

## **TITLE XV: LAND USAGE**

### **Chapter**

- 150. BUILDING REGULATIONS; CONSTRUCTION**
- 151. STREETS, SIDEWALKS AND PUBLIC WAYS**
- 152. STORM WATER MANAGEMENT**
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## **CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION**

### **Section**

#### ***Building Code***

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#### ***BUILDING CODE***

### **§ 150.01 CODES ADOPTED BY REFERENCE.**

The Minnesota State Building Code (the “Code”), as adopted by the Commissioner of Labor and Industry pursuant to M.S. §§ 326B.101 to 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’s Commissioner of Labor and Industry, through the Building Codes and Standards Unit, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this subchapter. The Minnesota State Building Code is hereby incorporated in this subchapter as if fully set out herein. For more information, see the Minnesota Department of Labor website at <http://www.dli.mn.gov/>.

(Ord. 93, passed 8-8-2007)

### **§ 150.02 APPLICATION, ADMINISTRATION AND ENFORCEMENT.**

The application, administration and enforcement of the Code shall be in accordance with the Minnesota State Building Code and Minn. Rules Ch. 1300, as it may be amended from time to time. 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. The Code shall be enforced by a Minnesota certified building official designated by the City Council to administer the Code.

(Ord. 93, passed 8-8-2007)

**§ 150.03 PERMITS AND FEES.**

The issuance of permits and the collection of fees shall be as authorized in M.S. § 326B.121, as it may be amended from time to time. Permit fees shall be assessed for work governed by the Code in accordance with a fee schedule adopted by the City Council. In addition, a surcharge fee shall be collected on all permits issued for work governed by the Code in accordance with M.S. § 326B.148, as it may be amended from time to time.

(Ord. 93, passed 8-8-2007)

**§ 150.04 OPTIONAL BUILDING CODE CHAPTERS.**

(A) The Minnesota 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 Minnesota State Building Code.

(B) The following optional provisions identified in the most current edition of the state's Building Code are hereby adopted and incorporated as part of the Building Code for the city: none.

(Ord. 93, passed 8-8-2007)

**§ 150.05 PERPETUAL EXISTENCE.**

This subchapter shall perpetually include the most current edition of the Minnesota Statute Building Code, with the exception of the optional appendix chapters. Optional appendix chapters shall not apply unless specifically adopted.

(Ord. 93, passed 8-8-2007)

## **CHAPTER 151: STREETS, SIDEWALKS AND PUBLIC WAYS**

### **Section**

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#### ***GENERAL PROVISIONS***

### **§ 151.01 SIDEWALK AND CROSSWALK CONSTRUCTION.**

(A) All sidewalks in the city hereafter to be constructed, unless otherwise specially ordered by the City Council, shall be constructed of cement, sand and gravel properly mixed so as to form concrete.

(B) All crosswalks must be constructed of cement, sand and gravel properly mixed with water so as to form concrete.

(C) No sidewalks or crosswalks constructed in accordance with the provisions of this section shall be accepted by the Street Commissioner or other officers of the city, unless otherwise specially ordered by the Council.

(Ord. 21, passed 5-20-1919) Penalty, see § 10.99

#### **§ 151.02 ENCUMBRANCES ON STREETS, SIDEWALKS OR ALLEYS.**

(A) It shall be unlawful for any person to pile, place or deposit upon any of the streets, sidewalks or alleys of the city any cord wood, lumber, boxes, casks or any other material whatever, whether the street, sidewalk or alley is adjacent to the person's lot, building or place of business or not, so as to hinder or obstruct the free use and travel thereon by the public or by any person without first having obtained a special permit in writing so to do, from the City Council.

(B) No person or persons shall pile, place or deposit upon any of the streets, or alleys in the city any garbage, manure, offal, ashes, hay, straw or any other material or matter of any kind or character.

(C) All rubbish, manure or matter of any kind mentioned in division (B) above found remaining upon the streets, sidewalks or alleys of the city shall be removed therefrom by the owner or occupants of the lots or lands abutting thereto on or before May 1 of each and every year and to be kept so removed by the owner or occupant the entire year thereafter.

(D) Whenever any manure accumulates around any stable or yard with the city or any such matter as is mentioned in division (B) above appears upon the streets or alleys of the city, the owner or occupant of the stable or yards and the abutting owner or occupants of the lots or land shall remove the same upon the request or notice of any officer of the city so to do, within the time allowed by the officer so notifying, and so specified by him or her; provided that, the time allowed within which to remove the same shall not exceed 15 days from the date of the notice by the officer so complaining.

(Ord. 9, passed 5-29-1901) Penalty, see § 10.99

### ***RIGHT-OF-WAY MANAGEMENT***

#### **§ 151.10 ELECTION TO MANAGE THE PUBLIC RIGHTS-OF-WAY.**

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

(Ord. 110, passed 5-7-2019)

**§ 151.11 DEFINITIONS.**

The definitions included in M.S. § 237.162, as it may be amended from time to time, Minn. Rules part 7810.0100, subparts 1 through 23, and part 7560.0100 subparts 1 through 12 are hereby adopted by reference and are incorporated into this subchapter as if set out in full. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CITY.** The City of New Germany.

**PERMIT.** A right-of-way permit obtained in accordance with this subchapter.

**PERSON.** Any person, firm, corporation, or any other entity.  
(Ord. 110, passed 5-7-2019)

**§ 151.12 PERMIT REQUIREMENT.**

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

(B) *Permit extensions.* No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless (1) such person makes a supplementary application for another permit before the expiration of the initial permit, and (2) a new permit or permit extension is granted.

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

(D) *Permit display.* Permits issued under this subchapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the city.  
(Ord. 110, passed 5-7-2019)

**§ 151.13 PERMIT APPLICATIONS.**

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

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

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

(2) The name, address and email address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of application.

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

(a) Verifying that an insurance policy has been issued to the permittee by an insurance company licensed to do business in the State of Minnesota, or a form of self-insurance acceptable to the city.

(b) Verifying that the permittee is insured against claims for personal injury, including death, as well as claims for property damage arising out of the:

1. Use and occupancy of the right-of-way by the permittee, its officers, agents, employees, and permittees; and

2. Placement and use of facilities and equipment in the right-of-way by the permittee, its officers, agents, employees, and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities, and collapse of property.

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

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

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

(4) A copy of the actual insurance policies.

(5) If the applicant is a corporation, a copy of the certificate required to be filed under M.S. § 300.06 as recorded and certified to by the Secretary of State.

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

(7) For a permit to install small wireless facilities, the information required in the city's Small Wireless Facility Design Guidelines.



(B) An applicant seeking approval for the installation of small wireless facilities may file a consolidated permit application to collocate up to 15 small wireless facilities provided that all the small wireless facilities in the application:

- (1) Are located within a two-mile radius;
- (2) Consist of substantially similar equipment; and
- (3) Are to be placed on similar types of wireless support structures.

(C) Payment of money due the city for:

- (1) Permit fees, estimated restoration costs and other management costs;
- (2) Any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city;
- (3) Franchise fees, or other charges, if applicable; and
- (4) Inspection fees, if applicable and if not included in the permit fee.

(Ord. 110, passed 5-7-2019)

#### **§ 151.14 ISSUANCE OF PERMIT; CONDITIONS.**

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

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

(C) *Additional small wireless facility conditions.* In addition to the requirements of division (B), the erection or installation of a wireless support structure, or the collocation of a small wireless facility, shall be subject to the following conditions:

(1) A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.

(2) No new wireless support structure installed within the right-of-way shall exceed 50 feet in height without the city's written authorization, and further provided that an applicant may replace an

existing wireless support structure exceeding 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.

(3) No wireless facility may extend more than 10 feet above its wireless support structure.

(4) Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such support structures and any existing wireless support structure or other facilities in and around the right-of-way.

(5) Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.

(6) The execution of a small wireless facility collocation agreement that incorporates any additional terms and conditions agreed upon by the city. A small wireless facility collocation agreement is considered public data not on individuals and is accessible to the public under M.S. § 13.03. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement between the city and applicant.

(D) *Payment of rent.*

(1) For collocations of small wireless facilities, the city can, either in its permit or in a standard collocation agreement, require annual rental payments for the small wireless collocations of up to:

- (a) \$150 per year for rent to collocate on the city structure.
- (b) \$25 per year for maintenance associated with the collocation.
- (c) A monthly fee for electrical service as follows:
  - 1. \$73 per radio node less than or equal to 100 maximum watts;
  - 2. \$182 per radio node over 100 maximum watts; or
  - 3. The actual cost of electricity if the actual cost exceeds the foregoing.

(2) For collocations or placements other than of small wireless facilities, the city can charge a mutually agreed upon rent reached between the city and the applicant.

(E) *Trenchless excavation.* As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to horizontal directional drilling, shall follow all requirements set forth in M.S. Ch. 216D and Minn. Rules Ch. 7560, and shall require potholing or open cutting over existing underground utilities before excavating as determined by the city.

(Ord. 110, passed 5-7-2019)

**§ 151.15 PERMIT FEES.**

(A) *Permit fee.* The city shall establish a permit fee, as set in the city's fee schedule. The city will not impose a permit fee for any of the following activities:

(1) Routine maintenance of a small wireless facility;

(2) Replacement of a small wireless facility with a new facility that is substantially similar or smaller in size, weight, height, and wind or structural loading than the small wireless facility being replaced; or

(3) Installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with national safety codes.

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

(C) *Non-refundable.* Permit fees that were paid for a permit that the city has revoked for a breach as stated in § 151.22 are not refundable.

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

(E) *Rules.* All permit fees shall be established consistent with the provisions of Minn. Rule 7819.1000, when applicable.  
(Ord. 110, passed 5-7-2019)

**§ 151.16 RIGHT-OF-WAY PATCHING AND RESTORATION.**

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

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

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

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

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

(C) *Standards.* The permittee shall perform patching and restoration according to the standards and with the materials specified by the city and shall comply with Minn. Rule 7819.1100.

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

(E) *Failure to restore.* If the permittee fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city at its option may do such work. In that event the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.  
(Ord. 110, passed 5-7-2019)

## **§ 151.17 PERMIT LIMITATIONS.**

(A) *Limitation on area.* A permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area:

- (1) Make application for a permit extension and pay any additional fees required thereby; and
- (2) Be granted a new permit or permit extension.

(B) *Obstruction from small wireless facility work.* City will not require an additional permit fee or require a new collocation agreement for routine maintenance of a small wireless facility, for replacement of a small wireless facility with a new facility that is substantially similar or smaller in size, weight, height, and wind or structural loading than the small wireless facility being replaced; or for installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with national safety codes. The city may require advance notification, however, of these activities if the work will obstruct the public right-of-way.

(C) *Limitation on dates.* A permit is valid only for the dates specified in the permit. For a small wireless facility, the term of the permit is equal to the length of time that the small wireless facility is in use, unless the permit is revoked under this section. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date. (Ord. 110, passed 5-7-2019)

#### **§ 151.18 INSTALLATION REQUIREMENTS.**

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. Rule 7819.1100, when applicable, and other local requirements, when applicable, and insofar as they are not inconsistent with the M.S. §§ 237.162 and 237.163, as they may be amended from time to time. (Ord. 110, passed 5-7-2019)

#### **§ 151.19 INSPECTION.**

(A) *Notice of completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minn. Rules 7819.1300.

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

(C) *Authority of city.*

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

(2) The city may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the city that the violation has been corrected. If such proof has not been presented within the required time, the city may revoke the permit pursuant to § 151.22. (Ord. 110, passed 5-7-2019)

#### **§ 151.20 WORK DONE WITHOUT A PERMIT.**

(A) *Emergency situations.* Each person with facilities in the right-of-way shall immediately notify the city of any event regarding its facilities that it considers to be an emergency. The owner or operator

of the facilities may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency, the owner or operator shall apply for the necessary permit, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this subchapter for the actions it took in response to the emergency. If the city becomes aware of an emergency regarding facilities, the city will attempt to contact the local representative of each facility owner affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the person whose facilities occasioned the emergency.

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

(Ord. 110, passed 5-7-2019)

#### **§ 151.21 SUPPLEMENTARY NOTIFICATION.**

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

(Ord. 110, passed 5-7-2019)

#### **§ 151.22 REVOCATION OF PERMIT.**

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

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

(B) *Written notice of breach.* If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the city shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations might be cause for revocation of the permit.

(C) *Procedural requirements.* If the city decides to revoke the permit, the revocation must be made in writing and must document the basis for the revocation. The city must notify the right-of-way user in writing within three business days of the decision to revoke a permit.

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

(Ord. 110, passed 5-7-2019)

## **§ 151.23 MAPPING DATA.**

(A) *Information required.* If allowed by statute, each permittee shall provide mapping information required by the city in accordance with Minn. Rules 7819.4000 and 7819.4100.

(B) *Service laterals.* Permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minn. Rule 7560.0150, subpart 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals, and the service lateral vertical locations in those cases where the city reasonably requires it. Permittees or their subcontractors shall submit to the city evidence of the installed service lateral locations. Compliance with this division (B) and with applicable Gopher State One-Call law and Minn. Rules governing service laterals installed after December 31, 2005, shall be a condition of any city approval necessary for:

(1) Payments to contractors working on a public improvement project including those under M.S. Ch. 429; and

(2) City approval of performance under development agreements, or other subdivision or site plan approval under M.S. Ch. 462. The city shall reasonably determine the appropriate method of providing such information. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or for future permits to the offending permittee or its subcontractors.

(Ord. 110, passed 5-7-2019)

## **§ 151.24 LOCATION OF FACILITIES.**

(A) *Placement.* Placement, location, and relocation of facilities must comply with M.S. §§ 237.162 and 237.163, as they shall be amended from time to time, with other applicable law, and with Minn. Rules 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

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

(C) *Limitation of space*. Subject to M.S. § 237.163, as it shall be amended from time to time, to protect health, safety, and welfare or when necessary to protect the right-of-way and its current use, the city shall have the power to deny permits and the city shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

(Ord. 110, passed 5-7-2019)

#### **§ 151.25 DAMAGE TO OTHER FACILITIES.**

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

(Ord. 110, passed 5-7-2019)

#### **§ 151.26 RIGHT-OF-WAY VACATION.**

If the city vacates a right-of-way that contains facilities, the facility owner's rights in the vacated right-of-way are governed by Minn. Rule 7819.3200.

(Ord. 110, passed 5-7-2019)

#### **§ 151.27 INDEMNIFICATION AND LIABILITY.**

By applying for and accepting a permit under this subchapter, a permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. Rule 7819.1250.

(Ord. 110, passed 5-7-2019)



**§ 151.28 ABANDONED FACILITIES.**

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

(Ord. 110, passed 5-7-2019)

**§ 151.29 APPEAL.**

A right-of-way user that (1) has been denied a permit; (2) has had permit revoked; or (3) believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

(Ord. 110, passed 5-7-2019)

**§ 151.30 RESERVATION OF REGULATORY AND POLICE POWERS.**

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

(Ord. 110, passed 5-7-2019)



## **CHAPTER 152: STORM WATER MANAGEMENT**

### **Section**

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### ***GENERAL PROVISIONS***

#### **§ 152.01 STATUTORY AUTHORIZATION.**

This chapter is adopted pursuant to M.S. § 462.351, as it may be amended from time to time, for cities and towns and M.S. § 394.21, as it may be amended from time to time, for counties having a population of less than 3,000 according to the 1950 federal census (1990).  
(Ord. 70, passed - -1995)

#### **§ 152.02 FINDINGS.**

The city hereby finds that uncontrolled and inadequately planned use of wetlands, woodlands, natural habitat areas, areas subject to soil erosion and areas containing restrictive soils adversely affects the public health, safety and general welfare by impacting water quality and contributing to other environmental problems, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the city to provide adequate water, sewage, flood control and other community services. In addition, extraordinary public expenditures may be required for the protection of persons and property in such areas and in areas which may be affected by unplanned land usage.  
(Ord. 70, passed - -1995)

#### **§ 152.03 PURPOSE.**

The purpose of this chapter is to promote, preserve and enhance the natural resources within the city and protect them from adverse effects occasioned by poorly-sited development or incompatible activities: by regulating land-disturbing or development activities that would have an adverse and potentially irreversible impact on water quality and unique and fragile environmentally sensitive land; by minimizing conflicts and encouraging compatibility between land-disturbing and development activities and water quality and environmentally sensitive lands; and by requiring detailed review standards and procedures for land-disturbing or development activities proposed for the areas, thereby achieving a balance between urban growth and development and protection of water quality and natural areas.  
(Ord. 70, passed - -1995)

#### **§ 152.04 DEFINITIONS.**

(A) When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the

plural number. The word “shall” is always mandatory and not merely directive. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***APPLICANT.*** Any person who wishes to obtain a building permit, zoning or subdivision approval.

***CONTROL MEASURE.*** A practice or combination of practices to control erosion and attendant pollution.

***DETENTION FACILITY.*** A permanent natural or man-made structure, including wetlands, for the temporary storage of runoff which contains a permanent pool of water.

***FLOOD FRINGE.*** The portion of the floodplain outside of the floodway.

***FLOODPLAIN.*** The areas adjoining a watercourse or water basin that have been or may be covered by a regional flood.

***FLOODWAY.*** The channel of the watercourse, the bed of water basins, and those portions of the adjoining floodplains that are reasonably required to carry and discharge flood water and provide water storage during a regional flood.

