.

SUBDIVISION, MAJOR. Any subdivision other than a minor subdivision.

SUBDIVISION, MINOR. A subdivision which does not involve any of the following:

(1) The creation of more than a total of two lots; or

(2) The creation of any new or extended public streets, rights-of-way or the creation or extension of public facilities, including sanitary sewer, storm sewer or water lines or facilities, drainage lines or facilities or the creation of any new public improvements.

SUBDIVISION IMPROVEMENT AGREEMENT. A contract entered into by the applicant and the City Commission on behalf of the municipality by which the applicant promises to complete the required public improvements within the subdivision within a specified time period following final subdivision plat approval.

ZONING ADMINISTRATOR. The person designated by the local government to enforce the zoning ordinance and this chapter.
(Ord. 66, passed 10-12-1999; Ord. 82, passed 10-23-2002)

' 152.04 APPLICABILITY.

Every division of land for any purpose into two or more lots, parcels or tracts within the incorporated area of the city, or any combination of two or more lots, parcels or tracts, shall proceed in compliance with this chapter. For the purposes of this chapter, all the divisions of land shall be classified as minor subdivisions or major subdivisions as herein defined.
(Ord. 82, passed 10-23-2002)

' 152.05 EXCEPTIONS.

(A) The provisions of this chapter shall not apply to:

(1) A cemetery or burial plot while used for that purpose;

(2) A parcel which was the subject of a written agreement to convey entered into and recorded in the Office of the County Recorder prior to the effective date of this chapter; or

(3) Land which the Planning Commission or the City Commission finds to be unsuitable for land subdivision due to flooding, inadequate drainage, steep slopes, rock formations or other features likely to be harmful to the safety and general health of residents, or land which cannot be adequately served by utilities or other public facilities or public access; the land shall not be subdivided unless adequate methods are provided for overcoming the conditions.

(B) This chapter shall not repeal, annul or in any way impair or interfere with existing provisions of other laws and ordinances except those specifically repealed by or in conflict with this chapter.

(C) This chapter shall not interfere with private restrictions placed upon property by deed,

covenant or other private agreement, or with restrictive covenants running with the land to which the city is a party.

(D) Where this chapter imposes a greater restriction upon land than is imposed or required by any existing provisions of law, other ordinances or private restrictions, the provisions of this chapter shall control. The owner shall enforce private covenants and restrictions to the best of the owner's ability; the city shall assume no responsibility for the enforcement thereof. Any restrictive covenant shall not conflict with or invalidate this or other city ordinances.

(Ord. 82, passed 10-23-2002)

' 152.06 METES AND BOUNDS SUBDIVISION.

Only one division of land in which the tract is described by metes and bounds shall be permitted. Any further division of the remaining land must be by plat duly approved and recorded in accordance with existing laws, regulations and ordinances. Any such plat shall include any adjacent tract theretofore conveyed by metes and bounds. A land survey may be required by the Zoning Administrator to determine compliance with all applicable ordinances, controls, rules and regulations for a metes and bounds division of land permitted by this section.

' 152.07 APPLICATION PROCEDURE.

(A) *General provision.* Before any land is subdivided, the owner of the land, or authorized agent, shall apply for and receive approval in accordance with the following procedure.

(B) *Classification.* Subdivisions shall be classified as follows and require the number of steps indicated.

- (1) Minor subdivision:
 - (a) Preliminary plat; and
 - (b) Final subdivision plat.
- (2) Major subdivision:
 - (a) Sketch plat;
 - (b) Preliminary plat; and
 - (c) Final subdivision plat.

(C) *Application fee.* The fee for review of a subdivision plat shall be established by the City Commission from time to time by ordinance. The fee shall be used by the city for expenses incurred in connection with processing the subdivision plat.

(D) *Administrative expense.* The applicant shall reimburse the city for all expenses reasonably incurred by the city in processing each application submitted under this chapter. Administrative expenses shall include but are not limited to legal, engineering and other professional review fees.

(E) *Public hearings.* A public hearing shall be held on all subdivision applications prior to preliminary plat approval, unless otherwise provided by law or charter. The hearing shall be held following publication of notice of the time and place thereof in the official newspaper at least ten days before the day of the hearing. At the hearing, all persons interested shall be given an opportunity to make presentations.

(F) *Sketch plat/preliminary plat review.* The applicant shall ensure that all items from Appendix A of this chapter, along with additional items requested by the Zoning Administrator, Planning Commission or City Commission are clearly indicated on all preliminary and final plats, or other documents as appropriate, unless specifically waived in writing by the City Commission.

(1) *Minor subdivision.* The applicant shall meet with the Zoning Administrator and submit four full size copies of the preliminary plat and thirteen 11-inch by 17-inch reproducible copies at least 15 days prior to the Planning Commission meeting where the plat will be reviewed. The preliminary plat may be presented in simple form, but must show that consideration has been given to the relationship of the proposed subdivision to existing community facilities that will serve it, to neighboring development, and to the natural resources and topography of the site. The Administrator shall distribute one copy of the preliminary plat to each Planning Commission member, Engineer and other reviewers as appropriate. Within 60 days of submission, the Planning Commission shall make its report to the City Commission. Approval by the City Commission indicates that the applicant may proceed with preparation of a final plat in accordance with the terms of approval and provisions of this subdivision regulation.

(2) *Major subdivision.* The applicant shall meet with the Zoning Administrator and submit the sketch plat. The sketch plat may be presented in simple form, but must show that consideration has been given to the relationship of the proposed subdivision to existing community facilities that will serve it, to neighboring development, and to the natural resources and topography of the site. Within 15 days of receipt of the sketch plat, the Zoning Administrator shall review applicable laws governing the subdivision of land. If the sketch plat complies, the Zoning Administrator shall issue a notice to proceed. Within 120 days of receipt of the notice to proceed, the applicant shall submit four full size copies of the preliminary plat and thirteen 11-inch by 17-inch reproducible copies at least 15 days prior to the Planning Commission meeting where the plat will be reviewed. The Zoning Administrator shall distribute one copy of the preliminary plat to each Planning Commissioner, Engineer and other reviewers as appropriate. Within 60 days of submission, the Planning Commission shall make its report to the City Commission. Approval by the City Commission indicates that the applicant may proceed with preparation of a final plat in accordance with the terms of approval, and the provisions of this subdivision regulation.

(G) *Final plat review.*

(1) The final plat shall be prepared by a licensed land surveyor and submitted within one year of preliminary plat approval or the preliminary plat shall be considered null and void. The applicant shall submit four full size and thirteen 11-inch by 17-inch reproducible copies at least 15 days prior to the Planning Commission meeting where the plat will be reviewed. The final plat shall incorporate all of the changes required by the Planning Commission and governing body.

(2) The Zoning Administrator shall distribute a copy of the final plat to each member of the Planning Commission, governing body and other professionals as required.

(3) The Planning Commission shall study the final plat and submit its recommendations to the governing body within 60 days. The governing body shall act upon the final plat within 60 days, whereupon the Zoning Administrator shall notify the applicant of the governing body's findings.

(4) Upon approval, the applicant shall record the final plat with the County Recorder within 60 days of approval, otherwise the approval shall be null and void. Within 30 days of recording, the applicant shall provide the Zoning Administrator with three black-line prints and a reproducible print of the final plat showing evidence of recording. The applicant shall also provide a digital copy of the plat to be downloaded to the city's map.

(Ord. 66, passed 10-12-1999)

' 152.08 COMPLETION AND MAINTENANCE OF IMPROVEMENTS.

(A) *Costs of improvements.* All required improvements shall be made by the developer, at the developer's expense, without reimbursement by the local government. The city, at its discretion, may choose to participate in the costs of improvements based upon the public benefit of a project, through a development agreement.

(B) *Acceptance of dedication offers.* Acceptance of formal offers of dedication of streets, public

areas, easements and parks shall be by ordinance of the governing body. The approval of a subdivision plat by the City Commission, whether sketch, preliminary or final, shall not be deemed to constitute or imply the acceptance by the municipality of any street, easement or park shown on the plat.

(C) *Inspection of improvements.* The Planning Commission shall provide for inspection of required improvements during construction and ensure their satisfactory completion. The applicant shall pay to the municipality an inspection fee based on the estimated cost of inspection. These fees shall be due and payable upon demand of the municipality and no building permits or certificates of occupancy shall be issued until all fees are paid. If the Local Government Engineer finds, upon inspection, that any one or more of the required improvements have not been constructed in accordance with the municipality's construction standards and specifications, the applicant shall be responsible for properly completing the improvements.

(D) *Maintenance of improvements.* The developer shall be required to maintain all required public improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks, if required by the Planning Commission, until acceptance of the improvements by the governing body. If there are any certificates of occupancy on a street not yet dedicated to the local government, the local government may, on 12 hours notice, plow the street or effect emergency repairs and charge those costs to the developer. Following the acceptance of the dedication of any public improvement by the local government, the government may, in its sole discretion, require the subdivider to maintain the improvement for a period of one year from the date of acceptance.

(E) *Deferral of required improvements.* Whenever it is deemed necessary by the governing body to defer the construction of any improvement required under these regulations because of incompatible grades, future planning, inadequate or nonexistent connecting facilities, or for other reasons, the subdivider shall pay his or her share of the costs of the future improvements to the local government prior to the signing of the final subdivision plat by the Mayor, or the developer may execute a separate subdivision improvement agreement, secured by a letter of credit, guaranteeing completion of the deferred improvements upon demand of the local government.

(F) *Issuance of building permits and certificates of occupancy.*

(1) When a subdivision improvement agreement or security has been required for a subdivision, no certification of occupancy for any building in the subdivision shall be issued prior to the completion of the required public improvements and the acceptance of the dedication of those improvements by the local government.

(2) The extent of street improvement shall be adequate for vehicular access by the prospective occupant(s) and by police and fire equipment prior to the issuance of an occupancy permit. The developer shall, at the time of the offer of dedication, submit monies in escrow to the local government in a sum determined by the Local Government Engineer for the necessary final, if any, improvement of the street.

(3) No building permit shall be issued for the final 10% of lots in a subdivision, or if 10% be less than two, for the final two lots of a subdivision, until all public improvements required by governing body for the subdivision have been fully completed and the local government has accepted

the developer=s offer(s) to dedicate the improvements.

(G) *Consumer protection legislation and conflicts of interest statutes.*

(1) No building permit or certificate of occupancy shall be granted or issued if a developer, or its authorized agent, has violated any federal, state or local law pertaining to:

(a) Consumer protection;

(b) Real estate land sales, promotion or practices; or

(c) Any applicable conflicts-of-interest legislation with respect to the lot or parcel of land which is the subject of the permit or certificate until a court of competent jurisdiction so orders.

(2) With respect to any lot or parcel of land described in the immediately preceding section, if a building permit or certificate of occupancy has been granted or issued, it may be revoked by the municipality until a court of competent jurisdiction orders otherwise, provided that in no event shall the rights of intervening innocent third parties in possession of a certificate of occupancy be prejudiced by any such revocation.

(3) Any violation of a federal, state or local consumer protection law, including, but not limited to: the Postal Reorganization Act of 1970, being 39 U.S.C. " 410 et seq.; the Federal Trade Commission Act of 1970, being 15 U.S.C. " 41 to 58; the Interstate Land Sales Full Disclosure Act, being 15 U.S.C. " 1701 et seq.; the Truth in Lending Act, being 15 U.S.C. " 16.01 et seq.; the Uniform Commercial Credit Code; state **AB**lue Sky@ laws, being M.S. " 80A.40 et seq.; state subdivision disclosure acts or any conflicts of interest statute, law or ordinance shall be deemed a violation of these regulations subject to all of the penalties and proceedings as set forth in " 152.09 through 152.12.
(Ord. 66, passed 10-12-1999)

' 152.09 ENFORCEMENT.

This chapter shall be administered and enforced by the City Administrator or other officers as approved by the City Commission.
(Ord. 66, passed 10-12-1999)

' 152.10 VIOLATIONS.

The developer shall defend and indemnify the city from all liability, loss, costs and obligations including reasonable attorney=s fees, on account of or arising out of any violation of this chapter.
(Ord. 66, passed 10-12-1999)

' 152.11 GENERAL EXCEPTION.

The city may waive any restriction of this chapter if deemed by the City Commission that requiring a developer to strictly adhere to the restriction or restrictions of this chapter would not be reasonable, and that waiving the restriction or restrictions would not impair the public's health, safety or general welfare. The City Commission may require reasonable conditions in connection with any waiver. Any request for waiver must be applied for in writing by the applicant as part of the plat application process. The exact nature of the waiver desired must be made on the record and the reasons for the deferral or waiver also shall be expressly made on the record. The Planning Commission shall review all requests for waivers and forward a recommendation to the City Commission.
(Ord. 66, passed 10-12-1999)

' 152.12 CONFLICTS.

If this chapter shall be found in conflict with any other ordinance, regulation or law, the more restrictive shall apply.
(Ord. 66, passed 10-12-1999)

' 152.13 SUBDIVISION APPLICATION FEE.

The subdivision application fee shall be \$50, plus \$5 for each lot over three.
(Ord. 67, passed 11-9-1999)

REQUIREMENTS FOR IMPROVEMENTS, RESERVATIONS AND DESIGN**' 152.25 NONRESIDENTIAL SUBDIVISIONS.**

(A) Nonresidential subdivisions shall be subject to all the requirements of this chapter, as well as additional standards required by the Planning Commission and City Commission, and shall conform to the proposed land use standards established in the comprehensive plan, official map and zoning ordinance.