***HYDRIC SOILS.*** Soils that are saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

***HYDROPHYTIC VEGETATION.*** Macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

***LAND-DISTURBING OR DEVELOPMENT ACTIVITIES.*** Any change of the land surface including removing vegetative cover, excavating, filling, grading and the construction of any structure.

***PERSON.*** Any individual, firm, corporation, partnership, franchisee, association or governmental entity.

***PUBLIC WATERS.*** Waters of the state as defined in M.S. § 103G.005, as it may be amended from time to time.

***REGIONAL FLOOD.*** A flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of a 100-year recurrence interval.

***RETENTION FACILITY.*** A permanent natural or human-made structure that provides for the storage of storm water runoff by means of a permanent pool of water.

***SEDIMENT.*** Solid matter carried by water, sewage or other liquids.

**STRUCTURE.** Anything manufactured, constructed or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots and paved storage areas.

**WETLANDS.** Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, **WETLANDS** must have the following three attributes:

- (a) Have a predominance of hydric soils;
- (b) Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- (c) Under normal circumstances support a prevalence of such vegetation.

(B) Many of the above definitions are derived from state law. A local government should ensure that the definitions are also consistent with definitions in the local Zoning Code.  
(Ord. 70, passed - -1995)

## **§ 152.05 SCOPE AND EFFECT.**

(A) *Applicability.* Every applicant for a building permit, subdivision approval or a permit to allow land-disturbing activities must submit a storm water management plan to the Zoning Administrator. No building permit, subdivision approval or permit to allow land-disturbing activities shall be issued until approval of the storm water management plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of this chapter. The provisions of §§ 152.50 through 152.53 of this chapter apply to all land, public or private, located within the city.

(B) *Exemptions.* The provisions of this chapter do not apply to:

- (1) Any part of a subdivision if a plat for the subdivision has been approved by the City Council on or before the effective date of this chapter;
- (2) Any land-disturbing activity for which plans have been approved by the watershed management organization within six months prior to the effective date of this chapter;
- (3) A lot for which a building permit has been approved on or before the effective date of this chapter;
- (4) Installation of fence, sign, telephone and electric poles and other kinds of posts or poles;  
or
- (5) Emergency work to protect life, limb or property.

(C) *Waiver.* The City Council, upon recommendation of the Planning Commission, may waive any requirement of this chapter upon making a finding that compliance with the requirement will involve an unnecessary hardship and the waiver of the requirement will not adversely affect the standards and requirements set forth in § 152.06 of this chapter. The City Council may require as a condition of the waiver, the dedication or construction, or agreement to dedicate or construct as may be necessary to adequately meet the standards and requirements.  
(Ord. 70, passed - -1995)

## § 152.06 PLAN APPROVAL PROCEDURES.

### (A) *Application.*

(1) A written application for storm water management plan approval, along with the proposed storm water management plan, shall be filed with the Zoning Administrator and shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this chapter. Prior to applying for approval of a storm water management plan, an applicant may have the storm water management plans reviewed by the appropriate departments of the city.

(2) Two sets of clearly legible blue or black lined copies of drawings and required information shall be submitted to the planning department and shall be accompanied by a receipt from the city's Clerk-Treasurer evidencing the payment of all required fees for processing and approval as set forth in § 152.07(E) of this chapter and a bond when required by § 152.07(D) of this chapter in the amount to be calculated in accordance with that section. Drawings shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed. At a minimum the scale shall be one inch equals 100 feet.

(B) *Storm water management plan.* At a minimum, the storm water management plan shall contain the following information:

(1) *Existing site map.* A map of existing site conditions showing the site and immediately adjacent areas, including:

(a) The name and address of the applicant, the section, township and range, north point, date and scale of drawing and number of sheets;

(b) Location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns and districts or other landmarks;

(c) Existing topography with a contour interval appropriate to the topography of the land, but in no case having a contour interval greater than two feet;

(d) A delineation of all streams, rivers, public waters and wetlands located on and immediately adjacent to the site, including depth of water, a description of all vegetation which may be found in the water, a statement of general water quality and any classification given to the water body or wetland by the state's Department of Natural Resources, the state's Pollution Control Agency and/or the United States Army Corps of Engineers;

(e) Location and dimensions of existing storm water drainage systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate storm water is conveyed from the site, identifying the receiving stream, river, public water or wetland, and setting forth those areas of the unaltered site where storm water collects;

(f) A description of the soils of the site, including a map indicating soil types of areas to be disturbed as well as a soil report containing information on the suitability of the soils for the type of development proposed and for the type of sewage disposal proposed and describing any remedial steps to be taken by the developer to render the soils suitable;

(g) Vegetative cover and clearing delineating any vegetation proposed for removal; and

(h) One hundred year floodplains, flood fringes and floodways.

(2) *Site construction plan.* A site construction plan including:

(a) Locations and dimensions of all proposed land-disturbing activities and any phasing of those activities;

(b) Locations and dimensions of all temporary soil or dirt stockpiles;

(c) Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this chapter;

(d) Schedule of anticipated starting and completion date of each land-disturbing activity including installation of construction site erosion control measures needed to meet the requirements of this chapter; and

(e) Provisions for maintenance of the construction site erosion control measures during construction.

(3) *Plan of final site conditions.* A plan of final site conditions on the same scale as the existing site map showing the site changes including:

(a) Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features;



(b) A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size and description of all proposed landscape materials which will be added to the site as part of the development;

(c) A drainage plan of the developed site delineating in which direction and at what rate storm water will be conveyed from the site and setting forth the areas of the site where storm water will be allowed to collect;

(d) The proposed size, alignment and intended use of any structures to be erected on the site;

(e) A clear delineation and tabulation of all areas which shall be paved or surfaced, including a description of the surfacing material to be used; and

(f) Any other information pertinent to the particular project which in the opinion of the applicant is necessary for the review of the project.  
(Ord. 70, passed - -1995)

#### **§ 152.07 PLAN REVIEW PROCEDURE.**

##### *(A) Process.*

(1) Storm water management plans meeting the requirements of § 152.06 of this chapter shall be submitted by the Zoning Administrator to the Planning Commission for review in accordance with the standards of §§ 152.20 through 152.35 of this chapter. The Commission shall recommend approval, recommend approval with conditions or recommend denial of the storm water management plan. Following Planning Commission action, the storm water management plan shall be submitted to the City Council at its next available meeting. City Council action on the storm water management plan must be accomplished with 120 days following the date the application for approval is filed with the Zoning Administrator.

(2) The process outlined in division (A)(1) above can be modified to be consistent with the regulatory process of the particular local government unit. For example, one local government may have a particular department which reviews land use regulatory matters, except the final decision to approve or deny a land use plan or permit which is reserved for the governing body of the local government unit. Another local governmental unit may provide the department which reviews land use regulatory matters with full authority to take final action on the application. Other local governments may use a hybrid process where some permits are acted upon by the appropriate regulatory department while other land use matters are left to the governing body for final approval.

*(B) Duration.* Approval of a plan submitted under the provisions of this chapter shall expire one year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of the approval, the applicant makes a written request to the Zoning Administrator for an extension of time to commence construction setting forth the reasons for the

requested extension, the Planning Department may grant one extension of not greater than one single year. Receipt of any request for an extension shall be acknowledged by the Zoning Administrator within 15 days. The Zoning Administrator shall make a decision on the extension within 30 days of receipt. Any plan may be revised in the same manner as originally approved.

(C) *Conditions.* A storm water management plan may be approved subject to compliance with conditions reasonable and necessary to ensure that the requirements contained in this chapter are met. The conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other fatalities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alterations of the site design to insure buffering and require the conveyance to the city or other public entity of certain lands or interests therein.

(D) *Performance bond.*

(1) Prior to approval of any storm water management plan, the applicant shall submit an agreement to construct the required physical improvements, to dedicate property or easements, or to comply with such conditions as may have been agreed to. The agreement shall be accompanied by a bond to cover the amount of the established cost of complying with the agreement. The agreement and bond shall guarantee completion and compliance with conditions within a specific time, which time may be extended in accordance with division (B) above.

(2) The adequacy, conditions and acceptability of any agreement and bond shall be determined by the City Council or any official of the city as may be designated by resolution of the City Council.

(E) *Fees.* All applicants for storm water management plan approval shall be accompanied by a processing and approval fee as determined by the city.  
(Ord. 70, passed - -1995)

## **§ 152.08 CONTROLLING REGULATIONS.**

In the event of any conflict between the provisions of this chapter and the provisions of an erosion control or shoreland protection ordinance adopted by the City Council, the more restrictive standard prevails.

(Ord. 70, passed - -1995)

***APPROVAL STANDARDS***

**§ 152.20 COMPLIANCE.**

(A) No storm water management plan which fails to meet the standards contained in this subchapter shall be approved by the City Council.

(B) Sections 152.21 through 152.35 of this chapter are examples of how best management practices for handling storm water runoff and design criteria for detention ponds can be found in the MPCA publication *Protecting Water Quality in Urban Areas*.

(Ord. 70, passed - -1995)

**§ 152.21 SITE DEWATERING.**

Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, swirl concentrators or other appropriate controls, as appropriate. Water may not be discharged in a manner that causes erosion or flooding of the site or receiving channels or a wetland.

(Ord. 70, passed - -1995) Penalty, see § 10.99

**§ 152.22 WASTE AND MATERIAL DISPOSAL.**

All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials or hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel or storm sewer system.

(Ord. 70, passed - -1995) Penalty, see § 10.99

**§ 152.23 TRACKING.**

(A) Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways.

(B) Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.

(Ord. 70, passed - -1995) Penalty, see § 10.99

**§ 152.24 DRAIN INLET PROTECTION.**

All storm drain inlets shall be protected during construction until control measures are in place with a straw bale, silt fence or equivalent barrier meeting accepted design criteria, standards and specifications contained in the MPCA publication *Protecting Water Quality in Urban Areas*.  
(Ord. 70, passed - -1995) Penalty, see § 10.99

**§ 152.25 SITE EROSION CONTROL.**

The following criteria (divisions (A) through (D) below) apply only to construction activities that result in runoff leaving the site.

(A) Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below. Sheetflow runoff from adjacent areas greater than 10,000 square feet in area shall also be diverted around disturbed areas, unless shown to have resultant runoff rates of less than one-half foot (3/sec.) across the disturbed area for the one-year storm. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.

(B) All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.

(C) Runoff from the entire disturbed area on the site shall be controlled by meeting either divisions (C)(1) and (C)(2) below or divisions (C)(1) and (C)(3) below.

(1) All disturbed ground left inactive for 14 or more days shall be stabilized by seeding or sodding (only available prior to September 15) or by mulching or covering or other equivalent control measure.

(2) For sites with more than ten acres disturbed at one time, or if a channel originates in the disturbed area, one or more temporary or permanent sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least 1 % of the area draining to the basin and at least three feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three feet. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.

(3) For sites with less than ten acres disturbed at one time, silt fences, straw bales or equivalent, control measures shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, silt fences shall be placed along the channel edges to reduce sediment reaching the channel. The use of silt fences, straw bales or equivalent control measures must include a maintenance and inspection schedule.

(D) Any soil or dirt storage piles containing more than ten cubic yards of material should not be located with a downslope drainage length of less than 25 feet from the toe of the pile to a roadway or

drainage channel. If remaining for more than seven days, they shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from piles which will be in existence for less than seven days shall be controlled by placing straw bales or silt fence barriers around the pile. In-street utility repair or construction soil or dirt storage piles located closer than 25 feet of a roadway or drainage channel must be covered with tarps or suitable alternative control, if exposed for more than seven days, and the storm drain inlets must be protected with straw bale or other appropriate filtering barriers.

(Ord. 70, passed - -1995) Penalty, see § 10.99

#### **§ 152.26 STORM WATER MANAGEMENT CRITERIA FOR PERMANENT FACILITIES.**

(A) An applicant shall install or construct, on or for the proposed land-disturbing or development activity, all storm water management facilities necessary to manage increased runoff so that the two-year, ten-year and 100-year storm peak discharge rates existing before the proposed development shall not be increased and accelerated channel erosion will not occur as a result of the proposed land-disturbing or development activity. An applicant may also make an in-kind or monetary contribution to the development activities undertaken by one or more persons, including the applicant.

(B) The applicant shall give consideration to reducing the need for storm water management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.

(C) The following storm water management practices shall be investigated in developing a storm water management plan in the following descending order of preference:

(1) Natural infiltration of precipitation on-site; (The purpose of this provision is to encourage the development of a storm water management plan that encourages natural infiltration. This includes providing as much natural or vegetated areas on the site as possible, minimizing impervious surfaces, and directing runoff to vegetated areas rather than to adjoining streets, storm sewers and ditches.)

(2) Flow attenuation by use of open vegetated swales and natural depressions;

(3) Storm water retention facilities; and

(4) Storm water detention facilities.

(D) A combination of successive practices may be used to achieve the applicable minimum control requirements specified in division (A) above. Justification shall be provided by the applicant for the method selected.

(Ord. 70, passed - -1995) Penalty, see § 10.99

**§ 152.27 DESIGN STANDARDS.**

Storm water detention facilities constructed in the city shall be designed according to the most current technology as reflected in the MPCA publication *Protecting Water Quality in Urban Areas* and shall contain, at a minimum, the following design factor:

(A) A permanent pond surface area equal to 2% of the impervious area graining to the pond or 1% of the entire area draining to the pond, wherever amount is greater;

(B) An average permanent pool depth of four to ten feet; (An alternative to division (A) above and this division (B) would be to require that the volume of the permanent pool be equal to or greater than the runoff from a two-inch rainfall for the fully developed site.)

(C) A permanent pool length-to-width ration of three to one (3:1) or greater;

(D) A minimum protective shelf extending ten feet into the permanent pool with a slope of ten to one (10:1), beyond which slopes should not exceed three to one (3:1);

(E) A protective buffer strip of vegetation surrounding the permanent pool at a minimum width of one rod (16.5 feet); (This width is consistent with the draft rules developed by the Board of Water and Soil Resources under the Wetland Conservation Act of 2004, being Minn. Rules part 8420.)

(F) All storm water detention facilities shall have a device to keep oil, grease and other floatable material from moving downstream as a result of normal operations;

(G) Storm water detention facilities for new development must be sufficient to limit peak flows in each subwatershed to those that existed before the development for the ten-year storm event. All calculations and hydrologic models/information used in determining peak flows shall be submitted along with the storm water management plan; and

(H) All storm water detention facilities must have a forebay to remove course-grained particles prior to discharge into a watercourse or storage basin.  
(Ord. 70, passed - -1995)

**§ 152.28 WETLANDS.**

(A) Runoff shall not be discharged directly into wetlands without pre-settlement of the runoff.

(B) A protective buffer strip of natural vegetation at least one rod (16.5 feet) in width shall surround all wetlands. This width is consistent with the draft rules developed by the Board of Water and Soil Resources under the Wetland Conservation Act of 2004, being Minn. Rules part 8420.

(C) Wetlands must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value. Replacement must be guided by the following principles in descending order of priority:

(1) Avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;

(2) Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;

(3) Rectifying the impact by repairing, rehabilitating or restoring the affect wetland environment;

(4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity; and

(5) Compensating for the impact by replacing or providing substitute wetland resources or environments. (Compensation, including the replacement ratio and quality of replacement, should be consistent with the requirements outlined in the rules which will be adopted by the Board of Water and Soil Resources to implement the Wetland Conservation Act of 2004, being Minn. Rules part 8420.) (Ord. 70, passed - -1995) Penalty, see § 10.99

#### **§ 152.29 STEEP SLOPES.**

No land-disturbing or development activities shall be allowed on slopes of 18% or more. (Ord. 70, passed - -1995) Penalty, see § 10.99

#### **§ 152.30 CATCH BASINS.**

All newly installed and rehabilitated catch basins shall be provided with a sump area for the collection of course-grained material. The basins shall be cleaned when they are half-filled with material. (Ord. 70, passed - -1995) Penalty, see § 10.99

#### **§ 152.31 DRAIN LEADERS.**

(A) All newly constructed and reconstructed buildings will route drain leaders to pervious area wherein the runoff can be allowed to infiltrate.

(B) The flow rate of water exiting the leaders shall be controlled so no erosion occurs in the pervious areas. (Ord. 70, passed - -1995) Penalty, see § 10.99

**§ 152.32 INSPECTION AND MAINTENANCE.**

All storm water management facilities shall be designed to minimize the need of maintenance, to provide access for maintenance purposes and to be structurally sound. All storm water management facilities shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in storm water runoff. The Director of Public Works, or designed representative, shall inspect all storm water management facilities during construction, during the first year of operation and at least once every five years thereafter. The inspection records will be kept on file at the Public Works Department for a period of six years. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the storm water management facilities for inspection and maintenance purposes.

(Ord. 70, passed - -1995) Penalty, see § 10.99

**§ 152.33 MODELS, METHODOLOGIES AND COMPUTATIONS.**

Hydrologic models and design methodologies used for the determination of runoff and analysis of storm water management structures shall be approved by the city engineering firm. Plans, specification and computations for storm water management facilities submitted for review shall be sealed and signed by a registered professional engineer. All computations shall appear on the plans submitted for review, unless otherwise approved by the city engineering firm.