(B) In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the Planning Commission and City Commission that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed.

(1) Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.

(2) Every effort shall be made to protect adjacent residential areas from potential nuisances from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.

(Ord. 66, passed 10-12-1999)

' 152.26 CONFORMANCE TO APPLICABLE RULES AND REGULATIONS.

In addition to the requirements established in these regulations, all subdivision plats shall comply with the following laws, rules and regulations:

(A) All applicable statutory provisions;

(B) The local government zoning ordinance, building and housing codes, and all other applicable laws of the appropriate jurisdiction;

(C) The official master plan, official map, public utilities plan and capital improvements program of the local government, including all streets, drainage systems and parks shown on the official map or master plan as adopted;

(D) The special requirements of these regulations and any rules of the Health Department and/or appropriate state or substate agencies;

(E) The rules of the State Highway Department if the subdivision, or any lot contained therein, abuts a state highway or connecting street;

(F) The standards and regulations adopted by the Local Government Engineer and all boards, commissions, agencies and officials of the local government;

(G) All pertinent standards contained within the planning guides published by the applicable regional planning agencies; and

(H) Plat approval may be withheld if a subdivision is not in conformity with the above laws, regulations, guidelines and policies as well as the purposes of these regulations established in ' 152.02(B).

(Ord. 66, passed 10-12-1999)

' 152.27 ADEQUATE PUBLIC FACILITIES.

(A) No preliminary plat shall be approved unless the Planning Commission and the City Commission determine that public facilities will be adequate to support and service the area of the proposed subdivision.

(B) The applicant shall, at the request of the Planning Commission or City Commission, submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on, and use of, public facilities by possible uses of the subdivisions.

(C) Public facilities and services to be examined for adequacy may include, but are not limited to: roads, sewerage, water, schools and police and fire services.
(Ord. 66, passed 10-12-1999)

' 152.28 COMPREHENSIVE MASTER PLAN CONSISTENCY REQUIRED.

Proposed public improvements shall conform to and be properly related to the local government's comprehensive plan and all applicable capital improvement plans.
(Ord. 66, passed 10-12-1999)

' 152.29 WATER FACILITIES.

All habitable buildings and buildable lots shall be connected to a public water system capable of providing water for health and emergency purposes, including adequate fire protection.

(A) All lots must be serviced by the municipal water system unless there is a finding by the Planning Commission and City Commission that it is in the best interest of the city to have individual wells.

(B) When a public water main is not accessible, the developer shall take necessary action to extend or create a water supply district for the purpose of supplying a water supply system capable of providing for domestic water use and fire protection. Any structure within the subdivision not connected to the municipal water system must connect at the time water is extended past the property and any existing wells must be capped.

(C) When a public water main is accessible, the developer shall install adequate water facilities, including fire hydrants, subject to the specifications of state or local authorities. All water mains shall be at least six inches in diameter if intended to service residential development or eight inches in diameter if intended to service commercial development.

(D) Water main extensions shall be approved by the Minnesota Department of Health.

(E) The location of all fire hydrants, all water supply improvements and the boundary lines of proposed districts, indicating all improvements proposed to be served, shall be shown on the preliminary plat. The developer shall bear the cost of installing these improvements and they shall be included in the subdivision improvement agreement.

(Ord. 66, passed 10-12-1999)

' 152.30 SEWERAGE FACILITIES.

All habitable buildings and buildable lots shall be served by an approved means of wastewater collection and treatment.

(A) All lots must be serviced by the municipal sanitary sewer system unless there is a ruling by the Planning Commission and City Commission that it is in the best interest of the city to have individual sewerage treatment systems.

(B) If an individual sewer treatment system is approved, all the provisions of Minn. Rules Chapter 7080 must be followed.

(C) Sanitary sewer extensions shall be approved by the Minnesota Pollution Control Agency.
(Ord. 66, passed 10-12-1999)

' 152.31 STORMWATER/DRAINAGE MANAGEMENT.

(A) *General requirements.* The Planning Commission shall not recommend for approval any plat or subdivision that does not make adequate provision for storm and flood water runoff channels or basins. The local government may require the use of control methods such as retention or detention, and/or the construction of off-site drainage improvements to mitigate the impacts of the proposed developments.

(B) *Location.* The applicant may be required by the Planning Commission or City Commission to carry away, by pipe or open ditch, any spring or surface water that may exist, either previously to, or as a result of, the subdivision. The drainage facilities shall be located in the road right-of-way where feasible or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the construction standards and specifications.

(C) *Upstream drainage.* A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision.

(D) *Downstream drainage.* Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Planning Commission or City Commission may withhold approval of the subdivision until provision has been made for the expansion of the downstream drainage facility.

(Ord. 66, passed 10-12-1999)

' 152.32 EXTENSION POLICIES.

All public improvements and required easements shall be extended through the parcel on which new development is proposed. Streets, water lines, wastewater systems, drainage facilities, electric lines and telecommunications lines shall be constructed through new development to promote the logical extension of public infrastructure. The local government may require the applicant of a subdivision to extend off site improvements to reach the subdivision, or oversize required public facilities to serve anticipated future development as a condition of plat approval.

(Ord. 66, passed 10-12-1999)

' 152.33 MONUMENTS.

The applicant shall place permanent reference monuments in the subdivision as required in these regulations and as approved by a registered land surveyor.

(A) *Monuments.* Monuments shall be located on street right-of-way lines, at street intersections, angle points of curve and block corners. They shall be spaced so as to be within sight of each other, the sight lines being contained wholly within the street limits. All monuments required by these regulations shall be set flush with the ground and planted in such a manner that they will not be removed by frost. All monuments shall be set in the ground and approved by a registered land surveyor prior to the time the Planning Commission recommends approval of the final plat.

(B) *External boundaries.* The external boundaries of a subdivision shall be monumented in the field by monuments of stone or concrete, not less than 30 inches in length and not less than four inches square or five inches in diameter. The monument shall be marked on top with a cross, brass plug, iron rod or other durable material securely embedded or by iron rods or pipes at least 30 inches long and two inches in diameter. These monuments shall be placed not more than 1,400 feet apart in any straight line and at all corners, at each end of all curves, at the point where a curve changes its radius, at all angle points in any line, and at all angle points along the meander line of any river or stream, except when the corners or points fall within a street, or proposed future street, the monuments shall be placed in the side line of the street.

(C) *Internal boundaries.* All internal boundaries, and those corners and points not referred to in division (B) above, shall be monumented in the field by like monuments as described above. These monuments shall be placed at all block corners, at each end of all curves and at all angle points in any line.

(Ord. 66, passed 10-12-1999)

' 152.34 LOT IMPROVEMENTS.

(A) *Lot arrangement.* The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the zoning ordinance and health regulations, and in providing direct driveway access to buildings on the lots from a public street.

(B) *Lot dimensions.* Lot dimensions shall comply with the minimum standards of the zoning ordinance. The Planning Commission or City Commission may require lots which are at least double the minimum required area for the zoning district be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve potential lots, all in compliance with the zoning ordinance (Chapter 153) and these regulations. In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for construction of buildings, observing the minimum front-yard setback from both streets. Depth and width of properties reserved or laid out for business, commercial or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of uses and development contemplated, as established in the zoning ordinance.

(C) *Lot orientation.* The lot line common to the street right-of-way shall be the front line. All lots shall face the front line and a similar line across the street. Whenever feasible, lots shall be arranged so that the rear line does not abut the side line of an adjacent lot.

(D) *Soil preservation and grading.* Lots shall be laid out so as to provide positive drainage away from all building and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm water drainage from each lot to adjacent lots.

(E) *Debris and waste.* No cut trees, timber, debris, junk, rubbish or other waste materials of any kind shall be buried in any land, left or deposited on any lot or street at the time of the issuance of a certificate of occupancy. Removal of those items and materials shall be required prior to issuance of any certificate of occupancy on a subdivision. No items and materials as described in the preceding sentence shall be left or deposited in any area of the subdivision at the time of expiration of any subdivision improvement agreement or dedication of public improvements, whichever is sooner.

(Ord. 66, passed 10-12-1999)

' 152.35 ROADS.

(A) *Roads.* Proposed roads shall provide a safe, convenient and functional system for vehicular, pedestrian and bicycle circulation, be properly related to the comprehensive plan, and shall be appropriate for the particular traffic characteristics of each proposed development.

(B) *Frontage on improved roads.* No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing street on the official map.

(C) *Grading and improvement plan.* Roads shall be graded and improved and conform to the local government construction standards and specifications and shall be approved as to design and specifications by the Local Government Engineer in accordance with the construction plans required to be submitted prior to final plat approval.

(D) *Topography and arrangements.* Roads shall be related appropriately to the topography. All streets shall be arranged so as to obtain as many building sites as possible at, or above, the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided.

(E) *Street integration.* All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way established on the official map and/or master plan.

(F) *Relationship to development.* All thoroughfares shall be properly related to special traffic generators, such as industries, business districts, schools and churches, to population densities and to the pattern of existing and proposed land uses.

(G) *Minor or local streets.* Minor or local streets shall be laid out to conform as much as possible to the topography to discourage uses by through traffic, to permit efficient drainage and utility systems and to require the minimum number of streets necessary to provide convenient and safe access to property.

(H) *Layout.* The rigid rectangular gridiron street pattern need not necessarily be adhered to. The use of curvilinear streets or U-shaped streets shall be encouraged where the use will result in a more desirable layout.

(I) *Street extension.* Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, unless, in the opinion of the Planning Commission, the extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.

(J) *Road names.* The submitted plat shall not indicate any names for proposed streets. The governing body shall name all streets. Names shall be sufficiently different in sound and spelling from other road names in the city so as not to cause confusion. A road which is, or is planned to be, a continuation of an existing road shall bear the same name.

(K) *Road regulatory signs.* The applicant shall install the appropriate road signs, as determined by the Local Government Engineer, or shall deposit with the local government an amount of money equal to the local government's cost of signs and installations at the time of final subdivision approval.

(L) *Road surfacing and improvements.* After utilities have been installed by the developer, the developer shall construct roads to the widths prescribed in these regulations. All surfacing shall be of a character as is suitable for the expected traffic and in harmony with similar improvements in the surrounding areas. Types of bituminous shall be as determined by the Local Government Engineer. Adequate provision shall be made for culverts, drains and bridges. All road pavement shoulders, drainage improvements and structures, curbs, turnarounds and sidewalks shall conform to all construction standards and specifications adopted by the Planning Commission, Local Government Engineer or governing body and shall be incorporated into the construction plans required to be submitted by the developer for plat approval.

(M) *Minimum right-of-way and road widths.* See the table below.

<i>Minimum Right-of-Way and Road Widths</i>				
<i>Street Classification</i>	<i>Minimum Width Right-of-Way (ft)</i>	<i>Minimum Driving Width (ft)</i>	<i>Maximum Grade (%)</i>	<i>Minimum Drainage Grade (%)</i>
Arterial	100	60	5	0.5
Collector	80	44	5	0.5
Local	66	24	8	0.5
Local, limited	46*	24	8	0.5
Alley	20	16	8	0.5

*All local-limited streets are required to have a ten-foot utility easement on both sides

(Ord. 66, passed 10-12-1999)

' 152.36 BLOCKS.

(A) *Width.* Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth. Exceptions to this prescribed block width shall be permitted in blocks adjacent to major streets or other features which make two tiers impractical.

(B) *Length.* The lengths, widths and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated but block lengths in residential areas shall not exceed 2,200 feet nor be less than 400 feet in length. Whenever practicable, blocks along major arterial and collector streets shall be at least 1,000 feet in length.

(C) *Long blocks.* Planning Commission may require the reservation of an easement through the block to accommodate utilities, drainage facilities or pedestrian traffic in long blocks.
(Ord. 66, passed 10-12-1999)

' 152.37 STREET LIGHTS.

Installation of street lights shall be required in accordance with the design and specification standards approved by the Local Government Engineer.
(Ord. 66, passed 10-12-1999)

' 152.38 INTERSECTIONS.

(A) Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets at an angle of less than 75 degrees is prohibited. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least 100 feet therefrom. Not more than two streets shall intersect at any one point unless specifically approved by the Planning Commission.

(B) Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of the street. Street jogs of less than 150 feet shall not be permitted. Intersection of major streets shall be at least 800 feet apart.

(C) Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a 2% rate at a distance of 60 feet, measured from the nearest right-of-way line of the intersection street.

(D) Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut the ground and/or vegetation in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance.

(E) The cross slopes on all streets, including intersections, shall be 3% or less.
(Ord. 66, passed 10-12-1999)

' 152.39 SIDEWALKS.

Sidewalks shall be included within the dedicated non-pavement right-of-way of all roads in the proposed subdivision. A median strip of grassed or landscaped area at least two feet wide shall separate all sidewalks from the edge of the roadway. The City Commission may, upon recommendation of the Planning Commission, modify this requirement if it is in the best interest of the public.
(Ord. 66, passed 10-12-1999)

' 152.40 UTILITIES.