(Ord. 70, passed - -1995) Penalty, see § 10.99

**§ 152.34 WATERSHED MANAGEMENT AND GROUND WATER MANAGEMENT PLANS.**

Storm water management plans shall be consistent with adopted watershed management plans and ground water management plans prepared in accordance with the state's Board of Water and Soil Resources in accordance with state law.

(Ord. 70, passed - -1995)

**§ 152.35 EASEMENTS.**

If a storm water management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain, from adjacent property owners, any necessary easements or other property interests concerning flowage of water.

(Ord. 70, passed - -1995) Penalty, see § 10.99



***LAWN FERTILIZER REGULATIONS***

**§ 152.50 USE OF IMPERVIOUS SURFACES.**

No person shall apply fertilizer to or deposit grass clippings, leaves or other vegetative materials on impervious surfaces, or within storm water drainage systems, natural drainage ways or within wetland buffer areas.

(Ord. 70, passed - -1995) Penalty, see § 10.99

**§ 152.51 UNIMPROVED LAND AREAS.**

Except for driveways, sidewalks, patios, area occupied by structures or areas which have been improved by landscaping, all areas shall be covered by plants or vegetative growth.

(Ord. 70, passed - -1995) Penalty, see § 10.99

**§ 152.52 FERTILIZER CONTENT.**

Except for the first growing season for newly established turf areas, no person shall apply liquid fertilizer which, contains more than 0.5 % by weight of phosphorus, or granular fertilizer which contains more than 3 % by weight of phosphorus, unless the single application is less than or equal to one-tenth pound of phosphorus per 1,000 square feet. Annual application amount shall not exceed one-half pound of phosphorus per 1,000 square feet of lawn area.

(Ord. 70, passed - -1995) Penalty, see § 10.99

**§ 152.53 BUFFER ZONE.**

Fertilizer applications shall not be made within one rod (16.5 feet) of any wetland or water resource. (This distance is consistent with the draft rules developed by the Board of Water and Soil Resources under the Wetland Conservation Act of 2004, being Minn. Rules part 8420.)

(Ord. 70, passed - -1995) Penalty, see § 10.99



## CHAPTER 153: SUBDIVISIONS

### Section

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## **GENERAL PROVISIONS**

### **§ 153.001 TITLE.**

This chapter shall be known, cited and referred to as the “City of New Germany Subdivision Ordinance”, except as referred to herein as “this chapter”.  
(Ord. 104, passed 10-16-2012)

### **§ 153.002 PURPOSE.**

These regulations are established to protect and provide for the public health, safety and general welfare of the city and to:

(A) Provide for and guide the orderly, economic and safe development and redevelopment of land and the provision of public services;

(B) Avoid piecemeal and inefficient planning of subdivisions that results in poor traffic circulation, inadequate public services, poorly designed park and trail systems and undesirable parcels;

(C) Establish reasonable standards of design and procedures for subdivisions and resubdivisions, to provide for the orderly layout and use of land according to the requirements of this chapter and consistent with the Comprehensive Plan;

(D) Assure that a reasonable portion of subdivisions are dedicated to the public or preserved for public and semi-public uses such as streets, sanitary sewer facilities, public water facilities, storm water drainage and associated facilities, parks and open space, electricity, gas, telecommunications and other similar utilities and improvements;

(E) Provide for the rights of the public to access public lands and waters;

(F) Establish requirements for public improvements to assure that the improvements are designed to provide sufficient capacity to serve existing and new development and constructed to reasonable and safe standards;

(G) Protect and enhance the value of land, buildings and improvements throughout the city; and

(H) Prevent the pollution of air, streams and lakes; ensure the adequacy of drainage facilities; protect water resources and encourage the wise use and management of natural resources in order to preserve the integrity, stability and beauty of the city.

(Ord. 104, passed 10-16-2012)

### **§ 153.003 AUTHORITY.**

(A) The City Council shall serve as the platting authority in accordance with M.S. § 462.358 and Ch. 505, as they may be amended from time to time. The City Council may refer the review of subdivisions of land to the Planning Commission for comment and recommendations.

(B) No subdivision of land shall be accepted for filing by the county's Office of Property Records unless the subdivision is accompanied by a resolution approving the subdivision adopted by the affirmative vote of the majority of the City Council.

(C) The subdivision shall not be valid until it has been filed with the county's Office of Property Records.

(Ord. 104, passed 10-16-2012)

### **§ 153.004 COMPLIANCE.**

Following the adoption of this chapter, the following shall not be permitted in a subdivision unless a subdivision plat has been approved by the city and recorded with the county's Office of Property Records and until the improvements required by the city in accordance with the approved plans have been constructed or arranged for as provided in this chapter:

(A) No lot in a subdivision shall be sold;

(B) No building permit shall be issued in a subdivision; and

(C) No building shall be erected in a subdivision.

(Ord. 104, passed 10-16-2012)

#### **§ 153.005 SCOPE.**

(A) These regulations shall apply to all subdivisions of land within the city; however, the requirements for a final plat are not applicable to registered land surveys and conveyances by metes and bounds.

(B) All subdivisions of land within the city shall meet or exceed the requirements of this chapter unless the city has granted a variance, as established in § 153.026 of this chapter, from the provisions of this chapter.

(C) The city may impose additional, reasonable standards and conditions that are related to the subdivision to protect the public's health, safety and general welfare.

(D) This chapter shall not repeal, annul or in any way impair or interfere with the provisions of other ordinances or regulations of the city, except as expressly provided in this chapter.

(Ord. 104, passed 10-16-2012)

#### **§ 153.006 JURISDICTION.**

The regulations governing plats and the subdivision of land shall apply to the area within the corporate limits of the city.

(Ord. 104, passed 10-16-2012)

#### **§ 153.007 REPEAL OF PREVIOUS SUBDIVISION ORDINANCE.**

Ord. 71, adopted by the City Council on 3-6-1996, and all amendments to Ord. 71, are hereby repealed.

(Ord. 104, passed 10-16-2012)

#### **§ 153.008 COMPREHENSIVE PLAN.**

(A) The city has adopted a Comprehensive Plan, that may be amended from time to time, that establishes the policies for the establishment and provisions of this chapter.

(B) All land uses and development shall comply with the Comprehensive Plan and the provisions of this chapter.

(Ord. 104, passed 10-16-2012)

#### **§ 153.009 ADMINISTRATION.**

(A) *Notices.* Failure to give notice or to give adequate notice when such is required by the provisions of this chapter shall not invalidate any proceeding; provided that, a good faith attempt has been made to comply with the notice requirement.

(B) *Interpretation.*

(1) The provisions of this chapter shall be interpreted as the minimum requirements necessary to accomplish the purposes of this chapter. Except as provided within this chapter, the provisions of this chapter are cumulative and in addition to the provisions of other laws and ordinances governing the same subjects.

(2) Where the provisions of this chapter impose greater restrictions than those of any law, other ordinance or regulation, the provisions of this chapter shall control.

(3) Where the provisions of any law or other ordinance or regulation impose greater restrictions than this chapter, the greater restrictions shall be controlling.

(4) Words or terms defined in this chapter shall have the meanings assigned to them unless the meaning is clearly contrary to the intent of this chapter.

(a) The singular number shall include the plural.

(b) The present tense shall include the past and future tenses.

(c) The word “shall” is mandatory and “may” is permissive.

(5) All measured distances expressed in feet shall be to the nearest tenth of a foot, in event of conflicting provisions, the more restrictive provisions shall apply.

(C) *Separability.* The city declares that the provisions of this chapter are separable in accordance with the following.

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

(2) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this chapter to a particular property or subdivision, the judgment shall not affect the application of the provision to any other property or subdivision not specifically included in the judgment.

(D) *Amendments*. This chapter may be amended after consideration and recommendation by the Planning Commission and action by the City Council. Amendments must be published according to law. (Ord. 104, passed 10-16-2012)

### § 153.010 DEFINITIONS.

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

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

**APPLICANT.** An owner, agent or person, individual, firm, association, syndicate, partnership, corporation, trust or other legal entity having sufficient proprietary interest in a property to request a subdivision of the property under this chapter.

**APPLICATION, COMPLETE.** Any necessary form, as provided by the city, and all accompanying information as required by this chapter to be completed by the applicant for the requested action.

**BEST MANAGEMENT PRACTICE(S).** Sediment and erosion control methods established in *Protecting Water Quality in Urban Areas: Best Management Practices for Minnesota*, prepared by the state's Pollution Control Agency (MPCA), 3-1-2001, and subsequent updates.

**BLOCK.** An area of land within a subdivision that is entirely bounded by streets or a combination of streets, exterior boundary lines of the subdivision and/or bodies of water.

**BOULEVARD.** The portion of a street right-of-way between the curb or curb line and the property line.

**BUILDING.** A structure which may provide shelter and enclosure for persons, personal property or animals and when the structure is divided by party walls without openings, each portion so formed and separated shall be deemed to be a separate **BUILDING**.

**CERTIFICATE OF SURVEY.** A document prepared by a registered engineer or registered land surveyor, which precisely describes the area, dimensions and locations of a parcel or parcels of land.

**CITY.** City of New Germany, Carver County, Minnesota.

**CITY CLERK-TREASURER.** The City Clerk-Treasurer, appointed by the City Council, and shall serve as the official Zoning Officer of the city, unless another individual is appointed by the City Council.



**CITY COUNCIL.** The governing body of the City of New Germany.

**COMPREHENSIVE PLAN.** The city's 2030 Comprehensive Plan, as may be amended from time to time.

**CONSTRUCTION PLANS.** The maps or drawings, accompanying a subdivision, showing the specific location and design of required public or private improvements to be installed in the subdivision in accordance with the requirements of the city and this chapter as a condition of the approval of the subdivision.

**COUNTY.** The governing board of Carver County, Minnesota.

**CUL-DE-SAC.** A road with only one outlet that contains an area at the end to allow vehicles to turn around.

**DESIGN STANDARDS.** The minimum requirements for the preparation and layout of plats and associated required improvements.

**EASEMENT.** A grant or authorization by a property owner to use certain property for a specified use, such as the construction and maintenance of utilities, roadways, parks and pedestrian trails, drainage, driveway or other use.

**ESCROW.** A deposit of cash with the city or escrow agent to secure the promise to perform certain actions associated with a subdivision.

**FEE SCHEDULE.** The current fee schedule as adopted by the City Council.

**FINANCIAL GUARANTEE.** A financial security posted with the city with the approval of a final plat or development contract, guaranteeing compliance with the approved final plat, construction plans and conditions of approval set forth by the city.

**IMPROVEMENTS.** Public or private utilities including, but not limited to, water supply and sanitary sewer systems, storm sewers, roads, sidewalks, pedestrian/bicycle trails, landscaping, lighting, energy and communication facilities.

**LAND-DISTURBING ACTIVITY.** Any land change that may result in soil erosion from wind, water and/or ice and the movement of sediments into or upon waters, lands or rights-of-way within the city, including, but not limited to, building demolition, clearing and grubbing, grading, excavating, transporting and filling of land.

**LOT.** A parcel of land designated by plat, metes and bounds, registered land survey, auditor's plot, or other accepted means that is adequate for a use allowed by this chapter; abutting a public street; and of sufficient size to meet the required setbacks and area required by this chapter. The terms **PARCEL** and **TRACT** have the same meaning as **LOT**.

**LOT AREA.** The total area within the lot lines of a lot excluding dedicated public rights-of-way.

**LOT, CORNER.** A lot abutting upon two intersecting streets. The greater frontage of a **CORNER LOT** shall be the lot depth and the lesser frontage is the lot width.

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

**LOT, DOUBLE FRONTAGE.** A lot having frontage on two non-intersecting streets.

**LOT FRONTAGE.** The portion or side of a lot that abuts public right-of-way.

**LOT LINE.** A property boundary line of any lot, except any portion of the lot that extends into the abutting street or alley.

**LOT LINE, FRONT.** A lot line abutting a public right-of-way and if a corner lot, it shall be the shortest dimension on a public street.

**LOT LINE, REAR.** The lot line opposite and most distant from the front lot line.

**LOT LINE, SIDE.** Any lot line other than a front or rear lot line.

**LOT OF RECORD.** A parcel of land whose legal description was established in the county's Office of Property Records by plat, subdivision or as otherwise permitted by law.

**LOT WIDTH.** The horizontal distance between side lot lines, measured at the required front setback line.

**MANUAL OF STANDARD PROCEDURES.** A procedural manual governing the requirements and procedures for plats and registered land surveys as approved by the County Board, as may be amended.

**METES AND BOUNDS.** A method of property description prepared by a land surveyor registered in the state described by the direction and distance from an identifiable point of beginning.

**MnDOT.** The Minnesota Department of Transportation.

**OPEN SPACE.** An area set aside for the preservation of natural open spaces to counteract the effects of urban congestion and monotony.

**ORDINARY HIGH WATER LEVEL (OHL).** The boundary of public waters and wetlands, which 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.

**OUTLOT.** A parcel of land shown on a subdivision plat as an outlot and designated alphanumerically (for example - Outlot A). **OUTLOTS** are used to designate:

- (1) Land that is part of the subdivision but is to be subdivided into lots and blocks at a later date;
- (2) Land that is to be used for a specific purpose as designated in a developer's agreement;
- (3) Land for use by agreement between the city and the applicant; or
- (4) Land for a public purpose.

**PARKS AND PLAYGROUNDS.** Public lands and open space in the city dedicated for and usable for recreation purposes including public parks, recreational facilities, playgrounds, trails, open space or a related public use.

**PEDESTRIAN/BICYCLE TRAIL.** A public or private sidewalk or path and associated right-of-way across a lot or lots to provide access for pedestrians, and non-motorized vehicles and which may be used for the installation of utilities.

**PERCENTAGE OF GRADE.** The distance vertically (up or down) from the horizontal in feet and tenths of a foot for each 100 feet of horizontal distance on street centerline.

**PERSON.** A firm, association, organization, partnership, trust, company or corporation, as well as an individual.

**PLANNED UNIT DEVELOPMENT (PUD).** An integrated development involving two or more principal uses or structures, including, but not limited to, single-family or multiple-family residential uses, business uses or any combination thereof, and similar such uses or combinations.

**PLANNING COMMISSION.** The City of New Germany Planning Commission.

**PLAT.** The drawing or map of a subdivision prepared for filing of record in accordance with M.S. Ch. 505, as it may be amended from time to time, and containing all elements and requirements in this chapter, pursuant to M.S. § 462.358 and Ch. 505, as they may be amended from time to time.

**PLAT, FINAL.** A drawing or map of a subdivision presented to the City Council for approval that meets the requirements of this chapter and that is to be recorded with the county's Office of Property Records and meeting state law regarding the final platting of land.

**PLAT, PRELIMINARY.** A drawing or map of a proposed subdivision meeting the requirements of this chapter.

**PROTECTIVE COVENANTS.** A restriction of the use placed upon the property by a present or former owner and recorded with the county's Office of Property Records.

***PUBLIC HEARING NOTICE.*** A notice published in the official newspaper of the city, other qualified newspaper or communication method available to the general public as allowed by state law, at least ten days before the date of the hearing. The ***NOTICE*** shall specify the general time, purpose and place of the hearing.

***PUBLIC IMPROVEMENT.*** Any sewer, water or drainage facility, street, park or other facility for which the city or any other government may ultimately assume the responsibility for maintenance and operation.

***REGISTERED LAND SURVEY (RLS).*** A survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts of registered land survey number.

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

***RIGHT-OF-WAY.*** An area or strip of land, either public or private, on which an irrevocable right-of-passage has been recorded for the use of vehicles or pedestrians or both.

***ROAD/STREET.*** A vehicular way lying within public right-of-way which affords primary access to abutting properties and defined as a local, collector or minor arterial in the Comprehensive Plan.

***ROAD, COLLECTOR.*** Roads that provide connections between cities and minor business concentrations within the county, as designated in the Comprehensive Plan and the county's Transportation Plan, as may be amended.

***ROAD, LOCAL.*** City and township roads that serve the shortest trips and providing access to adjacent property, as designated in the Comprehensive Plan and the county's Transportation Plan, as may be amended.

***ROAD, MINOR ARTERIAL.*** Roadways that serve medium to short trips as designated in the Comprehensive Plan and the county's Transportation Plan, as may be amended.

***SETBACK.*** The minimum horizontal distance between a structure and the nearest property line or right-of-way line.

***SKETCH PLAN REVIEW.*** An informal, non-binding review of a conceptual subdivision or a development of property referenced in the Planned Unit Development (PUD) District.

***SUBDIVISION.*** The division of land into two or more lots or parcels for the purpose of transfer of ownership or building development or, if a new public road is involved, any division of a parcel of land, except those separations:

(1) Where all the resulting lots or interests will be 20 acres or larger in size and 500 feet in width for residential or agricultural uses and five acres or larger in size for commercial and industrial uses;

(2) Creating cemetery lots; and

(3) Resulting from court orders or the adjustment of a lot line by the relocation of a common boundary.

***WATER MANAGEMENT ORDINANCE, CITY.*** The city's Ord. 70, as set out in Ch. 152 of this code of ordinances, as amended.

***WATER MANAGEMENT PLAN, CARVER COUNTY.*** The county's Water Management Plan, as may be amended.

***WATER MANAGEMENT PLAN, CITY.*** The city's 2007 Storm Water Management Plan, as may be amended.

***WETLAND CONSERVATION ACT.*** An act adopted by the state, as amended, classifying, governing and defining wetlands within the state.