(A) *Location.* All utility facilities, including, but not limited to, gas, electric power, telephone and CATV cables, shall be located underground throughout the subdivision. Whenever existing utility facilities are located above ground, except when existing on public roads and rights-of-way, they shall be removed and placed underground. All utilities, existing and proposed throughout the subdivision, shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdividers expense. At the discretion of the Planning Commission, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

(B) *Easements.*

(1) Easements centered on rear lot lines shall provide for utilities (private and municipal) and the easements shall be at least ten feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishments of utility easements established in adjoining properties.

(2) When topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least ten feet in width shall be provided along side lot lines with satisfactory access to the road or rear lot lines.
(Ord. 66, passed 10-12-1999)

' 152.41 LAND RESERVATION AND PUBLIC USE.

(A) The Planning Commission shall require that land be reserved for parks and playgrounds or other recreation purposes in locations designated in the comprehensive plan or other places as deemed appropriate by the Planning Commission. Each reservation shall be of suitable size, dimension, topography and general character and shall have adequate road access for the particular purposes envisioned by the Planning Commission. The area shall be shown and marked on the plat **A**Reserved for Park and/or Recreation Purposes[®]. When the recreation areas are required, 5% of the total gross area of the subdivision shall be reserved. The Planning Commission may refer the proposed reservations to the Park Board for recommendation. The developer shall dedicate all the recreation areas to the local government as a condition of final subdivision plat approval.

(B) However, when in the judgment of the Planning Commission, a subdivision is of insufficient size to include an area for park and playground, or the subdivision is not designated as an area for playground or park in the comprehensive plan, the owner or applicant shall pay the city a cash sum in lieu of land reservations. The payment shall be placed in a neighborhood park and recreation improvement fund. The deposit shall be used by the local government for improvement of a neighborhood park, playground or recreation area, including the acquisition of property. The cash sum in lieu of land reservations shall be 5% of the estimated fair market value of the total gross area of the subdivision before improvement.

(Ord. 66, passed 10-12-1999)

' 152.42 PRESERVATION OF NATURAL FEATURES AND AMENITIES.

Existing features that would add value to residential development or to the local government as a whole, such as trees, watercourses and falls, beaches, historic spots and similar irreplaceable assets, shall be preserved in the design of the subdivision. No trees shall be removed from any subdivision nor any change of grade of the land effected until approval of the preliminary plat has been granted. All trees on the plat required to be retained shall be preserved and all trees where required shall be welled and protected against change of grade. The preliminary plat shall show the number and locations of existing trees and indicate all those marked for retention.

(Ord. 66, passed 10-12-1999)

' 152.43 LANDSCAPING AND SCREENING.

(A) *Landscaping.*

(1) All exposed ground areas within the subdivision, including street rights-of-way, which are not devoted to drives, sidewalks, patios or other uses, shall be landscaped, with the exception of undisturbed areas containing existing viable natural vegetation. All landscaped areas shall be kept neat, clean and uncluttered.

(2) Landscaping shall include:

(a) Tree planting at the rate of at least one tree per 5,000 square feet of the gross area of the subdivision. Existing trees retained during development of the land can be counted towards fulfilling this requirement; and

(b) Combination of trees or shrub planting. Ten shrubs count as one tree. A maximum of 25% of the landscaping requirement may be in the form of shrubs.

(B) *Erosion control.* All disturbed areas must be sodded or seeded. Appropriate ground cover is required in all disturbed areas to control erosion. The developer shall submit an erosion control plan for review by the City Engineer as part of the preliminary plat review process.

(C) *Landscaping trees.* Required landscaping trees must be mixed between lots and boulevard. All trees required for landscaping shall be at least one and one-half inch caliper at four feet above ground level; conifers shall be at least three feet in height. Landscaping trees shall be indigenous to the area. All deciduous trees shall be long-lived hardwood species. It is the responsibility of the developer to ensure to the longevity and maintenance of all plantings. If any plantings die within a year of construction, the owner shall replace the plantings.

(D) *Screening.* All commercial or industrial uses which are situated within 75 feet of a residential district shall be screened by the developer of the commercial or industrial property from the district by a wall or fence of not less than 100% opacity and up to ten feet in height. The wall or fence shall be set back from the property line at least five feet. In the setback area shall be planted a combination of coniferous and deciduous plants, in order to soften the appearance of the fence or wall for the affected residential area. Walls or fences of less height or planting screens may be permitted by the City Commission if there is a finding that the nature or extent of the use being screened is such that a lesser degree of screening will adequately promote and protect the use and enjoyment of the residential properties.

(E) *Escrow deposits for lot improvements.*

(1) *Acceptance of escrow funds.* Whenever, because of the season of the year, any lot improvements required by the subdivision regulations cannot be performed, the City Administrator may issue a certificate of occupancy, provided there is no danger to health, safety or general welfare upon accepting a cash escrow deposit in an amount to be determined by the Local Government Engineer for the cost of the lot improvements. The subdivision improvement agreement and security covering the lot improvements shall remain in full force and effect.

(2) *Procedures on escrow funds.* All required improvements for which escrow monies have been accepted by the City Administrator at the time of issuance of a certificate of occupancy shall be installed by the subdivider within nine months from the date of deposit and issuance of the certificate of occupancy. If the improvements have not been properly installed at the end of the time period, the City Administrator shall give two weeks written notice to the developer requiring it to install the improvements and, if they are not then installed properly, the City Administrator may request the governing body to proceed to contract out the work for the installation of the necessary improvements in a sum not to exceed the amount of the escrow deposit. At the time of the issuance of the certificate of occupancy for which escrow monies are being deposited with the City Administrator, the developer shall obtain and file with the City Administrator, prior to obtaining the certificate of occupancy, a notarized statement from the purchaser or purchasers of the premises authorizing the City Administrator to install the improvements at the end of the nine-month period if the improvements have not been duly installed by the subdivider.

(Ord. 66, passed 10-12-1999)

Appendix A: Subdivision Review Checklist

To be completed and submitted by the applicant.

Pre Application

- | | |
|--|---|
| _____ Location Map | _____ Location of section lines |
| _____ Sketch plan of street and lot layout
on topographic map | _____ Names and addresses of owner
and subdivider |
| _____ Conformity with comprehensive plan | _____ Names and addresses of engineer
and surveyor |
| _____ Conformity with official map | _____ Names of adjoining subdivisions |
| _____ Conformity with zoning ordinance | _____ Date plat prepared |
| | _____ North arrow |

Preliminary Plat Review

- | | |
|---|--|
| _____ Site map including land within 300
feet of boundary | _____ Scale |
| _____ Existing and proposed streets | _____ Block and lot numbers |
| _____ Existing and proposed utilities,
including water, sanitary sewer,
storm sewer, fire hydrants and the like | _____ Names, locations, and widths of existing
streets |
| _____ Names of adjacent property owners | _____ Locations and widths of proposed streets |
| _____ Two-foot contour intervals | _____ Location and width of alleys, crosswalks
or pedestrian ways |
| _____ Location of significant natural features | _____ Lot layout with dimensions and building
setback lines |
| _____ Wet lands and areas subject to flooding | _____ Sidewalks |

Subdivision of Land

- | | |
|--|--|
| _____ Existing buildings | _____ Street trees |
| _____ Existing easements | _____ Street lighting and signs |
| _____ Location of existing and proposed parks and other public areas | _____ Restrictive covenants (if any) |
| _____ Existing and proposed zoning of properties within 300 feet | _____ Landscaping Plan |
| _____ Name of subdivision | _____ Stormwater Management Plan |
| proposed | _____ Grading plan including initial and with two-foot contour lines |

(Ord. 66, passed 10-12-1999)

CHAPTER 153: ZONING CODE

Section

General Provisions

- 153.001 Jurisdiction
- 153.002 Application
- 153.003 Compliance
- 153.004 Definitions
- 153.005 Height regulation/solar access
- 153.006 Conditional uses
- 153.007 Rezoning
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Zoning Districts

- 153.020 Districts of the city
- 153.021 District requirements
- 153.022 Uses not provided
- 153.023 Zoning map
- 153.024 District boundaries

Permitted and Conditional Uses

- 153.035 Permitted uses
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Lot and Yard Requirements

- 153.050 General requirements
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General Regulations

- 153.065 Nonconforming uses
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- 153.069 Off-street parking
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- 153.071 Landscaping and screening
- 153.072 Garbage and trash
- 153.073 Temporary structures
- 153.074 Home occupations
- 153.075 Outdoor storage
- 153.076 Planned Unit Development (PUD)

GENERAL PROVISIONS

' 153.001 JURISDICTION.

The geographic jurisdiction of this chapter includes the entire area within the corporate limits of the city.

(1988 Code, ' 11.01-1)

' 153.002 APPLICATION.

When the conditions of this chapter are more or less restrictive than comparable conditions imposed by any other statute, ordinance, rule or regulation, those which impose the higher standard or requirement shall prevail.

(1988 Code, ' 11.01-2)

' 153.003 COMPLIANCE.

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

(1988 Code, ' 11.01-3)

' 153.004 DEFINITIONS.

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

ACCESSORY BUILDING OR USE. Any building or use subordinate to the principal use and located on the same lot as the principal use.

ACCESSORY BUILDING, RESIDENTIAL DISTRICT. An uninhabited building or structure that is detached from the principal structure on a lot of record, the use of which is subordinate to the principal use on the property.

ANIMAL CLINIC. Any establishment where animals are sheltered, examined and treated by veterinarians.

APPLICANT. Any person or business enterprise applying for any action under this chapter. An ***APPLICANT*** must own the subject property in fee, have an enforceable right to purchase the subject property pursuant to an earnest money contract, hold an enforceable option to purchase, have an equitable title to the property pursuant to a contract for deed, or hold an enforceable leasehold interest continuing for more than 20 years from the date of an application.

ARTERIAL STREET. A street or highway with access restrictions designed to carry large volumes of traffic between various sectors.

BLOCK. A tract of land bounded by streets, or a combination of streets, parks, railroad rights-of-way, shorelines or corporate boundary lines of the city.

BOARDING HOUSE. A building, not a hotel or motel, where for compensation and for prearranged periods meals or lodging are provided to not more than ten unrelated persons.

BOUNDARY. The geographical limits of any tract or parcel of land or use district.

BUFFER. A strip of land attractively fenced and/or planted with trees or other vegetation and grass (or left in its natural state when existing vegetation provides sufficient screening), located between two land uses of different intensity of development (such as C-1 next to R-3 or R-1 next to R-3), which is created and maintained for the purpose of screening or limiting the view of certain property uses from one another or from the general public, thereby lessening incompatibilities in transitions between parcels with different intensity of land use.

BUILDABLE AREA. The space remaining on a lot or parcel after minimum yard and open space requirements have been met; and also where multiple structures for dwellings or other uses are to be built on the same lot, after additional deductions for internal streets, parking, drainage systems and other features or facilities not usually contained within the building area of a lot in a subdivision.

BUILDING. Any structure intended for the shelter, support or enclosure of persons, animals or property of any kind; where separated by party walls without openings, each portion of the building is considered a separate building.

BUSINESS SERVICE. Any business activity which renders service to individuals or commercial or industrial enterprises.

CLINIC. Any establishment where human patients are examined and treated by doctors or dentists.

CLUB, PRIVATE OR LODGE. Any establishment operated for social, recreational or educational purposes but open to members and not the general public.

CONDITIONAL USE. A use which is not incompatible with the uses authorized within a zone but which presents special problems or control problems requiring reasonable but unusual or extraordinary limitations peculiar to the use for the protection of the public welfare and the integrity of the city land use plan.

CONDITIONAL USE PERMIT. A permit, issued by the City Commission in accordance with procedures specified in this chapter, as a flexibility device to enable the City Commission to assign limitations or conditions to a proposed conditional use after consideration of adjacent uses and their functions and the special problems which the proposed use presents.

CONDOMINIUM. A form of individual ownership within a multi-family or townhouse building which entails joint responsibility for maintenance and repairs, each apartment or townhouse is owned individually, and each occupant owns a share of the land and other common property of the building.

CONGREGATE HOUSING. Multi-unit housing for the elderly and/or disabled, providing at least one prepared meal per day in a common dining room, and may also provide certain assisted living, medical, recreational and social services over and above what might be in a standard elderly apartment complex.

COVERAGE. The portion of a lot covered by principal and accessory use structures.

DAY CARE-GROUP NURSERY. A service provided to the public, in which six or more children of school or pre-school age are cared for during established business hours, where no overnight facilities are provided and where the children are delivered and picked up daily.

D.N.R. State Department of Natural Resources.

DRIVE-IN ESTABLISHMENT. An establishment which accommodates the patron's automobile from which the occupants may receive a service or in which products purchased from the establishment may be consumed or business conducted in the automobile.

DRAINAGE WAY. A depression in the earth's surface such as ravines, draws and hollows in which surface waters from rain and melting snow collect but at other times are devoid of water.

DWELLING. Any structure designed or used as the living quarters for one or more families. The term includes single-family dwellings, two-family dwellings, multiple dwellings and apartment houses. The term does not include hotels or motels.

DWELLING UNIT. One or more rooms including complete kitchen facilities used or intended for use as living quarters by one family.

ESSENTIAL SERVICES. Underground or overhead gas, electrical, steam, water or other transmission or distribution systems; and collection, communication, supply or disposal systems.