***ZONING OFFICER.*** The City Clerk-Treasurer or other individual, as appointed by the City Council.

***ZONING ORDINANCE.*** Ord. 100, adopted by the city on 11-15-2011, and as may be amended from time to time, codified as Ch. 154 of this code of ordinances.  
(Ord. 104, passed 10-16-2012)

#### **§ 153.011 EFFECTIVE DATE.**

This chapter was adopted by the City Council on 10-16-2012 and became effective upon publication according to law.  
(Ord. 104, passed 10-16-2012)

### ***PERMITS, VARIANCES AND PREMATURE SUBDIVISIONS***

#### **§ 153.025 PERMITS.**

No building or grading permits shall be issued by the city for the construction of any structure or improvement on any land within any plat until all requirements of this chapter and any requirements imposed upon the approval of the subdivision by the City Council have been complied with, including,

but not limited to, other agency permits, development agreements, receipt of application fees, reimbursement of all out of pocket expenses incurred by the city, deposit of any required financial guarantees and insurance, and payment of any delinquent taxes, special assessments or other fees and payments owed to the city.

(Ord. 104, passed 10-16-2012)

#### **§ 153.026 VARIANCES.**

(A) A subdivision shall not be approved where a variance will be required to use the lots for their intended use.

(B) The Planning Commission may recommend, and the City Council may grant, a variance from this chapter; provided, the variance is not inconsistent with the purpose of this chapter, Ch. 154 of this code of ordinances and the Comprehensive Plan.

(C) A variance may only be granted when the City Council finds that all of the following factors pertain to the property for which the variance is requested:

(1) The granting of the variance will not be detrimental to the public safety, health or welfare or injurious to other property;

(2) The conditions upon which the request for variance is based are unique to the property for which the variance is requested and are not generally applicable to other properties;

(3) An unusual hardship or practical difficulty exists on the property because of the property's particular physical surroundings, shape or topographical conditions that warrant varying the requirements of this chapter; and

(4) The condition or circumstances that cause the unusual hardship or practical difficulty does not result from actions of the property owner or the applicant.

(D) In granting the variance, the Planning Commission may recommend and the City Council may impose conditions that it finds necessary or desirable to affect the purposes of this chapter and to protect the public interest.

(E) A variance from this chapter shall be requested by the applicant of the subdivision at the same time the preliminary plat or minor subdivision application is submitted to the city and shall be considered in the same manner as a preliminary plat or minor subdivision.

(F) The variance, if granted by the City Council, shall expire one year from the date of approval of the preliminary plat or minor subdivision by the City Council if the subdivision has not been filed with the county, unless a request for a time extension is submitted by the applicant and approved by the City Council prior to the date the preliminary plat or minor subdivision is to become void.

(Ord. 104, passed 10-16-2012)

**§ 153.027 PREMATURE SUBDIVISIONS.**

(A) The City Council shall deny any preliminary plat or minor subdivision that is premature for development according to certain conditions.

(B) A subdivision may be deemed premature should any of the conditions exist:

(1) Inadequate drainage, as defined by the following:

(a) Surface or subsurface water retention and runoff constitutes a hazard on or off the property resulting in flooding, loss of life, property damages or other losses;

(b) Drainage from or caused by the subdivision will contribute pollution to waterbodies or damage other natural resources;

(c) The proposed site grading and development will cause damage from erosion, sedimentation or slope instability outside the subdivision property;

(d) The proposed subdivision fails to comply with the city's Surface Water Management Plan and the county's Water Management Plan requirements; and

(e) Factors considered in making determinations of inadequate drainage may include, but is not limited to:

1. Average rainfall for the area;
2. Area drainage patterns;
3. The relationship of the land to floodplains;
4. The nature of soils and sub-soils and their ability to adequately support surface water runoff and waste disposal systems;
5. The slope and stability of the land; and
6. The presence of woodlands, wetlands, hydric soils, waterbodies and/or other natural resources.

(2) Inadequate or lack of connection to a public water supply: no subdivision shall be approved unless all property within the subdivision is connected to the municipal water system and the public water supply system has adequate capacity to meet supply domestic and firefighting needs as determined by the City Council;

(3) Lack of an adequate public wastewater treatment, as defined by the following:

(a) There is inadequate capacity in the existing or planned municipal wastewater treatment system to accommodate the subdivision when fully developed;

(b) The subdivision is located outside of the current or planned municipal wastewater treatment service area or inconsistent with the public facilities phasing plan included in the Comprehensive Plan; and

(c) The planned wastewater treatment system for the subdivision is unable to meet the requirements of this chapter or requirements of the state's Pollution Control Agency.

(4) Lack of adequate roads to serve the subdivision, as defined by the following:

(a) County or local roads which serve the proposed subdivision are inadequate due to design or capacity to accommodate an increase in traffic volume generated by the proposed subdivision, or would create a hazard to public safety and general welfare or seriously aggravate an already hazardous condition; and

(b) The traffic generated by the proposed subdivision would create or contribute to unsafe conditions on the adjacent or nearby roadways due to the inadequate roadway capacity of the adjacent or nearby roadways existing at the time of the application or proposed for completion within the next two years.

(5) Lack of public service capacity to serve the subdivision: no subdivision shall be approved where the city, county or school district lacks necessary public service capacity for recreational facilities, schools, police and fire protection and other public facilities, which must be provided at public expense, and cannot reasonably be provided for within the next five years; and

(6) Inconsistency with capital improvement policies to serve the subdivision: no subdivision shall be approved when the city or county has not programmed improvements and/or services necessary to accommodate the proposed subdivision. This provision may be waived when it can be demonstrated that a revision to the capital improvement program or policies can be accommodated.

(C) The burden shall be upon the applicant or owner of the property to show evidence that the proposed subdivision is not premature.

(Ord. 104, passed 10-16-2012)



***PROCEDURES***

**§ 153.040 PURPOSE.**

The purpose of platting is to establish easily identified and described properties which reduce public administrative burdens and avoid general public confusion in identifying, tracking and monitoring private property.

(Ord. 104, passed 10-16-2012)

**§ 153.041 GENERAL.**

(A) All subdivisions shall be platted or described by registered land survey in accordance with M.S. Ch. 505, as it may be amended from time to time, except as otherwise provided in this chapter.

(B) No subdivision of land into two or more parcels shall be permitted, except in conformance with this chapter, except for the following.

(1) *Registered land surveys.*

(a) All requests for approval of a subdivision described by registered land surveys shall follow the same procedure for review of a minor subdivision or preliminary plat as described in this chapter, as applicable, and be filed with the county's Office of Property Records.

(b) The standards and requirements of this chapter shall apply to all registered land surveys.

(c) Unless approved by the City Council, a registered land survey shall not be used to divide a parcel of land into lots for the purpose of transfer of ownership or building development, if any of the lots do not have the required frontage on a dedicated public street.

(2) *Metes and bounds conveyances.*

(a) All requests for approval of a subdivision described by a metes and bounds description shall follow the same procedure for review of a minor subdivision as described in this chapter.

(b) All requests for approval of a subdivision described by a metes and bounds description may be allowed; provided, the division of property results in no more than three lots and no new road, the resultant lots are easily described, the legal descriptions of the lots are accepted by the County Surveyor and the lots comply with the dimensional requirements of Ch. 154 of this code of ordinances.

(3) *Planned unit developments (PUDs).*

(a) All requests for approval of a subdivision within a PUD District shall follow the same procedure for review of a preliminary plat and final plat, as described in this chapter.

(b) Standards for the design of subdivisions and public improvements within PUDs may be varied from the requirements of this chapter due to the uniqueness of the PUD; provided, the city finds that strict adherence to the requirements or specifications is not required to meet the intent of this section or to protect the health, safety or welfare of the residents of the PUD, the surrounding area or the city as a whole.

(C) The city shall not approve any preliminary plat unless a public hearing is held in accordance with M.S. § 462.358, as it may be amended from time to time.

(D) The applicant shall pay all reasonable fees and other extraordinary costs incurred by the city for the review of the subdivision, as follows.

(1) A subdivision application fee as established by the city in the city's fee schedule to recover costs associated with the administration and review of the subdivision.

(2) Costs incurred by the city for the subdivision review by city consultants such as the City Engineer, City Planner and City Attorney.

(a) The city may require the applicant to deposit fees in an escrow account or other form of financial security, approved by the city, at the time of submission of the subdivision application to the city.

(b) The city may withhold final action on a subdivision and/or withhold all other permits pertaining to the property until all fees related to the review of the subdivision are paid.

(E) No improvements shall be installed unless the preliminary plat is approved by the City Council, and no public funds shall be expended for road and utility maintenance services until the City Council has approved the final plat and accepted the final improvements.

(Ord. 104, passed 10-16-2012)

**§ 153.042 MINOR SUBDIVISIONS.**

(A) At the discretion of the City Council, the requirements for platting may be waived for minor subdivisions as defined as:

(1) Moving a lot line between no more than two existing lots;

(2) Platting of county or city road rights-of-way;

(3) A division of a lot along a party wall(s) of a multi-family building; provided that, the multi-family building is existing; the lot line(s) is along an existing common wall; and verification that the building will meet Building and Fire Code requirements with the new lot line;

(4) The creation of no more than three lots provided that no new public road is created or required by the city, that all lots have the minimum required frontage on a public road, and the proposed lots meet all dimensional and area requirements this chapter and Ch. 154 of this code of ordinances; and

(5) Subdivisions creating separate lots designed to be combined with adjacent lots; provided that, the newly created lots or parcels, when combined, meet all dimensional and area requirements this chapter and Ch. 154 of this code of ordinances.

(B) An application for a minor subdivision, on a form provided by the city, shall be filed with the city's Clerk-Treasurer a minimum of one month prior to the Planning Commission meeting along with the following information:

(1) A certificate of survey prepared by a registered land surveyor that includes:

- (a) Legal descriptions for the lots to be created;
- (b) The existing and proposed lot lines and dimensions;
- (c) Lot acreage;
- (d) Existing and proposed structures and utilities;
- (e) Existing and proposed easements; and

(f) A wetland delineation, as required by the Wetland Conservation Act of 2004, being Minn. Rules part 8420.

(2) Title evidence for the property in a form acceptable to the City Attorney; and

(3) Fees in accordance herewith.

(C) (1) The city's Clerk-Treasurer shall schedule the review of the minor subdivision at a Planning Commission meeting after submission of a complete application by the applicant.

(2) The city's Clerk-Treasurer may provide a courtesy notice to property owners abutting the proposed minor subdivision property prior to action by the Planning Commission.

(3) The Planning Commission shall determine if the minor subdivision application complies with this chapter and the Comprehensive Plan, and shall recommend that the City Council approve, approve with modifications, or disapprove the application. The Planning Commission shall state reasons for its recommendation regarding the minor subdivision application to the City Council.

(4) The City Council shall act to approve, approve with modifications or deny the minor subdivision within 120 days of submittal of a complete application, unless the applicant agrees to a delay in writing.

(5) The City Council shall approve, approve with modifications or disapprove the minor subdivision and shall include findings of fact as part of the official record of the City Council decision.

(D) The minor subdivision shall comply with all applicable standards as required in §§ 153.070 through 153.074 and 153.085 through 153.092 of this chapter.

(E) (1) The applicant shall submit easements, agreements and other documents pertaining to public services and access provided to the property and their maintenance to the City Attorney for review and approval before the subdivision is filed with the county's Office of Property Records.

(2) The applicant shall furnish evidence that the subdivision documents, including any agreements or easements, have been filed with the county within six months of the City Council approval or before a building permit is requested, whichever occurs first.  
(Ord. 104, passed 10-16-2012)

#### **§ 153.043 PRELIMINARY PLAT.**

(A) *Sketch plan.*

(1) Prior to the submittal of a preliminary plat application, the city may require the submittal of a sketch plan depicting the general layout of property development for informal discussion and review with the Planning Commission and the City Council.

(2) The sketch plan review shall consist of the following procedures.

(a) An application for a sketch plan review, on a form provided by the city, with the city's Clerk-Treasurer shall be filed a minimum of one month prior to a regularly scheduled Planning Commission meeting along with the following information:

1. The proposed lot layout and size, intended land use, overall street layout, general storm water drainage requirements and existing natural features of the property;

2. A narrative describing the need for any required amendments to Ch. 154 of this code of ordinances and Comprehensive Plan; and

3. A narrative explaining the applicant's interest in the property, the general timing or staging of development within the proposed subdivision.

(b) The Planning Commission will informally advise the applicant of the conformance of the sketch plan with the requirements this chapter, Ch. 154 of this code of ordinances and the

Comprehensive Plan, and will discuss possible plan modifications as necessary to ensure conformance with this chapter and any other city requirements.

(c) The sketch plan review application and comments from the Planning Commission pertaining to the sketch plan will be forwarded to the City Council for review and comment at the next available City Council meeting following review by the Planning Commission.

(3) Any comments and recommendations by the Planning Commission and City Council are advisory and shall not constitute approval or a commitment to approve a request for any preliminary plat application for the property.

(B) *Preliminary plat review procedure.*

(1) The applicant shall submit an application for a preliminary plat, on a form provided by the city, to the city's Clerk-Treasurer a minimum of one month prior to a regularly scheduled Planning Commission meeting along with the following information:

(a) Ten paper copies of the preliminary plat of an accurate scale and supporting information containing information required in §§ 153.055 and 153.056 of this chapter;

(b) An electronic copy of the preliminary plat and supporting information that may be printed to a maximum size of 11 inches by 17 inches;

(c) Fees in accordance herewith; and

(d) A county certified list of the names and addresses of owners of properties within a 350-foot radius of the property to be subdivided.

(2) The city's Clerk-Treasurer shall determine if the application for the preliminary plat is complete and notify the applicant if it is found incomplete.

(3) The city's Clerk-Treasurer may distribute copies of the complete preliminary plat application and accompanying information to the following persons and agencies for review and comment prior to its consideration by the Planning Commission and City Council:

(a) Other staff, as may be appropriate, including any other city consultants;

(b) The Carver County Engineer, if the property abuts a county road, or access is requested from a county road;

(c) The county's Planning and Zoning Department for review of applicability of watershed management rules; and

(d) Any other state or county agency as required or deemed appropriate by the city's Clerk-Treasurer.

(C) *Planning Commission public hearing and review.*

(1) The city's Clerk-Treasurer shall set a date for a public hearing within 30 days of receipt of a complete application.

(2) A notice of the public hearing shall be published by the city's Clerk-Treasurer in the city's official newspaper and mailed to property owners within 350 feet of the property to be subdivided a minimum of ten days prior to the hearing. The public hearing notice shall state:

(a) The date, time and location of the hearing before the Planning Commission;

(b) A general description of the request to be heard; and

(c) The address or location of the property to be subdivided.

(3) The city's Clerk-Treasurer shall submit any reports and comments from city staff, consultants or any agency pertaining to the preliminary plat and the preliminary plat application to the Planning Commission for review.

(4) The Planning Commission may request the applicant to submit additional information relevant to the preliminary plat to properly consider the plat before or after the public hearing.

(5) Following the public hearing, the Planning Commission shall:

(a) Determine whether the preliminary plat conforms to this chapter, Ch. 154 of this code of ordinances, the Comprehensive Plan and any other city regulations; and

(b) Recommend that the City Council approve, approve with modifications or deny the preliminary plat. If the Planning Commission recommends that the City Council deny the preliminary plat, the reason(s) for denial shall be included in the minutes.

(6) The city's Clerk-Treasurer shall forward the Planning Commission's recommendation and the minutes of the public hearing pertaining to the preliminary plat to the City Council for consideration.

(D) *City Council consideration and action.*

(1) The City Council shall consider the reports and comments submitted by the city staff, city consultants and any agency; comments from the public; and the Planning Commission recommendation pertaining to the preliminary plat.

(2) The City Council shall act on the preliminary plat within 120 days of submittal of the complete application to the city, unless the applicant agrees to a delay in writing.

(3) The City Council shall approve, approve with modifications or deny the preliminary plat and shall include findings of fact as part of the official record of the City Council decision.

(4) The City Council may attach conditions and requirements to the preliminary plat approval that must be satisfied by the time of final plat approval or such other time as identified by the city.

(5) If the City Council approves the preliminary plat, the applicant may complete a final plat in accordance with the requirements of this chapter.

(6) The approval of the preliminary plat shall be void if the final plat has not been approved by the City Council within one year from the date of preliminary plat approval by the city, unless a request for a time extension is submitted by the applicant and approved by the City Council.  
(Ord. 104, passed 10-16-2012)

#### **§ 153.044 FINAL PLAT.**

##### *(A) General.*

(1) The final plat shall be in substantial compliance with the approved preliminary plat and shall incorporate all of the conditions of the preliminary plat approval unless otherwise specified by the city.

(2) A development agreement, if required by the city, developed in accordance with the requirements of §§ 153.085 through 153.092 of this chapter shall be approved by the city and signed by the applicant prior to final plat approval to ensure the performance of the conditions needed to satisfactorily complete all required public improvements.

(3) If the final plat is for a portion of the preliminary plat, the applicant must submit the remainder of the preliminary plat as a final plat within three years from the date of preliminary plat approval or that portion of the preliminary plat shall become void unless a request for a time extension is submitted by the applicant and approved by the City Council.