FAMILY UNIT. One or more persons related by blood, marriage, adoption or foster parent relation occupying a premises and living as a single housekeeping unit, or a group of not more than four persons not so related, maintaining a common household and using common cooking and kitchen facilities.

FLOOR AREA (FLOOR SPACE). The sum of the areas of the several floors of a building, including areas used for human occupancy in basements, attics and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches or attics not used for human occupancy, or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this chapter, or any other such floor space intended and designed for accessory heating and ventilating equipment. It shall include the horizontal area at each floor level devoted to stairwells and elevator shafts. This is sometimes referred to as ***GROSS FLOOR AREA.***

GARAGE. An accessory building or accessory portion of a dwelling which is intended for parking and storage of not more than four passenger vehicles, none of which exceed 9,000 pounds gross weight.

HOME OCCUPATION. An occupation carried on in a dwelling unit which is clearly incidental and secondary to the use of the building for dwelling purposes, and which does not change the character thereof.

HOTEL. A hotel, motel, resort, furnished apartment house or other building which is kept, used or advertised as, or held out to the public to be, a place where sleeping or housekeeping accommodations are supplied for pay to guests for transient occupancy.

HEIGHT OF BUILDING OR STRUCTURE. The vertical distance from the average of the highest and lowest point of the portion of a lot covered by a building, to the highest point of the roof.

INTENSITY OF LAND USE. The use and/or zoning of land in terms of the density of dwelling units or the nature of other uses to which the land may be put. The value will be established based upon the proposed use of the property, which may or may not be based upon the actual zoning district in which the parcel is located. The assigned value will be determined by finding the zoning classification with the lowest intensity use value where the intended use is a **A**permitted use[®] and apply to them a numerical value for that zone as the assigned intensity use value. These values will not be based on conditional use permits. For purposes of this chapter, **INTENSITY OF LAND USE** will be assigned a numerical value in ascending order of the use intensity. The numerical values shall be: A-1 = 1, C-1 = 1, R-1 = 2, R-2 = 3, R-3 = 4, MH-1 = 4, B-1 = 5, and I-1 = 6. (Example: If a petitioner requests developing a PUD with multi-family dwelling units in an R-1 Zoning District or adjacent to an R-1 District, an intensity use value of 4 would be assigned to the new project since multi-family is first permitted as a use in the R-3 Zone, and a value of 2 would be assigned to the R-1 zoned property.)

LIGHT MANUFACTURING. The processing and fabrication of certain materials and products where no process involved will produce noise, vibrations, air pollution, fire hazard or noxious emissions which will disturb or endanger neighboring properties.

LOT. A parcel of land occupied or capable of being occupied by one or more structures or buildings having a principal frontage on a street or a proposed street approved by the City Commission.

LOT OF RECORD. Any lot which individually or as a part of a subdivision has been recorded in the appropriate county office.

LOT, CORNER. A lot situated at the junction of and abutting on two or more intersecting streets.

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

LOT, MINIMUM AREA OF. The measurements of a lot computed exclusive of any portion of the right-of-way of any public thoroughfare.

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

MOBILE HOME. Any mobile vehicle or shelter used or designed to be used for living purposes, whether or not the wheels are attached.

MODULAR HOME. A non-mobile housing unit that is fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site. A **MODULAR HOME** shall be congruous to a single-family dwelling and shall meet applicable building codes.

MOTOR SERVICE STATION. An establishment where gasoline, kerosene, motor oil and lubricants are sold or used in servicing motor vehicles whether or not motor vehicle repairs and services are performed on the same premises.

NONCONFORMING BUILDING STRUCTURE. A building structure designed, converted or

adapted for a use prior to the adoption of provisions prohibiting the use in the location.

NONCONFORMING USE. Any use or arrangement of land or structures legally existing on the effective date of this chapter or any of its amendments which does not conform to the district regulations in which it is located.

NURSING HOME or REST HOME. A licensed establishment having accommodations for the continuous care of two or more invalid, infirm, aged convalescent patients or physically disabled persons that are not related; the term does not include hospitals, clinics, sanitariums or similar institutions.

PARCEL. A continuous quantity of land in the possession of or owned by or recorded as the property of the same person or persons.

PARKING SPACE. An area of not less than 180 square feet exclusive of drives or aisles to be used for the storage or parking of motor vehicles.

PARKING SPACE, FULLY ENCLOSED. See **GARAGE**.

PARKING SPACE, OPEN. A parking space which is situated outdoors, as in an open lot designed and built for that purpose.

PERMITTED USE. The use of land, buildings or structures allowed under this chapter.

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

PLANNED UNIT DEVELOPMENT (PUD). A development or subdivision designed where buildings (residential or combined residential and commercial/industrial) are clustered or grouped so as to provide for common and/or public open space.

RECREATIONAL VEHICLES. A mobile vehicle, including watercraft used for recreational purposes, capable of being towed or being self propelled.

REDUCTION OR JUNK YARD. Any place where two or more motor vehicles not in operating condition or parts thereof are stored or/and being restored to operation; or any land, building or structure used for the wrecking or storage of the motor vehicles or parts thereof; the term includes any commercial salvaging, scavenging or recycling of any other goods, articles or merchandise.

SIGN. Any name, identification, display, illustration structure or device which is publicly displayed and which is used to direct attention to a product, a person, business, institution, place or philosophy.

SPOT ZONING. Rezoning of a small area for higher intensity use than the land surrounding it.

STORY. The portion of a building included between the surface of any floor and the surface of

the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

STREET. Any thoroughfare or way other than a public alley dedicated to the use of the public and open to public travel, whether designated as a road, avenue, highway, boulevard, drive, lane, circle, place, court or other similar designation, or a private street open to restricted travel and at least 40 feet wide.

STRUCTURE. Anything constructed or erected, the use of which requires a fixed location on the ground or an attachment to something having a fixed location on the ground, including, in addition to buildings, billboards, carports, porches and other building features, but not including sidewalks, drives, fences, ground level patios, recreational equipment and small utility sheds.

SUPPLY YARD. A commercial establishment storing or offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods. The term does not include reduction yards or junk yards.

TOWNHOUSE. Single-family attached units in structures housing three or more contiguous dwelling units, sharing a common wall, each having separate and individual front and rear entrances, the structure is of a row type as distinguished from multiple dwelling apartment buildings.

USABLE OPEN SPACE. A ground area or terrace area on a lot which is graded, developed, landscaped or equipped or intended and maintained for recreation, leisure, resource protection, amenity and/or buffers, which shall be available to, adjacent to, and usable by persons occupying a dwelling unit and their guests. Those areas must be landscaped or covered only for recreational purposes. Roofs, required yards, driveways, drainage areas and parking do not constitute ***USABLE OPEN SPACE.***

VARIANCE. The waiving by action of the City Commission of the literal provisions of this chapter in instances where their strict enforcement would cause undue hardship to the individual property because of unique circumstances.

WATERSHED. The area drained by a river, stream lake or other body of water.

YARD. A required open space on the front, side or rear of a lot which is unoccupied or unobstructed by use or structures from ground level upward.

ZONING DISTRICT. An area or areas for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.

ZONING MAP. An official map entitled **A**Glenwood Zoning Map[®], which remains part of the permanent records of the city.
(1988 Code, ' 11.01-4) (Ord. 30, passed 10-11-1994; Ord. 73, passed 5-8-2001)

' 153.005 HEIGHT REGULATION/SOLAR ACCESS.*(A) Height regulations.*

(1) All structures in the R-1 Suburban Residential District shall be limited to two stories plus roof or 25 feet in height. Structures in all other districts shall not exceed 35 feet in height above ground level unless approved by the City Commission.

(2) The Commission may authorize a variance to the height regulations in any district if:

(a) All front, side and rear yard depths of buildings are increased one foot for each additional foot of height; or

(b) The structure is among or similar to any of the following: television and radio towers, church spires, belfries, monuments, tanks, water towers, grain elevators, stage towers and scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks, conveyers, flagpoles, silos, air conditioning and heating units and windmills.

(3) There is no maximum height to which the Board is limited in granting the variances.

(B) Solar access. Solar energy systems shall be permitted by the City Commission in all districts provided that three findings have been satisfied:

(1) The proposed collector will be unshaded by existing and/or planned structures or by existing vegetation between the hours of 9:00 a.m. and 3:00 p.m. on December 21.

(2) The solar skyspace needed for efficient operation of the collector will not adversely restrict the reasonable economic use of the neighboring property to the south.

(3) The proposed solar energy system will provide at least 50% of the annual space heating and/or air conditioning needs of the building, or at least 90% of the domestic hot water heating needs of the building when the solar index registers at least 70.
(1988 Code, ' 11.13) (Ord. 30, passed 10-11-1994)

' 153.006 CONDITIONAL USES.

(A) General. Conditional uses as specified herein may be allowed or denied by the City Commission after recommendation by the Planning Commission in accordance with the criteria and provisions listed herein.

(B) *Application.* Applications for conditional uses, in an approved form, will be filed by the applicant with the Zoning Officer and shall be accompanied by:

(1) An application fee in an amount equal to that set from time to time by resolution of the City Commission, plus the applicant shall be required to reimburse the city for any expenses incurred for legal and other professional consultation;

(2) Eight copies of professionally prepared plans drawn to a scale of one inch equals 50 feet, and other supporting data regarding the site and any natural and constructed features thereon, such as:

(a) Size, location and topography of the site;

(b) The use of adjacent land;

(c) The proposed size, bulk, use and location of all buildings;

(d) The location and proposed function of all yards, open spaces, loading areas, parking areas, driveways, storage areas and accessory structures;

(e) Grading, drainage and landscape plans;

(f) Elevations and floor plans of proposed buildings, structures and other improvements;

(g) Locations of proposed utilities and the plans for same; and

(h) Any other information required, in the opinion of the Zoning Officer, to evaluate the application, to determine consistency with the comprehensive plan, and to ensure compliance with requirements of this chapter and other applicable code provisions; and

(i) The Zoning Officer may waive one or all of the requirements of this section when, in the Zoning Officer's opinion, the permit applied for may be clearly understood without such plans, and the cost of the plans would be disproportionate to the overall cost of the project. An abbreviated plan shall be submitted in a form requested by the Zoning Officer.

(3) An agreement duly executed by the applicant evidencing the applicant's pledge to reimburse all expenses reasonably incurred by the city in processing the application including, but not limited to, costs associated with publications, mailing of notice, duplication of documents and other administrative expenses as well as legal, engineering and other professional fees reasonably necessary to ascertain the legal, administrative and financial feasibility of the conditional use and to confirm the applicant's financial ability to complete the project as proposed.

(C) *Review.*

(1) The Zoning Officer shall within ten days forward the application to the Planning Commission for review and comment and the application shall be placed on the Planning Commission agenda for the next regularly scheduled meeting. A public hearing shall be held on each application within 30 days after the date scheduled for Planning Commission review. The applicant and all property owners located within 500 feet of the subject property shall be notified of the public hearing by U.S. mail, not less than ten days prior to the date of the hearing. The notice shall include the date, time and place of the hearing and shall reasonably identify the subject property.

(2) The City Commission may attach such conditions as it deems necessary to the approval of any conditional use.

(a) The approved site plan and all attached conditions shall be accepted by the petitioner within 30 days of final approval.

(b) All developments, construction and use shall be in accordance with the approved plan, unless a revised plan is submitted, approved and recorded. Any development contrary to the approved plan shall constitute a violation of this chapter.

(D) *Criteria for approval.* A conditional use shall be approved if and only if it is found to meet the following criteria.

(1) The proposed use conforms to the district and conditional use provisions and all general regulations of this chapter.

(2) The proposed use meets all special standards which may apply to its class of conditional uses as set forth in this section.

(3) The proposed use shall not involve any element or cause any condition that may be dangerous, injurious or noxious to any other person or property, and shall comply with the performance standards set forth herein.

(4) The proposed use shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.

(5) The proposed use shall be compatible with the surrounding area and produce a total visual impression and environment which is consistent with the environment of the neighborhood.

(6) The proposed use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood.

(7) The proposed use shall preserve the objectives of this chapter and shall be consistent with the Land Use Plan.

(8) Additional requirements with respect to conditional uses in the Conservation District

include the following.

(a) Development shall be permitted in such a manner that the maximum number of trees shall be preserved. Where trees are cut, at least 50% of the overstory shall remain.

(b) Development shall be permitted in such a manner that on-site soil erosion shall be at a minimum both during construction and when construction activity is completed.

(c) The quality of water run-off and water infiltration to the water table or aquifer shall remain undisturbed by the development of the site.

(d) The type and density of land use proposed shall be suited to the site and bedrock conditions shall not present a threat to the maintenance of groundwater quality, and shall not fail to correct problems due to soil limitations including bearing strength, shrink-swell potential and slope stability.

(E) *Performance standards.* All conditional uses shall comply with the requirements of this division (E). In order to determine whether a proposed use will conform to the requirements of this chapter, the City Commission may obtain a qualified consultant to testify, whose cost for services shall be borne by the applicant.

(1) *Fire protection.* Fire prevention and fire fighting equipment required by the Building Code as adopted by the City Commission shall be readily available when any activity involving the handling or storage of flammable or explosive materials is carried on.

(2) *Electrical disturbance.* No activity shall cause electrical disturbance adversely affecting radio or other equipment in the vicinity.

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

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

(5) *Odors.* No malodorous gas or matter shall be permitted which is discernible on any adjoining lot or property.

(6) *Air pollution.* Air pollution shall be subject to the standards established by the State Pollution Control Agency.

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

(8) *Erosion.* No offensive erosion by wind or water shall be permitted onto adjacent properties.

(9) *Water pollution.* Water pollution shall be subject to the standards established by the State Pollution Control Agency.
(1988 Code, ' 11.60)

' 153.007 REZONING.

(A) *General.* When allowed, rezoning of a particular parcel of land may be allowed from time to time based upon a showing that the subject property is located adjacent to an alternative zoning district, or a showing that the existing zoning status is no longer appropriate due to a change of circumstances not attributable to the owner of the subject property. Rezoning as specified herein may be allowed or denied by the City Commission after recommendation by the Planning Commission in accordance with the criteria and provisions listed herein.

(B) *Application.* Applications for rezoning, in an approved form, will be filed by the applicant with the Zoning Officer and shall be accompanied by:

(1) An application fee in an amount equal to that set from time to time by resolution of the City Commission, plus the applicant shall be required to reimburse the city for any expenses incurred for legal and other professional consultation; and

(2) Eight copies of professionally prepared plans drawn to a scale of one inch equals 50 feet and other supporting data regarding the site and any natural and constructed features thereon, such as:

(a) Size, location and topography of the site;

(b) The use of adjacent land;

(c) The proposed size, bulk, use and location of all buildings;

(d) The location and proposed function of all yards, open spaces, loading areas, parking areas, driveways, storage areas and accessory structures;

(e) Grading, drainage and landscape plans;

(f) Elevations and floor plans of proposed buildings, structures and other improvements;

(g) Locations of proposed utilities and the plans for same; and

(h) Any other information required, in the opinion of the Zoning Officer, to evaluate the application, to determine consistency with the comprehensive plan, and to ensure compliance with requirements of this chapter and other applicable code provisions.

(C) *Review.*

(1) The Zoning Officer shall within ten days forward the application to the Planning Commission for review and comment and the application shall be placed on the Planning Commission agenda for the next regularly scheduled meeting. A public hearing shall be held on each application within 30 days after the date scheduled for Planning Commission review. The applicant and all property owners located within 500 feet of the subject property shall be notified of the public hearing by U.S. Mail, not less than ten days prior to the date of the hearing. The notice shall include the date, time and place of the hearing and shall reasonably identify the subject property.

(2) The City Commission may attach such conditions as they deem necessary to the approval of any re-zoning. The approved site plan and all attached conditions shall be accepted by the petitioner within 30 days of final approval. All developments, construction and use shall be in accordance with the approved zoning. Any development contrary to the approved zoning shall constitute a violation of this chapter.

(1988 Code, ' 11.61) (Ord. 30, passed 10-11-1994)

' 153.008 ADMINISTRATION AND ENFORCEMENT.

(A) *Zoning Officer.* The Zoning Officer, who shall be appointed by the City Commission, shall:

(1) Administer and enforce the provisions of this chapter in accordance with its literal terms and shall not have the power to permit construction or any use or change of use which does not conform to this chapter;

(2) Receive and direct applications for certificates of occupancy, special use permits, re-zoning and building permits to the Planning Commission for study leading to a report of its findings and recommendations to the City Commission. Upon approval by the City Commission, he or she shall issue certificates of occupancy, special use permits, certification of re-zoning and building permits; and

(3) Maintain a permanent file of all certificates and applications as public records.

(B) *Certificate of occupancy.*

(1) A certificate of occupancy shall verify that all applicable requirements of the Building Code and/or special use conditions for the subject property have been inspected and met, and shall be obtained before any person may:

(a) Occupy or use any vacant land;

(b) Occupy or use any structure hereafter constructed, reconstructed, moved, altered or enlarged;

(c) Change the use of a structure or land to a different use; or

(d) Change a nonconforming use.

Glenwood - Land Usage

(2) Applications for a certificate of occupancy shall be accompanied by a plot plan showing clearly the location, dimensions and nature of any structure involved and other information as the Zoning Officer may require for administration of this chapter together with a filing fee in accordance with a schedule determined by resolution from time to time by the City Commission.

(C) *Unlawful act.* It is unlawful for any person to violate any provision of this chapter. Each day a violation is permitted to exist shall constitute a separate offense.

(D) *Enforcement remedies.* In case any building, structure or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this chapter, the City Commission, in addition to other remedies, may establish appropriate fines by resolution, and institute in the name of the city any appropriate action or proceeding to prevent, restrain, correct or abate the building, structure or land, or to prevent, in or about the premises, any act, conduct, business or use constituting a violation.

(E) *Amendments.* The City Commission may amend this chapter as proposed by the City Commission, by the Planning Commission or by petition of a person residing or owning property within the city in accordance with the following provisions.

(1) Petition for amendment shall be filed with the Planning Commission, and the petitioner, upon filing, shall pay an advertising deposit and a filing fee in accordance with a schedule determined from time to time by the City Commission, shall agree in writing to reimburse the city for all expenses for attorney fees and consulting fees of others such as registered engineers, which are associated with evaluating this petition.

(a) Amendments proposed by the City Commission or the Planning Commission shall be exempt from all the fees.

(b) The Planning Commission shall review the proposed amendment and report its findings and recommendations in writing to the City Commission and to the petitioner.

(c) The petition shall also include:

1. Plans, specifications, data and written statements similar to those required for filing for a PUD in cases where the proposed project or development involves eight or more dwelling units or could accommodate eight or more dwelling units; or, where there is a difference of intensity of land use of two increments or more with that of an adjoining parcel; or, where the project has any difference in its intensity of land use with that of two or more adjacent parcels; or, where the property of the petitioner may be environmentally sensitive as in cases involving wetlands, shorelands or watersheds;

2. Those items specified elsewhere in this chapter, such as those required in applying for conditional use permits and PUD approvals; or

3. For situations not falling into either of the above categories, the requirements for submittal shall be established by the Zoning Officer and the Planning Commission and shall be

sufficient so as to provide the information necessary to evaluate the petition in relation to the requirements established by this chapter.

(2) An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for study and may not be acted upon by the City Commission until it has received the recommendation of the Planning Commission on the proposed amendment or until 60 days have elapsed from the date of reference of the amendment without a report by the Planning Commission.

(3) Before voting on the enactment of an amendment the City Commission shall hold a public hearing thereon pursuant to public notice. It shall be the responsibility of the Zoning Officer to:

(a) Have notice of the public hearing published in the official newspaper ten days prior to the hearing; and

(b) Give mailed notice of the public hearing to the property within the affected zone and within 300 feet of the outer boundaries of the property in question. Failure of any property owner to receive notification, when good faith effort to notify all the owners has been made, shall not invalidate the proceedings.

(4) If, after any public hearing held upon an amendment, the proposed amendment is revised or further revised to include land previously not affected by it the City Commission shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.

(5) The City Commission shall act upon the request within 45 days after the last public hearing has been held.

(6) The findings required for the approval of a proposed amendment shall be the same as those required for a PUD.

(7) Once the proposed amendment has been duly approved, the City Commission shall direct that the amendment to this chapter be outlined on the official zoning map and labeled accordingly.

(F) *Board of Adjustment.* The Board of Adjustment shall be the City Commission. It shall hold meetings, keep minutes and, pursuant to notice, shall conduct hearings, take testimony under oath and render decisions in writing. A fee shall be charged in accordance with a schedule as determined from time to time for any appeal filed with the Board of Adjustment.

(1) The Board of Adjustment shall have the power to hear and decide appeals from any other requirement, decision, grant or refusal made by the Zoning Officer in the administration of this chapter. An appeal shall be in writing and filed in duplicate with the Zoning Officer. Within ten days after filing of the appeal, the Zoning Officer shall transmit to the Board of Adjustment all papers involved in the proceedings. Upon receipt of the appeal from the Zoning Officer, the Board of Adjustment shall set a hearing date and give notice by mail of the time, place and purpose thereof to the appellant and to the Zoning Officer. The Board of Adjustment may reverse or affirm wholly or in part any ruling, decision or determination and may issue or direct the issuance of a permit.

(2) The Board of Adjustment, upon appeal, shall have the power to authorize variances from the requirements of this chapter, and to attach such conditions to the variance as it deems necessary to assure compliance with the purpose of this chapter. A variance may be permitted if all the following requirements are met.

(a) Literal enforcement of this chapter would result in undue hardship because of particular physical surroundings, shape or topographic conditions of the specific parcel as distinguished from a mere inconvenience, if the regulations were to be carried out.

(b) The unnecessary hardship results from circumstances unique to the parcel of land for which the variance is sought and applicable, generally, to other property with the same zoning classification.

(c) The hardship is caused by provisions of this chapter and is not the result of actions of persons presently or formerly having an interest in the parcel of land.

(d) The proposed variance observes the spirit and intent of this chapter, produces substantial justice and will not be detrimental to the public welfare or injurious to other land or improvements in the vicinity of the specific parcel of land.

(e) The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase congestion of the public streets, or increase the danger of or from fire, or otherwise endanger the public health, safety or welfare, and is consistent with the City Land Use Program.

(G) *Fees.* All fees provided for under this chapter, including, but not limited to, re-zoning, variances, special and conditional use permits, planned unit developments and amendments, platting and waiver of platting, easement and alley vacations, shall be fixed and determined by the City Commission, adopted by resolution, and uniformly enforced. The fees may, from time to time, be amended by the City Commission by resolution. A copy of the resolution setting forth currently effective fees shall be kept on file in the office of the City Administrator and open to inspection during regular business hours.

(H) *Reimbursement of administrative expense.* Every applicant must reimburse the city for all expenses reasonably incurred by the city in processing each application submitted under this chapter. For the purposes of this provision, **A**application@ includes, but is not limited to, applications for rezoning, variances, special and conditional use permits, planned unit developments and amendments, platting and waiver of platting, easement and alley vacations. Costs to be reimbursed include, but are not limited to, those associated with publication, mailing of notice, duplication of documents, and other documented administrative expenses as well as legal, engineering and other professional fees incurred by the city in the course of processing the application. The reimbursement shall be paid by the applicant within 60 days following a written demand for reimbursement, and the applicant=s obligation to reimburse shall apply whether the application in question was approved, denied or withdrawn. If any applicant fails or refuses to reimburse the city for the expenses, the city may, upon 15 days notice in writing mailed to the owner of the premises subject to the application at the address appearing on the tax rolls of the county, and as an additional and not alternative remedy provided herein, pay for costs and services and certify all costs to the County Auditor to be spread upon the tax rolls as a special assessment on the subject premises.

(1988 Code, ' 11.70) (Ord. 30, passed 10-11-1994) Penalty, see ' 10.99

ZONING DISTRICTS

' 153.020 DISTRICTS OF THE CITY.

The zoning districts are so designed as to carry out the intent and purpose of the comprehensive plan. For the purposes of this chapter, the city is, or may be, divided into the following districts:

- (A) R-1 Suburban Residential;
- (B) R-2 Urban Residential;
- (C) R-3 Multiple Residential;
- (D) B-1 Community Business;
- (E) I-2 Light Industrial;
- (F) C-1 Conservation;
- (G) A-1 Agricultural; and

(H) MH Mobile Home Rental Park.

(1988 Code, ' 11.10-1)

' 153.021 DISTRICT REQUIREMENTS.

(A) Except for planned unit developments (PUD), all buildings and uses in each district shall be subject to the requirements for use, lot, yard and height, the general regulations and conditional use provisions of this chapter.

(B) Planned unit development standards may be applied to any residential, commercial or industrial district at the discretion of the City Commission, after being requested by the land owner. Where PUD standards differ from those of the underlying zoning district the PUD standards will apply. (1988 Code, ' 11.10-2)

' 153.022 USES NOT PROVIDED.

(A) A use not specifically designated as a permitted or conditional use anywhere in the city is considered prohibited.

(B) In those cases, the City Commission, the Planning Commission or a property owner may request a study by the city to determine if the use is acceptable and if so what zoning district would be most appropriate for the use and what conditions and standards, if any, should be attached to the development of the use. If found acceptable, an amendment to this chapter may be initiated by the City Commission or Planning Commission. (1988 Code, ' 11.10-3)

' 153.023 ZONING MAP.

A map officially entitled **AGlenwood Zoning Map@** is hereby adopted as part of this chapter. The zoning map attached to the ordinance from which this section is derived delineates districts of the city. The zoning map delineating the zoning districts of the city hereby replaces the previous map required under 1988 Code, ' 11.10-4. (1988 Code, ' 11.10-4) (Ord. 52, passed - -1996)

' 153.024 DISTRICT BOUNDARIES.

(A) District boundaries shown within the lines of roads, streams and transportation rights-of-way shall be deemed to follow the centerline.

(B) The vacation of roads shall not affect the location of the district boundaries.

(C) When the Zoning Officer cannot definitely determine the location of a district boundary by the centerline, by the scale or dimensions stated on the zoning map, or by the fact that it clearly coincides with a property line, he or she shall refuse action, and the Board of Adjustment, upon appeal, shall interpret the location of the district boundary with reference to the scale of zoning map and the purposes set forth in all relevant provisions of the ordinance.

(D) Where a district boundary line divides a lot of record into two or more districts, any portion of the lot within 50 feet of the division may be used for any use of either district as approved by the Board of Adjustment.