(4) The procedure for review of a preliminary and final plat may be combined if the proposed subdivision does not include the provision of a new public road or extension of public improvements.

##### *(B) Final plat review procedure.*

(1) The applicant shall submit a final plat application, on a form provided by the city, with the city's Clerk-Treasurer a minimum of one month prior to a regularly scheduled City Council meeting along with the following information:

(a) Ten paper copies of the final plat of an accurate scale and supporting information containing information required in §§ 153.055 and 153.056 of this chapter;

(b) Two prints of the construction plans and specifications for the required public improvements as specified in § 153.088 of this chapter;

(c) An electronic copy of the final plat and supporting information that may be printed to a maximum size of 11 inches by 17 inches;

(d) An up-to-date certified abstract of title, registered property report or other evidence as required by the city showing sufficient title or control of the property; and

(e) Fees in accordance herewith.

(2) The city's Clerk-Treasurer shall determine if the information is complete and notify the applicant if the final plat or application for final plat review is found incomplete.

(3) The city's Clerk-Treasurer may distribute copies of the final plat and accompanying information to city staff, city consultants or any other person or agency deemed appropriate by the city's Clerk-Treasurer.

*(C) City Council consideration and action.*

(1) The City Council shall act on the final plat within 60 days of the date of submission of a complete application for a final plat to the city, unless the applicant agrees to a delay in writing.

(2) The City Council shall consider conformance of the final plat to the preliminary plat approval and any conditions attached to the preliminary plat approval by the City Council, comments of the city staff, city consultants and any agency and state statute requirements.

(3) The City Council shall approve or deny the final plat, and include findings of fact supporting the motion that shall be entered into the proceedings of the City Council and transmitted to the applicant in writing.

(4) Following City Council approval, the applicant shall submit a reproducible Mylar print or other permanent prints suitable for recording and meeting the requirements of state statute and the county's Office of Property Records for signatures by the city.

*(D) Final plat recording.*

(1) The applicant shall record the final plat with the county's Office of Property Records within one year of the City Council approval of the final plat. The final plat to be recorded shall be in conformance with the final plat approved by the City Council and any conditions attached to the approval.

(2) After the final plat is recorded with the county's Office of Property Records, the applicant shall furnish the city with one print of the final plat showing evidence of the recording and an electronic copy of the final plat.

*(E) Applicant responsibility.* The city will not issue any permits for the property unless the applicant:



- (1) Has furnished evidence that the final plat has been filed with the county's Office of Property Records;
  - (2) Submitted an electronic copy of the final plat to the city in a format acceptable to the city;
  - and
  - (3) Paid all required fees as specified herein associated with the review of the preliminary and final plat.
- (Ord. 104, passed 10-16-2012)

### ***PRELIMINARY AND FINAL PLAT SUBMITTAL REQUIREMENTS***

#### **§ 153.055 PRELIMINARY PLAT.**

(A) *General.* The preliminary plat and supporting information shall include all of the items contained within this section, unless determined by the city to be not applicable to the subdivision, and shall be prepared in accordance with M.S. Ch. 505, as it may be amended from time to time.

(B) *Identification and description.*

- (1) The proposed name of the subdivision;
- (2) Correct legal description of the existing property;
- (3) A north arrow, graphic scale that is not more than one inch to 100 feet and date of preparation;
- (4) Vicinity map of area showing geographical points for orientation within a 350-foot radius of the preliminary plat;
- (5) Names and addresses of the property owner(s), the applicant, the surveyor of the plat and applicant's engineer, as appropriate;
- (6) Consent to the preliminary plat application by the property owner; and
- (7) Certification by registered surveyor that the survey and preliminary plat is accurate.

(C) *Existing features and conditions.*

- (1) A certificate of survey of the existing property that comprise the preliminary plat, including all contiguous land owned or controlled by the owner(s) of the property to be subdivided;

(2) The total acreage of the property to be subdivided;

(3) The existing zoning classification and land use for the property to be subdivided and properties within 100 feet of the proposed;

(4) The following existing improvements and encumbrances within the property to be subdivided and to a distance of 100 feet beyond the property boundaries:

(a) Public and private properties, structures, easements or other encumbrances and their purpose, and public boundaries;

(b) Location, right-of-way, width, type of surface, grades and names of existing or platted streets or other public roadways;

(c) The location and width of private driveways, roads and accesses;

(d) The location, size, invert elevations and capacity of existing and abandoned drainage and storm water facilities including culverts, catch basins and other drainage facilities located within roadways and fire hydrants;

(e) The location, size and invert elevations of any public water supply and sewage disposal facilities and associated structures and the location and characteristics of any private wells or subsurface sewage treatment systems; and

(f) Other essential services and telecommunication facilities, including the location of poles and corridors.

(5) The following topographic data and natural features within the property to be subdivided and to a distance of 100 feet beyond the property boundaries:

(a) Topography showing contour intervals of no more than two feet and wooded areas;

(b) Wetlands shall be delineated in accordance with the Wetland Conservation Act of 2004, being Minn. Rules part 8420; and

(c) The location and elevation of all water bodies and any shoreland areas including the 100-year flood elevation, the ordinary high water level (OHWL) and the Flood Insurance Rate Map (FIRM) zone elevations.

*(D) Proposed features and conditions.*

(1) Proposed lot and block layout, lot lines and dimensions including acreage, and lot and block numbers of all new lots;

(2) If the preliminary plat is a re-arrangement or a re-plat of any recorded plat, the lot and block arrangement of the original plat, its original name and all revised or vacated roadways shall be shown by dotted or dashed lines;

(3) Roadway and pedestrian/bicycle trails location, right-of-way, width, drainage facilities and profiles and narrative describing planned short- and long-term road maintenance responsibility;

(4) Location, right-of-way and width of any road extensions to adjacent property(ies), as required by the city;

(5) Proposed uses of all lots within the subdivision including public areas, drainage areas and open space;

(6) The minimum required setbacks, including those required by public agencies from any public facilities, water resources or adjacent land uses;

(7) The location and general design of individual access from lots within the subdivision to public roads;

(8) Location and preliminary design of utilities to serve the subdivision, including profiles of public sanitary sewer and public water lines;

(9) Location, dimensions and purpose of all proposed easements;

(10) Any required storm water pollution prevention plan meeting the requirements of the city's Surface Water Management Plan and Ordinance and the county's Water Management Plan requirements including:

(a) Grading plans showing how the subdivision will be graded and the final contours of all lots within the property, at contour intervals of no more than two feet;

(b) Drainage facilities and any required design computations;

(c) Erosion control measures to prevent erosion and sedimentation both during and after development;

(d) Construction schedule;

(e) Location of rock construction entrance; and

(f) Plan for maintenance and inspections.

(11) Tree preservation and landscape plan;

(12) Any proposed protective covenants, restrictions or homeowner association documents; and

(13) Any plans for street lighting, sidewalks, boulevard improvements or other associated subdivision improvements.

(E) *Additional information to be furnished.*

(1) If the entire property will not be subdivided for individual lots, a sketch showing how the remaining property can be subdivided in compliance with the Comprehensive Plan, Ch. 154 of this code of ordinances and this chapter, and how access to a public road will be provided;

(2) A narrative explaining the development concept of the subdivision according to the zoning district in which it is located, the type and number of residential dwelling units, as appropriate, and consistency with the Comprehensive Plan, including the public facility phasing plan; and

(3) Other information as required by the city.  
(Ord. 104, passed 10-16-2012)

#### **§ 153.056 FINAL PLAT.**

(A) *General.*

(1) The final plat and supporting information shall include all of the items contained within this chapter, unless determined by the city to be not applicable to the subdivision, and shall be prepared in accordance with M.S. Ch. 505, as it may be amended from time to time, and county platting requirements.

(2) The name of the subdivision shall not duplicate or be similar to any existing subdivision names in the county.

(3) The final plat may cover only a portion of the preliminary plat approved by the City Council; provided, it is in conformity with the approved preliminary plat and conditions attached to the approval by the City Council and the requirements of this chapter.

(B) *Information required.* The final plat shall include the following information:

(1) The boundary line of the property included within the plat, fully dimensioned, including:

(a) All angles of the boundary, excepting the closing angle;

(b) All monuments and survey's irons; and

(c) Each angle point of the boundary perimeter to be monumented.

(2) All lot, block and outlot dimensions, including all necessary angles and other information to reproduce the plat on the ground. If the final plat is a re-plat of an earlier subdivision, the original platting of the subdivision shall be shown and identified by dotted lines;

(3) Lots and blocks clearly numbered and labeled in numerical order;

(4) Streets and roadways named, as approved by the city and county, with all dimensions including horizontal curve data and the lengths of all areas;

(5) The location, dimensions and purpose of any area to be dedicated or reserved for public use, or for the exclusive use of property owners within the subdivision;

(6) The location, dimensions and purpose of all easements to be dedicated;

(7) Any judicial and county ditches shall be shown by dimensions and angles as determined from county records;

(8) Certification by a registered land surveyor, as required by M.S. § 505.03, as it may be amended from time to time; and

(9) Space for:

(a) Signatures of all owners of any interest in the land and mortgage holders in a form required by the county;

(b) Certification of approval and signature of the Mayor and space for attestation of the signatures by the city's Clerk-Treasurer; and

(c) Certificates of approval and review as required by the county.

(C) *Accompaniments.* The final plat shall be accompanied with:

(1) A copy of all private restrictions or covenants and homeowner association documents for the subdivision in a form approved by the City Attorney; and

(2) Construction plans and specifications to be reviewed and approved by the City Engineer.  
(Ord. 104, passed 10-16-2012)

## 50New Germany - Land Usage

### ***DESIGN STANDARDS***

#### **§ 153.070 GENERAL.**

(A) No subdivision shall be approved if the property is not suitable for the proposed land uses of the plat because of potential flooding, topography, inaccessibility, adverse soil conditions, rock formations or protected waters and wetlands.

(B) Subdivisions shall be designed to complement the surrounding properties, natural features, environmental conditions, historic features and public access to allow for coordinated, attractive and efficient development within the city and environs.

(C) If one or more lots in the subdivision may be further subdivided in compliance with the zoning district of the property and the Comprehensive Plan, the city may require the platting of public right-of-way or dedication of easements to allow for the extension of public roads.

(D) In addition to meeting the requirements of this subchapter, the design of all improvements required by the subdivision shall comply with the:

(1) The construction plans approved by the city pertaining to the design of streets, sidewalk, trail and municipal sewer and water facilities;

(2) The city's Surface Water Management Plan and Ordinance; and

(3) The county's Water Management Plan.  
(Ord. 104, passed 10-16-2012)

#### **§ 153.071 BLOCK AND LOT STANDARDS.**

(A) *Blocks.* All blocks shall be designed to meet the following minimum standards.

(1) Blocks shall be designed to provide two tiers of lots, except if the property adjoins a wetland, lake, stream, railroad or minor arterial roadway or where one tier of lot is necessary because of topographic or environmental conditions.

(2) The maximum block length shall not exceed 1,200 feet in length unless the city finds that topography or other conditions justify a departure from this standard.

(3) The city may require the placement of rights-of-way or easements for pedestrian/bicycle access through the block to provide access to parks, schools, other public facilities and pedestrian/bicycle oriented destinations.

(4) Blocks intended for business or industrial use shall be designed to satisfy the zoning district requirements and accommodate adequate space for off-street parking, deliveries and loading in locations where safe and convenient limited access to the roadway system exists.

(B) *Lots*. All lots shall be designed to meet the following minimum standards.

(1) Lots shall be designed to meet the area and dimensional standards for the zoning district in which the lot is located, accommodate the intended use and required parking by meeting all required setbacks and any applicable zoning provisions.

(2) All lots shall have at least the minimum required frontage required by the zoning district on a publicly dedicated street.

(3) Side lot lines shall be at right angles to street lines or radial to curved street lines unless the city determines that due to topographic conditions an alternative layout will result in a better street or lot plan.

(4) Corner lots shall meet the following.

(a) The minimum lot width along one of the public streets abutting the corner lot shall be a minimum of ten feet wider than that required by the zoning district.

(b) Lots shall contain sufficient width and depth to comply with the front yard building setback requirement of the zoning district.

(5) Double-frontage lots shall not be permitted, except as follows.

(a) The City Council may permit double frontage lots designed adjacent to minor arterial roads; provided, the lot contains additional depth for screen planting along the rear lot line and lot access is provided to a local roadway.

(b) The City Council may permit double frontage lots where topographic or other physical conditions make subdividing otherwise unreasonable.

(6) All lot remnants below the minimum required dimensions for the zoning district must be added to adjacent or abutting lots unless the applicant can demonstrate an acceptable use for the remnant to the city.

(7) No outlots shall be created, except when related to the phasing of development or for a specific purpose as approved by the city. No outlots shall become buildable unless approved by the city. (Ord. 104, passed 10-16-2012)

**§ 153.072 STREET PLAN, STREET DESIGN AND LOT ACCESS STANDARDS.***(A) Street plan.*

(1) The arrangement, function and design of streets planned within a subdivision shall be consistent with the Comprehensive Plan and include consideration of:

- (a) Reasonable traffic circulation within the subdivision and the existing and future supporting road network;
- (b) Topographic, vegetation and environmental conditions including wetland preservation;
- (c) Proper storm water drainage;
- (d) Public convenience and safety; and
- (e) The proposed uses of the area to be served.

(2) Streets shall be designed to:

- (a) Provide access to all lots within the subdivision and to adjacent un-subdivided parcels, when reasonable and practical; and
- (b) Connect with existing and planned streets in adjoining or adjacent subdivisions or to provide for future connections to adjoining unsubdivided parcels.

(3) The following roadways are prohibited:

- (a) Reserved strips and land-locked areas or parcels;
- (b) Alleys constructed after the date of adoption of this chapter; and
- (c) Private roads and dead-end streets, except for private roadways approved by the City Council within a PUD District.

*(B) Street and roadway design.*

(1) All streets shall be dedicated for public use and the roadway shall be located within the street right-of-way. If a proposed subdivision includes an existing private roadway, except as approved within a PUD District, the private roadway shall be dedicated for public use and improved to public street standards.

(2) Cul-de-sacs are permitted when designed to permit future road extensions into adjoining properties or where topography, environmental, land use or existing conditions justify their use as approved by the city and shall comply with the following.



(a) Permanent cul-de-sac roads shall not exceed 500 feet in length, as measured along the centerline from the nearest intersection to the center point of the cul-de-sac turnaround.

(b) The cul-de-sac turnaround shall be a nearly circular shape with a minimum right-of-way diameter of 100 feet and a minimum roadway diameter of 84 feet.

(c) The property line at the intersection of the turnaround and the straight portion of the cul-de-sac shall be rounded at a radius of not less than 15 feet.

(d) The road right-of-way for a temporary cul-de-sac shall be continued to the property line to permit future extension to the adjoining property and shall meet the following.

1. Right-of-way for a temporary cul-de-sac turnaround shall be provided at an appropriate location near the adjacent property.

2. The land included for a temporary turnaround that is no longer needed for right-of-way when the road is extended to adjacent property shall revert to the abutting property owners.

(3) Wherever the proposed subdivision includes or is adjacent to the right-of-way of a minor arterial roadway or railroad right-of-way, the City Council may require the platting and installation of a service road. The distance of the service road intersection from the arterial roadway or railroad shall be based upon the function of the intersecting roads as designated in the Comprehensive Plan, existing and future traffic volumes, land use, lot depths and other factors that contribute to the design of safe and convenient access.

(4) Subdivision road access spacing shall be as follows:

(a) No less than 500 feet onto local roads;

(b) No less than one-fourth mile onto local collector roads; and

(c) As required by the county or Mn/DOT requirements on minor arterial or other arterial roads.

(5) All street connections to minor arterials and collector roads shall be located to provide adequate intersection sight distance, as determined by the City Engineer or County Engineer, if a county road.

(6) No public street connection shall be located within a turn lane to another public street or a private driveway.

(7) The minimum right-of-way widths and pavement widths (face to face of curb) for each type of public road shall be as follows:

<i>Type of Road</i>	<i>Right-of-Way Width</i>	<i>Pavement Width</i>
Collector street	80 ft. or as required by the county or state	40 ft. or as required by the county or state
Local street	50 ft. - 66 ft., as determined by the city	34 ft.
Minor arterial road	80 ft. or as required by the county or state	52 ft. or as required by the county or state

(8) Where a subdivision abuts or contains an existing road of right-of-way width that is less than required, additional width shall be dedicated to meet division (B)(7) above.

(9) Dedication of substandard width right-of-way and roads to the city may be approved by the City Council where:

(a) The proposed right-of-way is adjacent to a platted right-of-way and, when combined, the right-of-way meet the requirements of this chapter;

(b) The city finds that the dedication will allow for reasonable access and circulation when the adjoining property is subdivided; or

(c) Where satisfactory assurance to the city for dedication of the remaining part of the street can be secured.

(10) The City Council may require the dedication of additional right-of-way and pavement width within subdivisions, as permitted by law, to accommodate anticipated traffic volumes in a manner that promotes public safety and convenience.