(1988 Code, ' 11.10-5)

PERMITTED AND CONDITIONAL USES

' 153.035 PERMITTED USES.

The permitted uses for each district are listed below. Accessory uses and essential services are also permitted.

(1988 Code, ' 11.11-1)

' 153.036 CONDITIONAL USES.

The City Commission may authorize conditional uses as specified below and uses similar in nature which are compatible with the character of the district, if all of the conditions and provisions of this chapter are met.

(A) R-1 Suburban Residential:

(1) Permitted uses:

- (a) Single-family dwellings;
- (b) Public schools; and
- (c) Public parks and playgrounds.

(2) Conditional uses:

- (a) Nursery schools;
- (b) Hospitals and clinics;
- (c) Public utility buildings;

- (d) Public buildings;
- (e) Two-family dwellings;
- (f) Nurseries and greenhouses;
- (g) Private clubs and schools;
- (h) Charitable institutions;
- (i) Parochial schools;
- (j) Churches;
- (k) Planned unit development; and
- (l) Congregate housing.

(B) R-2 Urban Residential:

(1) Permitted uses:

- (a) Single-family dwellings;
- (b) Two-family dwellings;
- (c) Public schools; and
- (d) Public parks and playgrounds.

(2) Conditional uses:

- (a) Nursery schools;
- (b) Hospitals and clinics;
- (c) Public utilities buildings;
- (d) Public buildings;
- (e) Private clubs and schools;
- (f) Charitable institutions;

- (g) Parochial schools;
- (h) Planned unit development; and
- (i) Congregate housing.

(C) R-3 Multiple Residential:

(1) Permitted uses:

- (a) Townhouses;
- (b) Multiple-family dwellings;
- (c) Public and parochial schools;
- (d) Public parks and playgrounds; and
- (e) Churches.

(2) Conditional uses:

- (a) Single-family dwellings;
- (b) Two-family dwellings;
- (c) Nursing homes;
- (d) Hospitals and clinics;
- (e) Public utility buildings;
- (f) Public buildings;
- (g) Private clubs and schools;
- (h) Planned unit development;
- (i) Charitable institutions; and
- (j) Congregate housing.

(D) B-1 Community Business:

(1) Permitted uses:

- (a) Retail business;
- (b) Eating and drinking places;
- (c) Offices and banks;
- (d) Personal and professional services;
- (e) Public buildings;
- (f) Parking lots;
- (g) Motor service stations; and
- (h) Commercial schools.

(2) Conditional uses:

- (a) Research laboratories;
- (b) Public utility buildings;
- (c) Nursing homes;
- (d) Commercial recreation;
- (e) Hotels and motels;
- (f) Animal clinics;
- (g) Hospitals and clinics;
- (h) Auto sales, service and repair;
- (i) Funeral homes;
- (j) Wholesale business;
- (k) Drive-in establishment;

- (l) Planned unit development;
- (m) Congregate housing; and
- (n) Tattooing, body piercing, body branding and/or body scarification businesses.

(E) I-1 Industrial:

(1) Permitted uses:

- (a) Light manufacturing;
- (b) Research laboratories;
- (c) Testing laboratories;
- (d) Offices;
- (e) Warehousing; and
- (f) Public buildings.

(2) Conditional uses:

- (a) Manufacturing;
- (b) Public utility buildings;
- (c) Wholesale business;
- (d) Commercial recreation;
- (e) Supply yards;
- (f) Truck terminals; and
- (g) Planned unit development.

(F) C-1 Conservation:

(1) Permitted uses:

- (a) Public parks and playgrounds; and

(b) Open land recreation uses.

(2) Conditional uses:

(a) Commercial recreation;

(b) Public buildings;

(c) Public utility buildings;

(d) Nurseries and greenhouses; and

(e) Public and parochial schools.

(G) A-1 Agricultural:

(1) Permitted uses:

(a) Growing crops;

(b) Single-family dwellings;

(c) Public parks and playgrounds;

(d) Golf courses; and

(e) Greenhouses and nurseries.

(2) Conditional uses:

(a) Two-family dwellings;

(b) Commercial recreation;

(c) Public buildings;

(d) Public utility buildings;

(e) Water and sewage treatment plants;

(f) Cemeteries; and

(g) Specialized animal raising.

(H) MH-1 Mobile Home Rental Park:

(1) Permitted uses:

- (a) Single-family mobile homes;
- (b) Public schools;
- (c) Public parks and playgrounds; and
- (d) Laundry facilities for resident use only.

(2) Conditional uses:

- (a) Nursery schools;
- (b) Public utility buildings;
- (c) Public buildings; and
- (d) Travel trailers and recreation vehicles in separate sections.

(1988 Code, ' 11.11-2) (Ord. 92, passed 1-26-2005)

LOT AND YARD REQUIREMENTS

' 153.050 GENERAL REQUIREMENTS.

The minimum lot area, minimum width of lot, minimum depth of front yard, rear yard and minimum width of each side yard for each district shall be as shown in ' 153.051.

(A) Lots or parcels which abut on more than one street shall provide the required front yards along each street.

(B) All structures and accessory buildings whether attached to the principal structure or not, and whether open or enclosed, including porches, carports, balconies, roof overhangs or platforms above normal grade level, shall not project into any minimum front, side or rear yard; nor into any required open space or buffer. Where multi-dwelling buildings (apartments, townhouses and the like) are to be built on one lot (or parcel) along with other buildings or structures, the required yards shall be construed to apply to each building as opposed to each dwelling unit.

Glenwood - Land Usage

(C) Any lot of record existing on the effective date of this chapter may be used for the erection of a structure conforming to the use regulations of the district in which it is located, even though its area and width are less than the minimum requirements of this chapter.

(D) A buffer including appropriate screening, is hereby required on each lot boundary of a parcel where due to: rezoning of the parcel, newly zoning the parcel, creation of a PUD on the parcel or, the granting of a conditional use or variance for the parcel; a difference in intensity of land use between the adjacent parcels will occur. On the lot or parcel where the change in intensity of land use occurs, new structures or uses shall not be located or conducted closer to any lot boundary of any other lot having a different intensity of land use value than the distance calculated by applying the following formula:

(1) Subtract the assigned intensity of land use values of the respective parcels using those prescribed in this chapter and, for the first increment the buffer shall be ten feet and an additional 15 feet of buffer will be added for each incremental change in value assigned for intensity of land use beyond the first change.

(a) The buffers shall be measured on a line perpendicular to each boundary and shall run parallel to those boundaries.

(b) Example: subtract the intensity land use of R-1 (value=2) from that of R-3 (value=4) and the difference (4-2=2) would be 2, and the buffer would be ten feet for the first increment plus 15 feet for the second increment, or a total of 25 feet (10 feet+15 feet=25 feet). This buffer, where applicable, shall be in addition to any required side or rear yards specified under this chapter and applies to a PUD.

(2) In any case nonresidential structures or uses shall not be located closer to any lot line of any other lot in any R Zoning District than the distance specified in the following schedule:

<i>Use</i>	<i>Minimum Side or Rear Yard Abutting Any Lot in Any R District</i>
Churches, schools and public or semi-public structures	40 feet
Off-street parking spaces and access drives for nonresidential use	20 feet
Recreation facilities, entertainment facilities, all business uses and all industrial uses	60 feet

(E) Where adjacent structures have front yard set back different from those required, the minimum front yard setback shall be the average of these existing structures.
(1988 Code, ' 11.12-1)

' 153.051 LOT, YARD AND DENSITY REQUIREMENTS.

	<i>Minimum Lot Sizes</i>		<i>Minimum Yard Setbacks (ft)</i>			<i>Minimum Site Area Per Unit (sq ft)</i>
	<i>Area (sq ft)</i>	<i>Width (ft)</i>	<i>Front</i>	<i>Rear</i>	<i>Side</i>	
<i>R-1 Suburban Residential</i>						
*Single-family dwellings	10,000	75	30	20	6	10,000
*Two-family dwellings	15,000	80	30	25	10	7,500
*Other uses	15,000	80	30	30	15	7,500
<i>R-2 Urban Residential</i>						
*Single-family dwellings	8,000	75	30	20	6	8,000
*Two-family dwellings	12,000	80	30	25	10	6,000
*Townhouses	5,000/unit	25/unit	30	30	15	5,000
*Multi-family dwellings	15,000	100	30	30	15	3,500
*Other uses	10,000	100	30	30	15	-
<i>R-3 Multiple Residential</i>						
*Single-family dwellings	8,000	75	30	20	10	8,000
*Two-family dwellings	12,000	80	30	25	15	6,000
*Townhouses	5,000/unit	25/unit	30	30	15	4,000
*Multi-family dwellings	25,000	100	30	30	15	2,600
*Other uses	5,000	50	30	30	15	-
<i>B-1 Community Business</i>						
*Multi-family dwellings	5,000	50	0	15	0	2,500
*Other uses	5,000	50	0	15	0	-
<i>I-1 Industrial</i>						
All uses	20,000	100	25	20	10	-
<i>C-1 Conservation</i>						
All uses	2 acres	300	50	30	30	-
<i>A-1 Agricultural</i>						
All uses	5 acres	500	50	50	50	-
<i>MH-1 Mobile Home Rental Park</i>						

Glenwood - Land Usage

	<i>Minimum Lot Sizes</i>		<i>Minimum Yard Setbacks (ft)</i>			<i>Minimum Site Area Per Unit (sq ft)</i>
	<i>Area (sq ft)</i>	<i>Width (ft)</i>	<i>Front</i>	<i>Rear</i>	<i>Side</i>	
*Mobile home, single-family	5,500	55	15	12	6	5,500
All other uses	10,000	100	30	20	15	10,000
*With city water and sewer						

	<i>Maximum Coverage (%)</i>	<i>Minimum Usable Open Space (%)</i>	<i>Density* (Units)</i>
<i>R-1 Suburban Residential</i>			
Single-family dwellings	30	40	3.5
Two-family dwellings	30	40	3.5
Other uses	30	40	3.5
<i>R-2 Urban Residential</i>			
Single-family dwellings	30	40	5
Two-family dwellings	30	40	6
Townhouses	25	50	6
Multi-family dwellings	30	40	6
Other uses	-	-	-
<i>R-3 Multiple Residential</i>			
Single-family dwellings	30	40	5
Two-family dwellings	20	40	6
Townhouses	25	50	8
Multi-family dwellings	30	40	12
Other uses	-	-	-
<i>B-1 Community Business</i>			
Multi-family dwellings	30	40	-
Other uses	-	-	-
<i>I-1 Industrial</i>			
All uses	-	-	-

	<i>Maximum Coverage (%)</i>	<i>Minimum Usable Open Space (%)</i>	<i>Density* (Units)</i>
<i>C-1 Conservation</i>			
All uses	-	-	-
<i>A-1 Agricultural</i>			
All uses	-	-	-
<i>MH-1 Mobile Home Rental Park</i>			
Mobile home, single	-	-	-
Family	40	30	6
All other uses	40	30	-
*Density, or overall maximum dwelling units per buildable acre			

(1988 Code, ' 11.12-2)

GENERAL REGULATIONS

' 153.065 NONCONFORMING USES.

The following provisions shall apply to all nonconforming uses:

(A) As of the effective date of this chapter a nonconforming use may be continued, but may not be extended, expanded or changed unless to a conforming use, except as permitted by the City Commission in accordance with the provisions of this chapter;

(B) Any nonconforming structures damaged by fire, flood, explosion or other casualty may be reconstructed for use as before if the reconstruction is performed within 12 months of the casualty, and if the restored structure has no greater coverage and contains no greater cubic content than before the casualty;

(C) In the event that any nonconforming use, conducted in a structure or otherwise, ceases, for whatever reason, for a period of one year, the nonconforming use shall not be resumed;

(D) Normal maintenance of a nonconforming structure is acceptable including structural repairs and maintenance; and

(E) Nonconforming structures already in place shall be allowed to be located, erected, constructed, moved, altered, converted or enlarged if the activity does not affect the current cause of nonconformity and the activity is otherwise in full compliance with all the provisions of this chapter and other applicable city code provisions.

(1988 Code, ' 11.50-1) (Ord. 106, passed 5-26-2010)

' 153.066 ACCESSORY USES.

The following provisions shall apply to accessory uses.

(A) Every swimming pool shall be enclosed by a fence or wall not less than six feet high above ground level. Location of pools will be subject to utility company approval.

(B) The exterior storage of any vehicle or recreational vehicle which does not have a current license plate shall not be permitted as an accessory use.

(C) In the A-1 District:

(1) Accessory farm buildings shall not be erected within 100 feet of a neighboring property;
and

(2) All commercial feed lots, pens, runs, shelters and similar intensively used facilities for animal raising shall not be permitted.