(11) Roadway design shall comply with the following:

(a) Road jogs with centerline offsets of less than 150 feet shall not be allowed;

(b) When connecting road lines deflect from each other at any one point by more than ten degrees, they shall be connected by a curve with a radius of not less than 100 feet;

(c) Centerline gradients shall be at least 0.5%, but no greater than 7%;

(d) Different connecting street gradients shall be connected with vertical curves. Minimum length, in feet, of these curves shall be 20 times the algebraic difference in the percent of grade of the two adjacent slopes;

(e) The angle formed by intersecting streets shall not be less than 60 degrees, with 90-degree intersections preferred;

(f) Intersections of more than four corners shall be prohibited;

and (g) Roadways of street intersections shall be rounded by a radius of not less than 20 feet;

(h) Other specifications as required by the City Engineer.

(C) *Lot access (driveways)*. All access to lots shall meet the following minimum standards.

(1) All lots shall be provided with direct access to an improved public roadway or a private roadway within a PUD District that has been approved by the City Council.

(2) All lots within the subdivision shall be provided access from the subdivision roadway unless the subdivision contains no roadway or the City Council finds that topography, environmental conditions or existing development prohibits access from the subdivision roadway.

(3) All driveways shall be constructed of concrete or bituminous and installed within one year of issuance of a building permit for the house served by the driveway.

(4) A shared driveway may serve no more than two single-family lots. Private cross-access easements and a cooperative maintenance agreement in a form approved by the City Attorney shall be filed with the county and a copy submitted to the city prior to the issuance of a certificate of occupancy for any home served by the driveway.

(5) The following shall apply to lots that obtain access from a minor arterial or collector roadway.

(a) A maximum of one access per lot shall be permitted.

(b) The driveway shall have a turn-around area to prevent backing onto the roadway.

(c) An access permit shall be required from the county or state, as appropriate.

(6) For double frontage or corner lots, access shall be obtained from the lower functional class roadway, as defined in the Comprehensive Plan.

(7) Commercial/industrial accesses shall also meet the following standards.

(a) The City Engineer shall determine the minimum spacing between accesses, or between an access and a public road. If lot frontage is inadequate to meet this requirement, access via a shared entrance or cross-access easement with adjacent property shall be required.

(b) Turn lanes shall be provided as required by the City Engineer to improve safety.  
(Ord. 104, passed 10-16-2012)

**§ 153.073 OTHER IMPROVEMENTS.***(A) Trails and sidewalks.*

(1) Pedestrian/bicycle trails or sidewalks shall be located in areas of the subdivision as required by the city or as designated in the Comprehensive Plan, and coordinated with those of adjacent subdivisions.

(2) All pedestrian/bicycle trails or sidewalks shall be placed in the public right-of-way or within easements that are a minimum of 20 feet in width.

(3) The design of the pedestrian/bicycle trails or sidewalks shall be in conformance with the City Engineer's requirements as approved by the City Council.

*(B) Street lights, mail boxes and public street signs.*

(1) A street light fixture of a design approved by the city shall be provided at each street intersection within or abutting the subdivision in a location(s) to be approved by the City Engineer.

(2) All mailboxes shall be placed in locations approved by the U.S. Postal Service and mailboxes serving homes on cul-de-sacs shall be grouped in a location approved by the City Engineer.

(3) The type and location of public street name, regulatory and traffic-control signs shall be determined by the City Engineer and provided within the right-of-way of the subdivision.

*(C) Sanitary sewer and water utilities.*

(1) Subdivisions must be served with televised, public sanitary sewer and public water. Sewer and water systems shall be provided according to the specifications of the City Engineer, as approved by the City Council.

(2) Public sewer and water facilities, including fire hydrants, shall be designed to serve each lot in the subdivision.

(3) Sewer and water trunk lines shall be extended to the lot lines of abutting sites that do not have municipal sewer and water service, as required by the city.

(4) The city may require oversizing of utilities to provide future service for more intense development of the land or to provide future service to other areas.

*(D) Drainage and water quality.*

(1) All subdivisions shall include provisions or facilities that control the quantity and quality of storm water runoff.

(2) A required storm water pollution prevention plan shall comply with the city's Water Management Plan and Ordinance and the requirements of the county's Water Management Plan.

(3) Drainage facilities shall be of an adequate size to accommodate upstream drainage areas that may be located outside of the boundaries of the subdivision.

(4) No storm water drainage within a subdivision shall be designed to enter the public sanitary sewer system.

(5) All subdivisions shall be designed and constructed in accordance with best management practices to treat storm water discharge.

(6) Private storm water facilities shall be maintained as follows.

(a) All private storm water facilities shall be privately maintained in proper condition consistent with the performance standards for which they were originally designed.

(b) All settled materials from drainage facilities shall be removed and properly disposed of on an annual basis as required by the City Engineer.

(E) *Erosion and sediment control.*

(1) The design of the subdivision shall conform to the overall topography of the land, to the extent reasonable, to minimize the potential for erosion and sedimentation resulting from land-disturbing activities.

(2) No subdivision shall be approved that requires land-disturbing activities unless erosion and sedimentation controls are submitted to the city as part of required storm water pollution prevention plans meeting City Water Management Plan and Ordinance and County Water Management Plan requirements.

(F) *Easements.*

(1) Easements for drainage and utilities of at least ten feet wide shall be provided along all lot lines and may be centered on the lot line of side or rear lot lines. In instances where a side or rear lot line abuts unplatted land, the easements shall be a minimum of ten feet wide.

(2) Drainage easements shall be provided over any watercourse, ponding and wetland areas to a sufficient elevation as determined by the City Engineer to provide protection of property, storm water retention and runoff, water quality and for installation and maintenance of facilities.

(3) Utility easements shall connect with easements established on adjoining properties.

(G) *Tree preservation and landscaping requirements.*

(1) A tree preservation and landscaping plan shall be prepared for all subdivisions containing three or more lots.

(2) All subdivisions shall be planned, designed and maintained so that:

(a) Existing native vegetation shall not be disturbed, injured or removed prior to grading and site development; and

(b) Existing healthy trees and native vegetation on the site are preserved to the extent feasible and protected during construction by techniques approved by the city, including, but not limited to:

1. Installation of snow fencing or similar device at the drip line;
2. The prohibition of fill placed against the trunk, on the root crown and under the drip line of the tree;
3. Installation of erosion control measures;
4. Prevention of spillage or leakage of harmful or toxic materials near tree preservation areas; and
5. Prohibition of pruning of oak trees from April 15 through July 1.

(3) The tree preservation plan and protection measures shall be followed during all grading activities, including subdivision development and home construction.

(4) Each new subdivision shall include the equivalent of two shade trees per lot meeting the following standards.

(a) Trees shall not be planted within five feet of road right-of-way or within any utility or drainage easement.

(b) All shade trees shall have a minimum trunk diameter of not less than two inches when planted as measured 12 inches above ground level.

(c) The shade tree species to be planted shall be limited to long-lived shade trees acceptable to the city.

(d) The location of all new trees to be provided shall be approved by the city.

(5) If a new residential subdivision is located along an arterial roadway, the city may require the installation of coniferous, shade trees or fencing along the arterial roadway to screen the view and to reduce noise levels in residential areas.  
(Ord. 104, passed 10-16-2012)

#### **§ 153.074 PARK DEDICATION.**

*(A) Purpose and application.*

(1) *Purpose.* The purpose of the city park dedication requirements is to:

(a) Provide areas in the city for public parks, recreational facilities, playgrounds, trails or open space as allowed by M.S. § 462.358, subd. 2b, as it may be amended from time to time;

(b) Allow and enhance active and passive recreational opportunities for city residents and visitors as a part of overall community development and improvement activities; and

(c) Require a reasonable contribution of land or funds from subdivision development which results in additional demands on city parks, trails, open spaces and associated facilities in order to maintain commensurate amounts of park and open space opportunities within the city.

(2) *Application.* The park dedication requirements shall be applied to all subdivisions as follows.

(a) The applicant for a subdivision of land into more than one lot shall dedicate land for parks, playgrounds, public open spaces and pedestrian bicycle/trails or sidewalks, or make a cash contribution to the city's Park Fund as provided for in this chapter. The city may elect to receive a combination of cash, land and/or private park and open space development, in accordance with division (B) below, as the park dedication requirement.

(b) Where a proposed park, playground, trail system or other public use shown on the Comprehensive Park Plan is located within or partially within a subdivision, the area shall be dedicated to the public or reserved for public purchase at fair market value. If, within two years of recording of the plat, the purchase is not consummated, the reservation shall be canceled.

(c) Property that is resubdivided with the same number of lots shall be exempt from all park dedication requirements.

(d) If the number of lots within a subdivision is increased or if land outside the previously recorded subdivision is added, the park dedication requirement shall be based on the additional lots and on the additional land being added to the plat.

(e) The park dedication requirement shall be in addition to property dedicated in fee title or as easement to the city or another government agency for public streets, other public improvements or drainage facilities unrelated to parks, open space and trails.

(f) The property to be conveyed as the park dedication requirement shall not be used in calculating any of the density, lot area or dimensions or open space requirements of the zoning district of the property.

(g) The applicant of a development within a PUD District with mixed land uses shall make cash and/or land park dedication contributions in accordance with this chapter based upon the acreage of land devoted to commercial or industrial uses and the number of residential units.

(B) *Dedication requirements.*

(1) *General.*

(a) At the time of subdivision, the applicant shall dedicate land for public open space and public use, such as parks, playgrounds, recreation facilities, trails, in an amount equal to the development's proportional share of the city park system, as determined by this chapter.

(b) Land to be dedicated shall be reasonably suitable for park and open space activities as determined by the city and shall be at a location that is convenient to the public. The suitability of land to be dedicated to the city shall consider the following:

1. Existing natural features which enhance the attractiveness of the community, such as trees, watercourses, historical places and similar irreplaceable assets that could be preserved, insofar as possible, in the design of the subdivision;

2. Property designated for parks or open space in the Comprehensive Plan; and

3. Land located within wetlands, areas subject to flooding, and land used for ponding or infiltration areas will not be accepted to meet the land dedication requirements.

(c) If the city determines that the area proposed to be dedicated is not suitable or desirable for public park, recreational facilities, playgrounds, trails, open space or a related public use based on the factors listed in division (B)(1)(b) above, the city may require an equivalent amount in cash to be remitted to the city in lieu of land dedication.

(d) If the City Council determines that land is needed with a subdivision, but in a lesser amount than what is required, the Council may require payment of cash in lieu of land dedication based on a proportional share of the land dedication that would otherwise be required.

(e) The City Council may waive the park dedication fee under special circumstances, such as economic development projects, where public funding and subsidies are utilized for project feasibility.



(2) *Land dedication or payment of fees.*

(a) *Calculation of dedication.*

1. For residential subdivisions or residential portions of PUDs, a minimum of 10% of the total area of the property or portion of the property devoted to residential uses in a PUD is deemed a reasonable portion to meet dedication requirements.

2. The land must be suitable for public use and the city is not required to accept land which will not be usable for park purposes or which would require extensive expenditures on the part of the public to make them usable.

3. For non-residential subdivisions or non-residential portions of PUDs, such as commercial or industrial plats, the city requires a minimum cash park dedication on a per acre basis, as specified in the city's fee schedule. However, where the City Council deems it in the public interest, it may require a minimum land dedication of 5% of the commercial or industrial land to be subdivided in lieu of a cash dedication. The lands must be indicated on the city's Comprehensive Plan or must be designated on specific area plans for parks, trails and public open space.

(b) *Land dedication.*

1. The preliminary plat shall show the location and dimensions of all park, trail and open space areas proposed for dedication to the city as lots or outlots. The Planning Commission shall provide a recommendation regarding the location and adequacy of the proposed park and open space area to the City Council.

2. Private park and/or open space proposed within the subdivision may fulfill all or a part of the requirement for park dedication at the discretion of the city. The private park and/or open space area shall be designated and protected for long-term park and/or open space purposes in a form to be approved by the City Attorney.

3. Signed deeds for the lots or outlots shall be given to the city prior to the city's release of the final plat for filing. No building permits shall be issued for the development until the required deeds are received by the city.

4. The applicant shall be responsible for finished grading and ground cover and construction of trails in all lands to be dedicated to the city.

5. The fair market value shall be determined for undeveloped land at the day of final plat approval by the City Council in accordance with the following:

a. The city and the applicant may agree as to the fair market value based upon a current appraisal; or

b. The market value of the property as determined by a recent selling price of the land to be platted.

(3) *Cash fee.*

(a) Park dedication fees shall be as established by the city in the city's fee schedule.

(b) When a cash fee is to be paid in lieu of land dedication, the payment of the fee shall be required as follows.

1. For all residential developments, park dedication fees shall be paid prior to the city releasing the signed final plat for recording. An exception may be granted by the City Council for multiple-family structures, including multi-unit townhomes, condos and apartments, to allow payment of the fee prior to the issuance of building permits. Payment shall be made for all units within each building prior to issuance of any building permits for that structure.

2. For commercial and industrial developments, the total fee shall be paid prior to issuance of any building permits for the development. The City Council may grant deferral of a portion of the fees if the subdivider proposes to construct significantly less square footage than the site supports. The remaining fees shall be paid at the time of building permit application for additional square footage to be constructed on the site.

(4) *Payment.*

(a) The terms for the payment of the park dedication cash fee for each land use shall be included in the development agreement and in no event shall be later than issuance of a building permit for the property.

(b) Park cash contributions shall be deposited in the city's Park Fund and shall only be used for the acquisition of land for public parks, recreational facilities, playgrounds, trails or open space, and for the development of existing park and playground sites.

(Ord. 104, passed 10-16-2012)

### ***CONSTRUCTION OF BASIC IMPROVEMENTS***

#### **§ 153.085 GENERAL.**

(A) The city, in consultation with the applicant, shall define the public improvements to be constructed by the applicant and establish procedures to assure satisfactory and completion of the required public improvements.

(B) All required improvements shall be furnished and installed at the sole expense of the applicant and at no expense to the city.

(C) If any improvement installed within the subdivision will be of substantial benefit to property outside the boundaries of the subdivision, the City Council may adopt provisions to assess a fair share portion of the improvement cost which represents the proportional benefit to the property, against the benefitting properties. The applicant will be required to pay for the portion of the total cost of improvements that benefit property within the subdivision.

(Ord. 104, passed 10-16-2012)

#### **§ 153.086 DEVELOPMENT AGREEMENT.**

(A) The applicant shall enter into a development agreement for any subdivision requiring the construction of required public improvements including street, water and sanitary sewer improvements.

(1) The applicant may enter into the development agreement with the city after preliminary plat approval has been granted to a subdivision by the city.

(2) No construction of any improvement or issuance of any permit, including a land alteration permit, shall be granted by the city unless the development agreement has been signed by the applicant.

(B) If the city requires the applicant to complete all improvements, the development agreement shall specify:

(1) All improvements are to be installed at the applicant's expense, at no cost to the city, and completed in a manner that is satisfactory to the City Engineer;

(2) The type and extent of the public improvements to be constructed;

(3) That all required improvements shall be constructed according to construction plans and specifications meeting the requirements of the city, county and the state, as appropriate; and reviewed and approved by the City Engineer;

(4) The cost of construction and the construction time schedule;

(5) The city's authority to inspect the construction; and

(6) To furnish a financial security, to be approved by the City Attorney, guaranteeing satisfactory completion of all improvements and meeting the requirements of this chapter.

(C) If the city agrees to undertake the installation of the required public improvements, the developers agreement shall state that the applicant agrees to the following:

(1) Pay for all expenses including all construction, engineering, legal, financing, inspection and administrative costs incurred by the city;

(2) The method and schedule of payment to the city;

(3) To furnish a financial security, to be approved by the City Attorney, guaranteeing payment to the city for completion of all improvements; and

(4) Other items, as required by the city, to guarantee reimbursement of all expenses and payments related to the completion of improvements.

(Ord. 104, passed 10-16-2012)

#### **§ 153.087 FINANCIAL GUARANTEE.**

(A) Prior to the approval of the final plat, the applicant shall make a financial guarantee in a form acceptable to the City Attorney equal to 120% of the total construction cost of the improvements as estimated by the City Engineer, including the cost of inspection by the city.

(1) If the applicant defaults on the construction of the improvements, the city may utilize the financial guarantee and pursue its remedies.

(2) The term of any financial guarantee shall be specified and approved by the city and deposited in an account specified by the city.

(3) The city may agree to provide for reduction of the amount of any financial guarantee commensurate with completion or payment for the improvements for which the financial guarantee has been made.

(4) The city may impose special assessments against benefitted property for improvements made on it.

(B) If the city undertakes the installation of the required improvements and if requested by the city, the applicant shall deposit a financial security, to be approved by the City Attorney, in an amount agreed to with the city for the installation of the improvements. Any such deposit or bond shall accrue to the city in case of default of the subdivider.

(Ord. 104, passed 10-16-2012)

#### **§ 153.088 CONSTRUCTION PLANS AND INSPECTION.**

(A) (1) The applicant shall be responsible for the preparation of construction plans and specifications that are based on approved preliminary plans and the plans shall be prepared in conjunction with the final plat.

(2) All construction plans shall be prepared in accordance with the public improvement standards or specifications as approved by the city and county.

(3) Two prints of the construction plans and specifications shall be filed with the city's Clerk-Treasurer, at the time of final plat submission.