(D) In the R-1, R-2 and R-3 Districts:

(1) A garage, storage shed or other similar structure may only be constructed in a residential district as an accessory structure. Two adjoining lots shall only be considered a single lot if they have a single parcel identification number;

(2) No more than two accessory structures shall be permitted on a lot;

(3) Accessory structures are limited to the lesser of not more than 1,000 square feet each, or a total building coverage area for all structures of 30% of the lot. In the event the lot size is one acre or greater, the accessory structure may be greater than 1,000 square feet but not more than 5% of the lot area. Accessory structures may be no closer than 10 feet to any other structure;

(4) All accessory structures over 120 square feet in size must be constructed of material and in a style in harmony with the principal structure. No galvanized or unfinished metal, canvas fabric, plastic tarps, tar paper, rolled roofing or straw may be used to cover any structure, sidewall or roof;

(5) The sidewalls on any accessory structure or garage shall not exceed nine feet in height, allowing no larger than an eight-foot high garage door, nor shall any garage or accessory structure exceed the principal building in height. Sidewall height shall be measured from the inside finished floor elevation to the point at which the sidewall top plate adjoining the rafter; and

(6) Accessory structures 120 square feet or smaller shall not require a building permit. A zoning permit shall be required and an application showing the size of the structure, its location on the lot, and the type of construction material utilized in its construction shall be submitted to the Zoning Administrator. Accessory structures 120 square feet or smaller may be placed no closer than five feet to any rear or side lot line.

(1988 Code, ' 11.50-2) (Ord. 73, passed 5-8-2001)

' 153.067 SPECIAL EXCEPTIONS.

The following uses may be authorized with such conditions as are deemed appropriate by the Board of Adjustment:

(A) The accommodation of not more than two non-transient roomers as an accessory use to a single- family house, provided that no sign is displayed; and

(B) Directional signs of 12 square feet in connection with any legal business or industry provided they contain no information other than instructions for convenience of vehicular traffic in reaching the business or industry.

(1988 Code, ' 11.50-3)

' 153.068 SIGNS.

No sign, billboard or exterior commercial graphic display shall be permitted in any district except as herein provided.

(A) In any district, a sign not exceeding two square feet per side is permitted which announces the name, address or professional activity of the occupant of the premises on which sign is located.

(B) A bulletin board not to exceed 24 square feet per side is permitted in connection with any church, school or similar public structure.

(C) A temporary real estate sign of six square feet per side may be placed in the yard of any residential structure which advertises that particular property for sale, for rent or for lease. The sign will be promptly removed when it has fulfilled its function.

(D) Real estate development signs, both permanent and temporary, are allowed as follows: permanent signs may be erected and maintained at the main entrances to any subdivision, condominium project or rental apartment complex of greater than ten lots or dwelling units.

(1) The sign shall contain only the name and nature of the complex (such as rental apartments or condominium) and the area of the sign itself shall not be greater than eight feet wide by three feet high and may be part of a decorative structure designed to support the sign itself.

(2) The entire sign, including the supporting structure shall not exceed dimensions twice those of the basic sign, including the height from ground level, and shall be situated wholly on the property of the development.

(3) Division (F) below relating to business signs shall also apply to these real estate development signs.

(E) Political signs are allowed in any district on private property to a maximum size of 16 square feet per side. The signs must be removed within seven days following the date of the election to which they apply.

(F) Business signs shall be permitted in connection with any legal business or industry when located on the same premises, and if they meet the following requirements.

(1) Signs shall not contain information or advertising for any product not sold on the premises.

(2) Signs shall not have a combined aggregate surface size greater than two square feet for each foot of width of the principal structure on the premises up to a maximum of 250 square feet.

(3) Signs shall not project over the public rights-of-way except upon granting of a variance.

(4) Flashing signs and those signs giving off an intermittent or rotating beam or ray of light shall be prohibited.

(5) Illuminated signs shall be diffused so as not to direct rays of light into adjacent property or onto any public right-of-way.

(6) Signs shall be limited so as to extend not more than 25 feet above the average elevation of the public street abutting upon the lot or tract on which the sign is located.

(7) Signs shall be maintained and in good repair including all parts and supports, and neatly painted.

(1988 Code, ' 11.50-4)

' 153.069 OFF-STREET PARKING.

(A) Off-street parking spaces shall be provided and maintained in accordance with specifications herein in any district whenever any new use is established or any existing use is enlarged. For multi-family and townhouse usage, parking may be provided as exposed (outdoor or open) spaces or as totally enclosed spaces.

(B) Regardless of the number of enclosed spaces the number of exposed spaces shall not be reduced to less than one per dwelling unit, plus any required disabled spaces. Fractional spaces shall be rounded up to the next full number in determining all parking requirements.

<i>Use</i>	<i>Parking Spaces Required</i>
Single-family house; two-family house; townhouse	Two per dwelling unit
Multiple-family dwellings	1.5 per dwelling unit
Churches, auditoriums and mortuaries	1 per 3 seats in principal assembly room
Schools	1 per classroom, plus 1 additional/each 20 students
Theater	1 per 3 seats
Hospital and rest homes	1 per 3 beds and 1 for each employee on the maximum working shift
Motor service station	4 per each service stall
Business and professional offices	1 for every 250 sq. ft. of floor space*
Medical, dental and animal clinics	5 per doctor, dentist or veterinarian*
Restaurants, cafés, bars, taverns, nightclubs	1 per 2 seats*
Retail businesses	1 for every 150 sq. ft. of floor space*
Bowling alleys	5 for each alley
Hotel or motel	1 per each rental unit
Open sales or rental lots	1 per each 3,500 sq. ft. of sales and display area*
Drive-in establishment	1 for every 15 sq. ft. of floor area*
Wholesaling, manufacturing and similar uses	1 for each employee on the maximum working shift
*Plus one space per employee	

(1) *Location.* Parking spaces, with the approval of the Board of Adjustment, may be located on a lot other than that containing the principal use but the lot must be contiguous and must be located within the same zoning district, within 150 feet of the building that it serves and shall not be separated by any public street. Parking lots for more than two vehicles may be located anywhere on a lot other than a front yard or within ten feet of a side or rear lot line, plus any required buffers.

(2) *Construction.* Any off-street parking lot for five or more vehicles, and all circulation areas, shall be surfaced and maintained with a hard, all-weather, durable and dust-free surfacing material composed of bituminous asphalt or concrete installed over a well compacted sub-grade and gravel base. Except for single and two-family residential uses, each space shall be clearly delineated by lines painted on or embedded in the surface of the parking area, and all disabled and visitor spaces shall be marked with signs. Appropriate traffic-control signs shall be provided at entrances to and throughout the development.

(3) *Lighting.* Any lighting used to illuminate any off-street parking lot or outdoor retail area shall be so arranged as to reflect the light away from adjoining premises of residential usage.

(4) *Permanent front yard parking.* This shall be as regulated by the City Commission.

(5) *Traffic and circulation.*

(a) *General requirements.* Vehicular traffic shall be channeled and controlled in a manner that will avoid congestion and traffic hazards on the lot or tract or on adjacent streets. Traffic generated by the use shall be directed so as to avoid excessive traffic through residential areas. No parking area, stack area or circulation area, except for driveway ingress and egress, shall be located within a street, alley or highway.

(b) *Review.* The adequacy of any proposed traffic circulation system on a lot or tract shall be subject to the approval of the City Commission or the delegated city department or consultant as to the effect on the orderly and safe movement of traffic within the development and the surrounding area.

(c) *Circulation within parking areas.*

1. Unobstructed access to each parking space shall be provided.
2. Traffic moving from one area of parking to another shall be capable of doing so without using a street.
3. Dead end drive aisles shall not be permitted.
4. Parking spaces oriented at an angle of less than 90 degrees to the drive aisle shall be served only by way of one-way drive aisles.

(d) *Driveway design.*

1. Minimum driveway width (back of curb to back of curb):
 - a. One-way: 12 feet; and
 - b. Two-way: 20 feet.

2. All off-street parking areas shall have access driveways rather than direct access from a street and the driveways shall have a maximum width at the street of 22 feet.

(e) *Internal streets design.*

1. All streets shall be a minimum of 40 feet wide and shall meet construction standards set forth in division (B)(5)(e)2. below.

2. Plans for drainage, grades, radii, visibility and other normal design criteria shall be prepared by a registered engineer and subject to the approval of the City Commission or the delegated City Department or consultant, and the streets shall be built to the Engineer=s standards.

3. If any streets are to be dedicated, at any time, to the public, then the streets shall conform to any applicable higher standards of design and construction.

(6) *Size of spaces.*

<i>Angle</i>	<i>Space Width</i>	<i>Space Length</i>	<i>Drive Aisle Width</i>
90 deg.	9 feet	20 feet	24 feet
60 deg.	10 feet	20 feet	18 feet
45 deg.	10 feet	20 feet	12 feet

(1988 Code, ' 11.50-5)

' 153.070 OFF-STREET LOADING.

(A) One off-street loading berth of not less than 50 feet in length and 12 feet in width, plus any required access drives and turning and maneuvering space, shall be provided for every business and industrial use with a floor area of more than 10,000 square feet; with one additional berth required for each additional 25,000 square feet of floor area.

(B) A loading berth as described above shall also be provided for and at each multi-family or townhouse development of eight or more units. Loading berths shall not occupy any yard, setback or buffer area where a parking lot is prohibited, and in no case shall loading berths occupy any front yard requirement, or be situated closer than ten feet to a side or rear lot line. All loading berths shall comply with the standards for parking areas as specified in this chapter.

(1988 Code, ' 11.50-6)

' 153.071 LANDSCAPING AND SCREENING.

(A) *Purpose.* Should the owner of any property subject to this section choose to landscape, fence

or screen, the following requirements shall apply to ensure that adjacent uses will be adequately buffered, that there will be visual compatibility with the natural environment, and that there will be appropriate use of fences, screens, planting strips and landscaping in the manner provided by the terms of this chapter. Compliance with this chapter shall be subject to review and recommendation by the City Administrator and Planning Commission, or either of them.

(B) *Application.* Subject to requirements set forth elsewhere for specific use districts, all properties in the R-1, R-2, R-3 and B-1 Zoning Districts shall comply with the requirements of this section.

(C) *Landscaping.*

(1) All plant materials shall be indigenous to the hardiness zone in which the city is located.

(2) All unimproved portions of the lot or tract shall be sodded; provided, however:

(a) Areas approved for future building expansions or slopes exceeding three to one may be seeded; and

(b) Undisturbed areas containing existing viable vegetation which can be maintained free of weeds may be left undisturbed.

(D) *Fencing and screening.*

(1) *Maintenance.* Every boundary line fence shall be maintained in a condition of reasonable repair and shall not be allowed to become a public or private nuisance.

(2) *Boundary fences.* In the zoning districts specified in division (B) above, boundary fences shall be subject to the following requirement: Fences on all corner lots erected within 30 feet of the intersecting curb line shall be subject to the following traffic visibility requirements: no structure or planting in excess of 30 inches above the abutting curb line shall be permitted within a triangular area defined as follows: beginning at the intersection of the project curb lines of two intersecting streets, thence 30 feet along one curb to a point, thence diagonally to a point 30 feet from the point of beginning of the other curb line, thence to the point of beginning.

(3) *Location and construction.* All fencing and screening, including ornamental hedging and bushes, shall meet the following requirements.

(a) No barbed wire or electric fences shall be permitted, used or constructed.

(b) Manufactured or constructed fences shall not exceed six feet in height.

(c) The height and materials shall be compatible with the size and architecture of the principal structure.

(d) Fencing and screening shall not be placed or encroach within two feet of any city

right-of-way.

(e) Fences or screening on a side lot line common with an adjoining property may be placed upon the lot line where the owners of the subject properties agree to the type, size, placement and maintenance thereof.

(1988 Code, ' 11.50-7) (Ord. 38, passed 9-6-1995) Penalty, see ' 10.99

' 153.072 GARBAGE AND TRASH.

All garbage, trash and other refuse shall be stored in appropriate receptacles until picked up for disposal. These receptacles shall be located in such a way to prevent their becoming a nuisance to others, and shall be screened from view from any street, adjacent property or by other residents within a townhouse or multi-family community.

(1988 Code, ' 11.50-8)

' 153.073 TEMPORARY STRUCTURES.

Temporary structures and trailers used in conjunction with construction work shall be permitted only during the period that the construction work is in progress. Permits for temporary structures shall be issued initially for a six-month period and may be extended to a maximum of 12 months.

(1988 Code, ' 11.50-9)

' 153.074 HOME OCCUPATIONS.

(A) Any home occupation shall be permitted as an accessory use if the use complies with the requirements herein.

(B) Prior to the time a home occupation zoning certificate is issued, property owners within 500 feet shall be notified in writing by the Zoning Officer.

(C) Notified property owners shall have 30 days following receipt of the notice to submit a petition to the City Commission, signed by one or more owners of at least 50% of the affected property, requesting a public hearing to determine if the home occupation complies with the stated requirements.

(1) The home occupation shall be carried on by a member of the family residing in the dwelling unit with not more than one employee who is not a part of the family.

(2) The home occupation shall be carried on wholly within the principal or accessory structures.

(3) The home occupation shall not change the character of the dwelling.

(1988 Code, ' 11.50-10)

' 153.075 OUTDOOR STORAGE.

All materials, supplies, finished or semi-finished products, motor vehicles, trailers and all equipment shall be stored within a completely enclosed structure except:

(A) Materials and equipment used for construction or repairs may be stored outdoors on the construction site during construction;

(B) Motor vehicles weighing less than 9,000 pounds, and recreational vehicles and other materials may be stored outdoors on lots used for residential purposes, provided they do not constitute a nuisance;

(C) Motor vehicles weighing less than 9,000 pounds may be parked outdoors for periods not to exceed 48 hours within improved parking areas on nonresidential lots;

(D) Plant materials for landscaping purposes may be stored and displayed for sale outdoors in areas zoned for the sales; and

(E) Outdoor storage and displays of merchandise may take place in commercial and industrial zones where these activities are accessory to their permitted activities.
(1988 Code, ' 11.50-11)

' 153.076 PLANNED UNIT DEVELOPMENT (PUD).