(B) All construction plans and specifications for the required improvements shall:

(1) Conform to the requirements of this chapter and the City Engineer;

(2) Be prepared by a registered professional engineer at the applicant's expense;

(3) Be accompanied by the quantities of construction items and an estimate of the total costs for the grading, erosion control, public improvements and other required improvements for review and approval by the City Engineer; and

(4) Become part of the development agreement, upon approval by the City Engineer.

(C) The City Engineer shall inspect all required improvements in the subdivision installed under the provisions of this chapter during construction, at the applicant's expense.

(D) The acceptance of the improvements by the city shall require written certification by the City Engineer that the improvements have been constructed in compliance with the plans and specifications. (Ord. 104, passed 10-16-2012)

## **§ 153.089 REQUIRED BASIC IMPROVEMENTS.**

(A) *Monuments.*

(1) Official permanent monuments shall be placed as requested by the City Engineer as required.

(2) All monument markers shall be correctly in place upon final grading and installation of utilities.

(3) All federal, state, county or other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position.

(B) *Streets and street fixtures.*

(1) Soil samples shall be collected and analyzed by a testing laboratory with a report submitted to the City Engineer with the street pavement plans before construction. Soil samples shall be taken along the centerline of the proposed road at intervals not exceeding 300 feet unless otherwise approved by the City Engineer.

(2) Streets shall be graded the entire width of the right-of-way and shall provide a boulevard section, in addition to the minimum pavement width, in accordance with the standards and construction plans established by the City Engineer.

(3) All roads shall have a sub-base and shall be improved with concrete or bituminous surface, in accordance with the following:

<i>Classification</i>	<i>Pavement Design: Axle Load</i>
Local streets	7-ton minimum
Minor arterial, collector streets and streets serving commercial or industrial uses	10-ton minimum

(4) Design B-618 concrete curb and gutter, approved by the City Engineer, shall be constructed on both sides of all paved surfaces of streets.

(5) The portion of the right-of-way outside of the pavement material shall be sodded.

(6) The design of all street name and traffic-control signs and street lighting fixtures shall be approved by the City Engineer.

(C) *Sidewalks.*

(1) All sidewalks shall be constructed of concrete four inches thick placed on a four-inch gravel base, with grades approved by the City Engineer.

(2) Sidewalks shall be placed in the public right-of-way, a minimum of one foot from the property lines.

(D) *Private driveways.* All private driveways providing access to public rights-of-way shall approach at grade level.

(E) *Grading and drainage.*

(1) Storm water and drainage facilities shall be designed as required by the City Engineer to insure adequate drainage for the area. All such drainage facilities shall be constructed in accordance with standards and specifications established by the City Engineer.

(2) All land-disturbing or land filling activities or soil storage shall be undertaken in a manner consistent with the required storm water pollution prevention plan approved for the subdivision, the city storm water management plan and county storm water plan requirements.

(3) A grading permit shall be obtained from the city before any land-disturbing activity associated with the subdivision commences on the property and shall meet the following:

(a) Shall be accompanied by the final required storm water pollution prevention plan that was submitted to the city and county, as appropriate; and

(b) Shall not be issued unless the applicant provides evidence that the final required storm water pollution prevention plan has been approved by the county.

(4) After issuance of the grading permit by the city, the applicant shall:

(a) Install the erosion and sedimentation controls as approved on the final plans;

(b) Comply with all requirements of the county and the city; and

(c) Maintain the erosion and sedimentation controls on a continual basis until the City Engineer authorizes the discontinuance or removal of the measures.

(5) All individual lots shall be graded to avoid slopes of an average grade of 30% or more and slopes that create a potential erosion, drainage or public safety hazard. The city may require the applicant to incorporate the following techniques to mitigate hazards:

(a) Design slopes to be in character with the surrounding natural terrain;

(b) Use benching, terracing or other slope-stabilizing techniques for fill, as determined appropriate by the City Engineer;

(c) Install and maintain erosion control measures during construction in accordance with current best management practices;

(d) Revegetate disturbed slopes as soon as practical after grading to stabilize steep slopes and prevent erosion, as required by the city; or

(e) Install fencing or other protective measures to protect public safety.

(F) *Public utilities.*

(1) *Water.* A minimum water main of six-inch ductile cast iron pipe or other pipe approved by the City Engineer shall be required.

(2) *Sanitary sewer.* The following shall be provided and approved by the City Engineer.

(a) Sewer lines shall be of PVC pipe of a size and appropriate grades determined by the City Engineer.

(b) Service wyes shall be six inches.

(c) Root repellent joint material shall be required.

(3) *House services.* Public sewer and water lines shall be stubbed to the property line of each lot within the subdivision, in accordance with the following: a cap or plug placed at property line until the service is extended to the structure.

(a) A one-inch, Type K, copper water service, corporation cock and curb box and stop, and six-inch of the type and class of adjoining pipe sewer service shall be minimum requirements and may be placed in a common trench in accordance with the city's Plumbing Code.

(b) Curb boxes shall be easily located and visible.

(G) *Restoration.* Utility and road construction restoration shall be required in accordance with the following.

(1) Utility trenches are to be backfilled according to the specifications of the City Engineer.

(2) All areas disturbed by construction are to be restored to a condition equal to or better than what existed prior to construction.

(3) Topsoil shall be applied to the restoration areas prior to sod or seed. Topsoil shall be pulverized black dirt acceptable to the City Engineer and shall be spread to a compacted thickness of three inches.

(4) Sod shall be required where improved lawn areas are disturbed and shall meet the following.

(a) Sod shall be densely rooted blue grass or other approved grasses free of noxious weeds and objectionable grasses.

(b) After placement, sod shall be pressed into the underlying soil by rolling or tamping.

(c) Pegging of sod shall be required on steeper slopes.

(5) Seed shall be required where construction activities disturb unimproved areas. The application of seed and mulch shall conform to specifications approved by the City Engineer.

(6) In areas of steep slopes, seeding with wood fiber blankets may be substituted for sod, if approved by the City Engineer.

(7) All sodded and seeded areas are to be watered and maintained in a satisfactory condition until acceptance of that portion of the work. Sod and seed that dies, or washes out, prior to acceptance are to be replaced by the applicant.

(8) Waste materials of any kind shall not be buried in any land or left deposited on any lot or road.



(H) *Other improvements.*

(1) Telecommunications, electric and gas service lines shall meet the following.

(a) All lines shall be placed underground, where practical and feasible, within dedicated public ways or recorded easements in a manner as not to conflict with other underground services.

(b) All underground installation of service lines within street rights-of-way shall be completed prior to street surfacing.

(c) Following completion of the installation of underground service lines in dedicated public ways, an electronic copy and two paper copies of the construction plans and specifications showing the completed installation shall be filed with the city's Clerk-Treasurer.

(2) All necessary utility poles, except those providing street lighting, shall be placed in rear lot line easements.

(Ord. 104, passed 10-16-2012)

**§ 153.090 COMPLETION OF REQUIRED BASIC IMPROVEMENTS.**

(A) The applicant shall complete all required basic improvements no later than one year following the commencement of work on the improvements, except:

(1) Street lighting shall be completed within two years following the initial commencement of work on the required basic improvements;

(2) Landscaping shall be completed within one year following the issuance of a building permit for the last vacant lot within the subdivision unless weather precludes completion, in which case the landscaping shall be completed at the outset of the next growing season;

(3) All streets constructed in conjunction with sanitary sewer, water main and/or storm sewer improvements shall be completed over two construction seasons, except for phased developments. The initial phase of construction shall include the complete installation of the underground utilities, gravel base, curb and gutter and bituminous base course within the street areas. The bituminous wearing course shall be completed after at least one winter, but before the third winter.

(a) The minimum thickness of the bituminous base shall be two inches during the interim period.

(b) All manholes and valve boxes are to be installed in the bituminous base course and left one-half inch below the surface throughout the winter and then raised to one-half inch below the final surface prior to placing the bituminous wearing course.

(4) For developments that are approved as phased developments by the City Council, a phasing schedule for completion of the roadway and utilities within a reasonable period of time shall be submitted by the applicant to the City Engineer for review and approval. The City Council may require the submittal of an additional financial guarantee to assure completion of the phased improvements within a reasonable period of time.

(B) The acceptance of the public improvements and any release of the required financial guarantee by the city for the public and private improvements shall be subject to the:

(1) The City Engineer's certificate of compliance of all improvements with the final construction plans in the development agreement;

(2) Submission of a warranty/maintenance guarantee in the form of a bond or a letter of credit to be approved by the City Attorney that is equal to the original cost of the improvements or a lesser amount as agreed to by the City Engineer:

(a) The required warranty period for materials and workmanship from the utility contractor installing public sewer and water mains shall be two years from the date of final city acceptance of the work;

(b) The required warranty period for all work relating to street construction, including concrete curb and gutter, sidewalks and trails, curb boxes, materials and equipment shall be subject to:

1. One year from the date of final city acceptance; or

2. Two years from the date of final city acceptance of the work if the wearing course is applied during the same construction season as the bituminous base.

(c) The required warranty period for sod, trees and landscaping is two years following installation of landscaping materials; and

(d) Warranties for other public improvements and phased developments approved by the City Council shall be established by the City Council.

(3) The applicant shall be required to replace and/or repair any public improvements, including curb stops, public signage, manholes and the like, that are damaged during the grading of the property for building constructions; and

(4) (a) A paper copy and electronic copy of a complete set of as-built construction drawings of all public improvements shall be submitted to the city within 120 days after construction of the public improvements is completed and approved by the city.

(b) The final financial guarantees shall not be released until the as-built drawings have been submitted to the city.

(Ord. 104, passed 10-16-2012)

**§ 153.091 PRIOR IMPROVEMENTS.**

Improvements which have been completed prior to application for final plat approval or execution of the development agreement shall be accepted as equivalent improvements provided the City Engineer shall certify in writing that the improvements conform to city standards.  
(Ord. 104, passed 10-16-2012)

**§ 153.092 NON-CONFORMANCE.**

(A) The City Engineer shall order cessation of all construction within the subdivision for any non-conformance with the standards of this chapter, the development agreement or other city ordinances in the installation of the required improvements by the applicant.

(B) No further construction shall be allowed until the non-conformance is corrected.  
(Ord. 104, passed 10-16-2012)



## **CHAPTER 154: ZONING**

### **Section**

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***GENERAL PROVISIONS*****§ 154.001 TITLE.**

This chapter shall be known, cited and referred to as the “City of New Germany Zoning Ordinance”, except as referred to herein, where it shall be known as “this chapter”.  
(Ord. 100, passed 11-15-2011)

**§ 154.002 PURPOSE.**

This chapter is adopted for the following purposes:

- (A) To promote and protect the public health, safety and general welfare of the people;
- (B) To promote the orderly development of the residential, business, industrial, parks and open space and public areas;
- (C) To divide the city into zones or districts that reasonably regulate the location, use and development of buildings, structures and land for residential, business, industrial, parks and open space and other specified uses;
- (D) To provide for adequate light, air and convenience of access to property by regulating the use of land and buildings, and the characteristics of structures in relationship to surrounding properties;
- (E) To limit congestion in the public rights-of-way;
- (F) To provide for the compatibility of different land uses and the most appropriate use of the land;
- (G) To require and facilitate the adequate provision of water, sewerage and other public services and facilities to land uses;
- (H) To maintaining, to a reasonable extent, the values of property and the tax base of the city;
- (I) To encourage the conservation and management of natural resources and renewable energy; and
- (J) To provide for the administration of this chapter, defining the powers and duties imposed by this chapter, and prescribing penalties for the violation of its provisions.  
(Ord. 100, passed 11-15-2011)

**§ 154.003 AUTHORITY.**

- (A) This chapter is enacted pursuant to the authority granted by the Municipal Planning Act, M.S. §§ 462.352 to 462.365, as they may be amended from time to time. The provisions of this chapter shall be interpreted and applied in accordance and as permitted by the state.
- (B) This chapter shall not repeal, annul or in any way impair or interfere with the provisions of other ordinances or regulations of the city, except as expressly provided within this chapter.
- (C) The City Council of the City of New Germany shall serve as the Board of Appeals and Adjustments pursuant to M.S. § 462.354, subdivision 2. The Council shall have the powers set forth in M.S. §§ 462.357, subdivision 6, and 462.359, subdivision 4.  
(Ord. 100, passed 11-15-2011; Ord. 113, passed 5-5-2020)

**§ 154.004 SCOPE.**

(A) The use of all land and all buildings erected, altered, enlarged or relocated shall be in conformance with the provisions of this chapter, from and after the effective date of this chapter.

(B) Any building, structure or use lawfully existing on 4-7-1964, which is not in conformity with this chapter shall be regarded as non-conforming, but may be continued except as, and subject to, the requirements contained in this chapter.

(C) This chapter shall not repeal, annul or in any way impair or interfere with the provisions of other ordinances or regulations of the city, except as expressly provided in this chapter.  
(Ord. 100, passed 11-15-2011)

**§ 154.005 REPEAL OF PREVIOUS ZONING ORDINANCE.**

Ord. 38A, adopted by the City Council on 11-10-1998, and all amendments to Ord. 38A are hereby repealed.  
(Ord. 100, passed 11-15-2011)

**§ 154.006 SEPARABILITY.**

The city declares that the provisions of this chapter are separable in accordance with the following.

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

(B) If any court of competent jurisdiction shall decide that the application of any provision of this chapter to a particular property, building or other structure is invalid, the decision to invalidate shall not affect the application of the provision to any other property, building or structure not specifically included in the decision to invalidate.  
(Ord. 100, passed 11-15-2011)

**§ 154.007 INTERPRETATION.**

(A) The provisions of this chapter shall be interpreted as the minimum requirements necessary to accomplish the purposes of this chapter.

(B) Except as provided within this chapter, the provisions of this chapter are cumulative and in addition to the provisions of other laws and ordinances governing the same subjects.



(1) Where the provisions of this chapter impose greater restrictions than those of any law, other ordinance or regulation, the provisions of this chapter shall control.

(2) Where the provisions of any law, or other ordinance or regulation impose greater restrictions than this chapter, the greater restrictions shall be controlling.

(3) Words or terms defined in this chapter shall have the meanings assigned to them unless the meaning is clearly contrary to the intent of this chapter.

(a) The singular number shall include the plural.

(b) The present tense shall include the past and future tenses.

(c) The word “shall” is mandatory and “may” is permissive.

(4) All measured distances expressed in feet shall be to the nearest tenth of a foot. In event of conflicting provisions, the more restrictive provisions shall apply.  
(Ord. 100, passed 11-15-2011)

#### **§ 154.008 COMPATIBILITY WITH THE COMPREHENSIVE PLAN.**

The city has adopted a Comprehensive Plan, that may be amended from time to time, that establishes the policies for the establishment and provisions of this chapter. All land uses and development shall comply with the Comprehensive Plan and the provisions of this chapter.  
(Ord. 100, passed 11-15-2011)

#### **§ 154.009 USES NOT PROVIDED FOR WITHIN A ZONING DISTRICT.**

(A) Uses not specifically identified in this chapter as a permitted, conditional, interim or accessory use shall be prohibited.

(B) Whenever a use is not specifically permitted, the City Council, the Planning Commission or the owner of the property may request consideration of an interim use permit or an amendment to this chapter to determine if the particular use should be allowed as a permitted, conditional, interim use or accessory use.

(C) The City Council within its discretion shall approve or deny the request for an interim use permit or an amendment to this chapter following the applicable procedures established in § 10.99.  
(Ord. 100, passed 11-15-2011)

**§ 154.010 NON-CONFORMING USES AND STRUCTURES.**

(A) *Purpose.* This section is established to regulate existing uses, structures and property within the city that were established before the adoption of this chapter and no longer meet all the provisions of this chapter. The regulation of uses, structures and property no longer meeting the requirements of this chapter are intended to reduce their impacts on adjacent properties, prevent and abate nuisances, and to protect the public health, safety and welfare.

(B) *General standards.*

(1) Any non-conformity, including the lawful use or occupation of land or premises existing at the time of the adoption of this chapter may be continued, including the repair, replacement, restoration, maintenance or improvement, but not including expansion, unless:

(a) The non-conformity or occupancy is discontinued for a period of more than one year;  
or

(b) The non-conforming use is destroyed by fire or other peril to the extent of greater than 50% of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, the city may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.

(2) Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

(3) The city may impose reasonable regulations on a non-conforming use to prevent and abate nuisances and to protect the public health, welfare or safety.

(4) When any lawful non-conforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to a non-conforming use.

(5) A lawful non-conforming use of a structure or land may be changed to a similar non-conforming use or to another non-conforming land use of lesser intensity if it is found to be in the public interest upon review and approval by the City Council. In all instances, the applicant has the burden of proving that the proposed land use is similar or less intense than the exiting non-conforming land use. Once a structure or parcel of land has been placed in a non-conforming use of less intensity, it shall not return to a more intensive non-conforming use.

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

(Ord. 100, passed 11-15-2011)

**§ 154.011 DEFINITIONS.**

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

***ABUT.*** To border upon or share all or a portion of a common property line, public right-of-way or alley.

***ACCESSORY STRUCTURE.*** A structure subordinate to and servicing the principal structure on the same lot including, but not limited to, garages, sheds or storage buildings exceeding 120 square feet, swimming pools, spas and other similar structures.

***ACCESSORY USE.*** A use incidental to, and on the same lot as, a principal use.

***AGRICULTURE AND HORTICULTURE.*** Land used for agricultural and horticultural purposes, excluding feedlots, that includes the raising, cultivation, drying or storage of agricultural and horticultural products for sale, or the storage of machinery or equipment used in support of agricultural production by the same farm entity.