(A) The City Commission may designate specific parcels of land as planned unit developments and authorize uses within the districts which are not consistent with the provisions of this chapter and the zoning map; provided, however, that approval of any such development is subject to strict compliance with the procedures and requirements set forth in this section.

(B) Any approval may also contain specific requirements governing the proposed development and the requirements shall be binding on all construction within the district.

(C) Any requirements so imposed shall prevail over conflicting requirements set forth elsewhere in this chapter.

(1) *General requirements.* The following requirements apply generally to all PUDs. An applicant should consider these requirements prior to preparation and submission of a preliminary plan:

(a) *Ownership.* The tract of land shall be under unified ownership and control at the time of application and scheduled to be developed as one unit.

(b) *Minimum size.* No planned unit development may include less buildable area than three acres of contiguous land.

(c) *Minimum building spacing and yards.*

1. *Spacing.* Spacing between buildings and dedicated streets shall be at least equivalent to the spacing (front yard) requirements of buildings similarly developed under the terms of this chapter on separate parcels.

2. *Lot line yards and buffers.* Notwithstanding other provisions of this section, every building in a PUD abutting the perimeter boundary of the PUD shall conform to yard requirements for the underlying zoning district plus buffer requirements; all of which are contained in the lot and yard requirements of this chapter.

3. *Internal yards.* As to those yards required between buildings for areas which are wholly within the development and not related to dedicated streets nor areas abutting perimeter boundaries, the front, side and rear yard requirements shall be equal to the average height of the two buildings; and any yard abutting a street or access way which is the property of, and internal to, the development shall equal the height of that building. In either case these requirements shall not exceed those for yard requirements of the underlying district if developed under this chapter on separate parcels.

(d) *Harmony.* The design of the planned unit development shall take into account the relationship of the site to the area surrounding it, and it shall be compatible with it. The perimeter of the PUD shall be so designed as to minimize the undesirable impact of the PUD on adjacent properties and, conversely, to minimize undesirable impact of adjacent land use on the PUD.

(e) *Building heights.* The requirements of the underlying existing zoning district shall prevail; however, exceptions may be granted where distances are maintained from buildings and uses on adjacent tracts, and where the heights of the proposed structures will not create a height differential of more than 20 feet, or cause incompatibility with the appearance of structures in the surrounding area.

(f) *Permitted uses.* Permitted uses may include:

1. Any combination of dwelling units in single-family, two-family, town or row houses and apartments;

2. Any nonresidential uses, to the extent such nonresidential use is designed and intended to serve the residents of the planned unit development;

3. Public and private education facilities; and/or

4. Other uses permitted in the underlying zoning district in which the planned unit development is located.

(g) *Open spaces.* A minimum of 30% of the buildable area of the residential section of each PUD parcel shall be reserved for common open space which shall be either held in common ownership by all owners in the PUD or dedicated for public use with approval of the City Commission.

Whenever possible, common open space shall be linked to the open space areas of adjoining developments, and buffers created as required in this chapter shall be credited towards fulfilling open space requirements. Common open space shall be of such size, shape, character and locations as to be usable for its intended purpose or shall not be included in the open space calculation.

(h) *Minimum lot size and density.* The minimum lot size requirements of other sections of this chapter shall apply to a PUD only in that the minimum lot size requirements of the underlying zone and the stated maximum density from the table set forth in this chapter shall be used as the criterion in computing the overall maximum dwelling units per acre of buildable area (or the maximum dwelling unit density) and resulting open space requirements for the total parcel to be developed. An applicant may make a request to the Planning Commission for an increase in density from that computed above provided that: traffic and public safety will not be adversely affected, and that public utilities, services and facilities are adequate. The request shall allow an increase to a maximum of 20% under such a request. A request may be reviewed taking into consideration the unique characteristics of the PUD; provided, however, that such a request may be granted only if the applicant demonstrates and the Planning Commission finds that all of the following conditions are satisfied.

1. The PUD is well designed, attractive, accessible and has usable common open space which has been utilized and landscaped for buffers and recreation areas.
2. The PUD demonstrates distinctiveness and excellence in siting, design and landscaping which reflects well upon both the project itself and upon the compatibility and harmony with the surrounding properties.
3. The PUD provides for location adjacent to, and accessing, existing or proposed arterial streets in such a way as to provide for the minimum impact on traffic problems and safety.
4. Upon approval by the Planning Commission, the request shall be submitted to the City Commission for its consideration. The City Commission shall accept, reject or modify the approval granted by the Planning Commission.

(2) *Application for PUD designation.* Applications for PUD designation is initiated upon submission of the following to the Zoning Administrator:

- (a) Eight copies of a fully completed and duly executed application in a form prescribed by the City Commission;
- (b) An application fee in a sum set from time to time by the City Commission;
- (c) An agreement duly executed by the applicant evidencing the applicant's pledge to reimburse all expenses reasonably incurred by the city in processing the application including, but not limited to, costs associated with publication, mailing of notice, duplication of documents and other administrative expenses as well as legal, engineering and other professional fees reasonably necessary to ascertain the legal, administrative and financial feasibility of the proposed development and to confirm the applicant's financial ability to complete the project as proposed;

(d) A legal description of the parcel of land to which the application applies together with a list of the names and addresses of all owners of the land so described;

(e) Documentary evidence of an ownership interest in the property to be developed;

(f) An abstractor's certificate reciting the names and addresses of all property owners within 500 feet of the boundaries of the property to be developed; and

(g) Eight copies of a preliminary development plan meeting the requirements of the following division (C)(3) and all of its subparts.

(3) *Preliminary development specifications.* Each preliminary development plan submitted as a part of an application for a planned unit development shall be prepared according to the standards and contain the information and exhibits set forth below; provided, however, that upon a showing of hardship, expense disproportionate to cost of the proposed development, or other good cause, the City Commission may relieve any individual applicant from strict adherence to one or more of the following requirements:

(a) The drawings shall be professionally prepared by a registered civil engineer, a registered land surveyor or other professional with expertise in the discipline required for the particular plan and each shall be in schematic form and drawn to a scale of one inch equals 50 feet and must contain the following:

1. The location, size of site and proposed uses of the land to be developed;
2. The density of land use to be allocated to the several parts of the site to be developed;
3. The location and size of all common open space including buffers and any developments or improvements to be made to the space;
4. The use height, size and location of buildings and other structures (overlaid on a topographic map as specified below);
5. The plans for the collection and distribution of storm water and sanitary waste, the distribution of potable water, the availability of water for firefighting and sprinkler systems and locations of fire hydrants on premises and nearby. Also show plans and locations of areas for storm water ponding/sedimentation and other treatment, and all easements necessary for same (overlaid on a topographic map as specified below);
6. The plans and specifications for streets and parking of vehicles (including access drives, marked individual spaces, visitor spaces, disabled parking/and loading/unloading zones). Plans and permits for access to city, state and county roads must be included;

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7. A schedule showing the proposed times within which application for final approval of all sections of the PUD are intended to be filed;
8. A topographic map prepared by a registered civil engineer or registered land surveyor covering an entire tract proposed for development. The maps shall indicate topography at a two foot contour interval. It shall show in accurate detail the existing: buildings, trees, wetlands, natural or developed drainage (including ditches and culverts), streams, ponds, shorelines, roads, steep slopes, utility lines and easements; and shall include any other existing significant natural or developed features;
9. Detailed plan or plans overlaying the above required topographic map showing any items or features that are to be removed or altered;
10. A map showing the subject property and surrounding properties within 150 feet of the perimeter line of the proposed PUD which specifies the zoning and actual uses of these surrounding parcels, and showing any structures thereon;
11. Generalized elevations and perspectives of all proposed structures;
12. A landscape plan indicating the location, size and type of all plant materials to be used, and which meets the requirements specified herein;
13. Plans and specifications for all signs;
14. Plans and specifications for all outdoor lighting; and
15. Environmental Assessment Worksheet (EAW) Environmental Impact Statement (EIS) and any Permits from the D.N.R. or other governmental agency or body where shorelands, wetlands or any other environmentally sensitive areas are included in the planned development area. In case there is a conflict in the provisions of any laws, rules or regulations, the more stringent shall apply and take precedence.

(b) The written statement shall contain the following:

1. An explanation of the general character of the planned development;
2. A statement of the ownership of all land involved in the parcel to be developed, together with a summary of the owners' previous work and development experience;
3. A general indication of the time schedule for development of the project;
4. A statement showing the ultimate ownership and maintenance of all parts of the development including streets, utilities, structures and open and recreational space; and specimen agreements, provisions or covenants which govern the use, maintenance and continued protection of the development and its common areas; and

5. A statement describing how all necessary governmental services will be provided to the development, and the economic impact to the tax payers in providing these services.

(4) *Preliminary development plan procedure.* Filing of an application for approval of a planned unit development is complete upon acceptance of the application by the Planning Commission. Acceptance may be deferred only as required to ascertain whether application requirements have been met and the applicant shall be promptly notified of any deficiencies. Each application which is in compliance with application requirements set forth above shall be processed as follows:

(a) Within 60 days after filing of the preliminary plan with the Zoning Officer, the Planning Commission shall forward the plan to the City Commission with a written report recommending that the plan be disapproved, approved or approved with modifications stating the reasons for these recommendations.

(b) Within 45 days after the receipt of the application by the City Commission a public hearing shall be held by the City Commission on the application. The City Commission may continue the hearing or refer the matter back to the Planning Commission for further study; provided, however, that the public hearing or hearings shall be concluded within 45 days after the date of the first public hearing, unless the applicant shall consent in writing to an extension of the time. Upon conclusion of all hearings the City Commission shall within 30 days, make findings and cause a copy thereof to be mailed to the applicant.

(c) In the event tentative approval is granted subject to conditions, the applicant shall, within 45 days after receiving a copy of the findings of the City Commission, notify the City Commission of the acceptance or refusal of all conditions. Refusal of the applicant shall constitute denial of the plans by the City Commission. Failure of the applicant to notify the City Commission of his acceptance or refusal of the conditions to the plan, constitute refusal of the conditions.

(5) *Final development plan procedure.* Within six months following the approval of the preliminary development plan, the applicant shall file with the Zoning Officer a final development plan containing in final form the information required in the preliminary plan. The City Commission at its discretion may extend for six months the period for filing of the final development plan.

(a) The Zoning Officer shall send a reproducible print and one other print to the Chairman of the Zoning Commission. If the Planning Commission finds that the formal plan is in substantial compliance with the plan given preliminary approval, it shall endorse the plan and submit it to the City Commission within 30 days.

(b) A public hearing on an application for final approval of the plan or part thereof shall not be required provided that the plan is in substantial compliance with the plan given preliminary approval.

(c) In the event the plan as submitted for final approval is not in substantial compliance with the preliminary plan, the City Commission shall notify the applicant within 45 days of the date of application setting forth the ways in which the plan is not in substantial compliance.

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1. The applicant may treat the notification as denial of final approval; or

2. The applicant may file a written request with the City Commission that it hold a public hearing on his or her request for final approval. Any such hearing shall be held within 30 days after the request for such a hearing. Within 45 days of the hearing the City Commission shall either grant final approval or deny final approval to the plan.

(d) In the event a plan is given final approval and the applicant shall abandon the plan or in the event the applicant shall fail to begin construction of the planned unit development within 12 months after final approval has been granted, final approval shall terminate unless a time period is extended by the City Commission.

(6) *Final development plan specifications.* The final development plan filed with the Zoning Officer shall contain in final form all the information required in the preliminary plan.

(7) *Findings required.* The findings necessary for approval of the preliminary and final development plans shall be based on the following and describe in what respect the plan would or would not be in the public interest.

(a) The plan is not in conflict with the city land use plan.

(b) The plan is designed to form a desirable and unified development within its own boundaries.

(c) The proposed uses will not be detrimental to present and future land uses in the surrounding area.

(d) Any exceptions to the standard requirements of the zoning and subdivision ordinance are justified by the design of the development.

(e) The planned development will be compatible with the surrounding property and land uses and will not have an undue and adverse impact on the reasonable enjoyment of neighboring property.

(f) The plan will not create an excessive burden on parks, schools, streets, fire protection and other public facilities and utilities which serve or are proposed to serve the planned development. These burdens could be in the form of economic hardship or as hazards to the health and safety of the neighborhood or the population in general.

(g) The plan does not create a public health, fire or safety hazard to the adjoining property owners.

(8) *Zoning.* Once the proposed plan has been approved, the Planning Commission shall propose an amendment to this chapter for action by the City Commission as outlined in the administrative portion of this chapter. The planned unit development shall be outlined on the city zoning map and labeled PUD.

(9) *Annual review.* The Planning Commission shall review all Planned Unit Development Districts within the city at least once each year and shall make a report to the City Commission on the status of the development in each of the Planned Unit Development Districts. If the City Commission finds that development has not occurred within 12 months from the original approval, the City Commission may instruct the Planning Commission to initiate rezoning to the original zoning district and remove the Planned Unit Development District from the zoning map.
(1988 Code, ' 11.50-12) (Ord. 30, passed 10-11-1994)