***ALLEY.*** A public right-of-way that affords a secondary means of access to abutting property.

***ALTERATION.*** Any modification, additions or change in construction or type of occupancy of a structure; any horizontal or vertical enlargement of a structure; or the moving of a structure from one location to another.

***AMENDMENT.*** Any modification of the text of this chapter or the zoning map. A map amendment shall also be known as a rezoning.

***ANTENNA DEVICES, PERSONAL.*** A device used for transmitting or receiving telecommunication, television or radio signals that is used for personal wireless telecommunication service.

***APPLICANT.*** An owner, agent or person, individual firm, association, syndicate, partnership, corporation, trust or other legal entity having sufficient proprietary interest to request approval of a development, variance, conditional or interim use permit, zoning amendment or other related action as required by this chapter.

***APPLICATION, COMPLETE.*** Any necessary form, as may be provided by the city, and all accompanying information as required by this chapter to be completed by the applicant for the requested action.

***AUTOMOBILE REPAIR GARAGES.*** A business that conducts general repair, rebuilding or reconditioning of engines, bodywork, framework, welding, major painting services and other similar work incidental to the repair of automobiles, trucks and trailers.

**AUTOMOBILE SERVICE STATION.** Any structure used for the retail sale of vehicular fuels along with associated sales of lubricants, grease, tires, batteries or minor automobile accessories. Associated services may include: the installation of tires, batteries or minor accessories; minor automobile repairs; and greasing or washing of individual automobiles. **AUTOMOBILE SERVICE STATIONS** shall not include the sale or storage of vehicles, automobile wrecking or detached car washes.

**BASEMENT.** A portion of the building located wholly or partially underground but having at least one-half of its floor to ceiling height below the grade of the adjoining ground.

**BOATHOUSE, COMMUNITY.** A boathouse designed for communal use by property owners residing in residential subdivisions designed as a planned development; and excluding any commercial or retail activities.

**BOATHOUSE, PRIVATE.** An uninhabited accessory structure designed and used solely for the storage of boats, water recreation vehicles or boating and water recreation equipment, and associated with a single-family residential home with lakeshore frontage.

**BOULEVARD.** The portion of a street right-of-way between the curb or curb line and the property line.

**BUILDING.** A structure which may provide shelter and enclosure for persons, chattels or animals, and when the structure is divided by party walls without openings, each portion so formed and separated shall be deemed to be a separate **BUILDING**.

**BUILDING FACE.** The portion of any exterior elevation of a building or other structure extending from the grade level to the top of a wall and the entire width of the building or structure elevation.

**BUILDING HEIGHT.** The vertical distance measured from the mean curb level along the front lot line or from the mean ground level for all of the portion of the structure having frontage on a public right-of-way, whichever is higher, to the:

- (1) Highest point of the coping of a flat or shed roof;
- (2) To the deck line of a mansard roof; or
- (3) To the average height of the highest gable of a pitched or hip roof.

**BUSINESS SERVICE USE.** Commercial establishments engaged in providing services and assistance to other businesses, individuals and government.

**BUILDING SETBACK LINE.** A line parallel to a lot line or the ordinary high water mark indicating the maximum extent where a building may be erected or placed.

***CEMETERY.*** Land used for the burial of the dead and dedicated for cemetery purposes, including columbarium's, mausoleums and associated service uses.

***CITY.*** City of New Germany, Carver County, Minnesota.

***CITY CLERK-TREASURER.*** The City Clerk-Treasurer, appointed by the City Council, and shall serve as the official Zoning Officer of the city, unless another individual is appointed by the City Council.

***COMPREHENSIVE PLAN.*** The document entitled "The City of New Germany 2030 Comprehensive Plan", as may be amended from time to time.

***CONDITIONAL USE PERMIT.*** A permit to allow a conditional use in a particular zoning district as approved by the City Council.

***COUNTY.*** The governing board of Carver County, Minnesota.

***DAY CARE FACILITY, STATE LICENSED.*** A day care facility licensed by the state serving 12 or fewer persons, and a group family day care facility serving 14 or fewer children and licensed under Minn. Rules parts 9502.0315 to 9502.0445.

***DECK.*** A structure which is either free standing or attached to a principal or accessory building, constructed at grade or above grade, intended or designed for use as outdoor living space and unenclosed by solid or non-solid walls or a roof.

***DENSITY.*** The number of dwelling units per acre of land as regulated by the Comprehensive Plan, excluding right-of-way and wetlands or floodplain area.

***DWELLING.*** A building or portion thereof used exclusively for residential purposes, including single-family, double-family, town-houses and multiple-family dwellings, but not including hotels, motels or rooming houses.

***DWELLING, ATTACHED.*** A dwelling attached to one or more dwellings by common walls or floors.

***DWELLING, DETACHED.*** A dwelling that is not attached to any other dwelling or structure by any means.

***DWELLING, DOUBLE-FAMILY.*** A building containing two dwelling units totally separated from each other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

***DWELLING, MULTIPLE FAMILY.*** A building containing three or more dwelling units totally separated from each other and designed with more than one dwelling unit connecting to a common corridor or entranceway.

***DWELLING, TOWNHOUSE.*** Three or more residential dwellings within a building having one or more side by side common walls extending from the foundation to the roof with another dwelling and oriented so all entrances/exits open directly to the outside.

***DWELLING, SINGLE-FAMILY DETACHED.*** A detached dwelling unit designed for occupancy by one family, including a single manufactured home, as defined by M.S. § 327.31, as it may be amended from time to time.

***EDUCATIONAL FACILITY.*** A public or private elementary, middle, secondary, post-secondary or vocational school having a course of instruction meeting the compulsory education requirements of the state.

***FAMILY.*** An individual or two or more persons living together as a single housekeeping unit and maintaining a common household.

***FENCE, PERMANENT.*** A permanent structure, other than a building, which is a barrier and used as a boundary or means of protection or confinement.

***FENCE, TEMPORARY.*** A temporary structure, other than a building, which is a barrier and used as a boundary or means of protection or confinement during a portion of the year. Examples of ***TEMPORARY FENCES*** include snow fencing, garden fencing and invisible fences.

***GARAGE.*** A building for the private use of the owner or occupant of a principal building situated on the same lot and used for the storage of personal items and vehicles.

***HOME OCCUPATION.*** An activity which is clearly secondary to the principal use on the property and does not change the nature of the principal use. It shall have no exterior evidence of the occupation, no significant increase in traffic or demand for parking, no significant increase in levels of noise, air or other pollution, no exterior signage, and no persons employed in the business who does not reside in the dwelling. It may have only limited retail sales activity.

***HOME OCCUPATION (WITH A CONDITIONAL USE PERMIT).*** An activity which is clearly secondary to the principal use and does not change the nature of the principal use. It may have a minimal exterior indication of the business use and may have only limited retail sales activity, as specified in § 154.067(B) of this chapter.

***HOTEL or MOTEL.*** A building containing guest rooms where temporary lodging is provided with or without meals for compensation and in which the principle access to and from all rooms is made through an inside lobby or a supervised office.

**INDUSTRY.** An enterprise that involves the production, processing or storage of materials, goods or products.

**INTERIM USE.** A temporary use of property until a particular date, until the occurrence of a particular event or it no longer permitted by this chapter.

**LAND-DISTURBING ACTIVITY.** Any land change that may result in soil erosion from wind, water and/or ice and the movement of sediments into or upon waters, lands or rights-of-way within the city, including, but not limited to, building demolition, clearing and grubbing, grading, excavating, transporting and filling of land.

**LANDSCAPING.** Plantings such as trees, grass, bushes or shrubs.

**LOADING SPACE.** An unobstructed area on a property designed for temporary parking and loading and unloading of vehicles.

**LOT.** A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot or other accepted means that is adequate for a use allowed by this chapter; abutting a public street; and of sufficient size to meet the required setbacks and area required by this chapter.

**LOT AREA.** The total area within the lot lines of a lot excluding dedicated public rights-of-way.

**LOT AREA PER DWELLING UNIT.** The number of square feet of lot area required per dwelling unit.

**LOT, CORNER.** A lot abutting upon two intersecting streets. The greater frontage of a **CORNER LOT** shall be the lot depth and the lesser frontage is the lot width.

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

**LOT, DOUBLE FRONTAGE.** A lot having frontage on two non-intersecting streets.

**LOT FRONTAGE.** The portion or side of a lot that abuts public right-of-way.

**LOT LINE.** A property boundary line of any lot, except any portion of the lot that extends into the abutting street or alley.

**LOT LINE, FRONT.** A lot line abutting a public right-of-way and if a corner lot, it shall be the shortest dimension on a public street.

**LOT LINE, REAR.** The lot line opposite and most distant from the front lot line.

**LOT LINE, SIDE.** Any lot line other than a front or rear lot line.

**LOT OF RECORD.** A parcel of land whose legal description was established in the county property records by plat, subdivision or as otherwise permitted by law.

**LOT WIDTH.** The horizontal distance between side lot lines, measured at the required front setback line.

**MANUFACTURED HOME.** A structure, transportable in one or more sections, that is built on a permanent chassis and is designed for single family residential use with or without a permanent foundation when attached to the required utilities, as further defined in M.S. § 327.31, as it may be amended from time to time. The term does not include a recreational vehicle.

**NET ACRE.** An acre of land excluding areas excluding road right of ways, wetlands, floodplain areas or other water features.

**NON-CONFORMING STRUCTURE.** A structure, including signage, which does not meet the requirements of the zoning district in which it is located due to the enactment of this chapter or as amended, but which was lawfully existing as of the date of its construction or placement.

**NON-CONFORMING USE.** A use which does not meet the requirements of the zoning district in which it is located due to the enactment of this chapter or as amended, but which was a lawful use as of the date it was first commenced.

**NOXIOUS MATTER.** Any substance capable of causing injury to living organisms or of causing detrimental effects on the physical or economic well being of individuals.

**OFF-STREET PARKING.** A maintained area, other than on a public street or right-of-way, for the storage of an automobile.

**OFFICE USE.** A building or portion of a building for the conduct of business activities involving predominantly professional, administrative or clerical service operations such as attorneys, financial advisors, consultants, insurance, travel and other uses of similar character.

**PERFORMANCE STANDARDS.** Standards established in §§ 154.080 through 154.092 of this chapter to assure that development will not be a detriment to the public health, safety and general welfare of the city.

**PHOTOVOLTAIC (PV) DEVICE.** A system of components that generates electricity from incident sunlight by means of the photovoltaic effect, whether or not the device is able to store the energy produced for later use.

**PHOTOVOLTAIC (PV) EFFECT.** The phenomenon that occurs when photons, the “particles” in a beam of light, knock electrons loose from the atoms they strike. When this property of light is combined with the properties of semiconductors, electrons flow in one direction across a junction, setting up a voltage. With the addition of circuitry, current will flow and electric power will be available.



**PHOTOVOLTAIC (PV) MODULE (PV PANEL).** The essentially planar assembly of solar cells and ancillary parts, such as interconnections, terminals (and protective devices such as diodes) intended to generate direct current or alternating current in direct and diffuse sunlight.

**PHOTOVOLTAIC (PV) SYSTEM.** A complete set of components for converting sunlight into electricity by the photovoltaic process, including the array and balance of system components.

**PLANNING COMMISSION.** The City of New Germany Planning Commission, as established by the City Council.

**PRACTICAL DIFFICULTY(IES).** In connection with the granting of a variance, it means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. **PRACTICAL DIFFICULTY(IES)** also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.

**PUBLIC HEARING NOTICE.** A notice published in the official newspaper of the city, other qualified newspaper or communication method available to the general public as allowed by state law, at least ten days before the date of the hearing. The notice shall specify the general time, purpose and place of the hearing.

**PUBLIC BUILDINGS AND FACILITIES.** Public utility structures including, but not limited to, transformers, lift stations, water towers and public utility buildings.

**RELIGIOUS INSTITUTION.** A building, together with any accessory buildings and uses where persons regularly assemble for religious service and are maintained and controlled by an organized group for public worship.

**RETAIL USE.** The sale of goods and products in small quantities directly to the consumer and rendering services incidental to the sale of these items all occurring within an enclosed building. Examples of **RETAIL USES** includes stores selling apparel, health and beauty products, food, appliances, furniture, tools, hardware, toys and sporting goods.

**RIGHT-OF-WAY.** An area or strip of land, either public or private, on which an irrevocable right-of-passage has been recorded for the use of vehicles or pedestrians or both.

**ROAD/STREET.** A vehicular way lying within public right-of-way which affords primary access to abutting properties further defined as a local, collector or minor arterial as established in the Comprehensive Plan.

**ROAD, COLLECTOR.** Roads that provide connections between cities and minor business concentrations within the county, as designated in the Comprehensive Plan and the county's Transportation Plan, as may be amended.

**ROAD, LOCAL.** City and township roads that serve the shortest trips and providing access to adjacent property, as designated in the Comprehensive Plan and the county's Transportation Plan, as may be amended.

**ROAD, MINOR ARTERIAL.** Roadways that serve medium to short trips as designated in the Comprehensive Plan and the county's Transportation Plan, as may be amended.

**SETBACK.** The minimum horizontal distance between a structure and the nearest property line or right-of-way line.

**SETBACK, FRONT.** The shortest horizontal distance from the forward-most point of a building to the nearest point on the front lot line.

**SETBACK, REAR.** The shortest horizontal distance from any part of a building to the nearest point on a rear lot line.

**SETBACK, SIDE YARD.** The shortest horizontal distance from any part of a building to the nearest point on a side lot line.

**SETBACK, STREET.** The shortest horizontal distance from any part of a building to the nearest point on a side lot line that adjoins a street.

**SIGN.** Any structure either stationary or movable, containing any writing, number, illustration, decoration, symbol, insignia or illumination which is displayed for informational or communicative purposes for commercial and non-commercial speech. It does not include any official court or other public notices, nor shall it include the flag, emblem or insignia of a nation, political unit, school or religious, service or fraternal group.

**SIGN, AWNING.** A sign constructed of awning material which incorporates a written message or graphics on the exterior.

**SIGN, COPY.** The portion of a sign that contains characters, letters or illustrations that can be changed or rearranged without altering the face or the surface of the sign, or incorporates a technology or an electronic method to allow the sign face to change the image without having to physically or mechanically replace the sign face or its components.

**SIGN, FLASHING.**

(1) A sign where light is not maintained as stationary or constant in intensity and color at all times when the sign is in use and exhibits changing light or color effect, outside the copy area, by any means, so as to provide intermittent illumination; and

(2) Also any mode of lighting which resembles zooming, twinkling or sparkling.

***SIGN, FREE-STANDING.*** A self-supporting sign affixed to a supporting frame structure or anchored in the ground and not attached to a building.

***SIGN, OFF-PREMISES.*** A commercial speech sign that directs the attention of the public to any type of business, activity or product that is not located on the same premises where such sign is located.

***SIGN, TEMPORARY.*** A sign which is designed or intended to be displayed for a short period of time and is not permanently installed.

***SIGN, WALL.*** A single faced sign attached to or erected against an exterior wall of a building with the face in a parallel plane to the plane of the building wall and which does not project more than 18 inches.

***SKETCH PLAN REVIEW.*** An informal, non-binding review of a conceptual subdivision or a development of property referenced in the Planned Unit Development (PUD) District.

***SITE PLAN.*** A development plan for property showing the existing and proposed conditions of the property, including topography, floodplain, wetlands, open spaces, means of ingress/egress, parking, grading, drainage, utilities, structures, building elevations and other information which may reasonably be required by the city.

***SOLAR ENERGY.*** Electromagnetic energy transmitted from the sun (solar radiation).

***SOLAR ENERGY SYSTEM.*** A device or set of devices whose primary purpose is to collect and convert or transfer solar energy into another form of energy.

***SOLAR ENERGY SYSTEM, RETAIL.*** A solar energy system established for the primary purpose of meeting all or part of the energy needs of the host building, whether residential, commercial, industrial or agricultural.

***SOLAR ENERGY SYSTEM, WHOLESALE.*** A solar energy system established for the primary purpose of generating and selling the converted or transferred energy directly to a third party.

***SOLAR PANEL.*** See ***PHOTOVOLTAIC (PV) MODULE.***

***SPEECH, COMMERCIAL.*** Speech advertising a business, profession, commodity, service or entertainment.

***SPEECH, NON-COMMERCIAL.*** Dissemination of messages not classified as commercial speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

**STATE.** The State of Minnesota.

**STRUCTURE.** Anything built or constructed, an edifice or building of any kind, or any piece of work composed of parts joined together in some definite manner, except parking lots and driveways.

**STRUCTURE, PRINCIPAL.** A building in which the principal use of the lot on which the building is located is conducted.

**TELECOMMUNICATION FACILITIES.** Licensed wireless services used for commercial purposes including cellular, personal communication telecommunication services, specialized mobilized radio, enhanced specialized mobilized radio, paging and similar services.

**TELECOMMUNICATION TOWER.** A free-standing, self-supporting lattice, guyed or monopole structure constructed from grade intended to support antennas, except towers used for amateur radio operations.

**USE.** The purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained, and shall include the performance of the activity, as defined by this chapter.

**USE, ACCESSORY.** A subordinate use which is secondary and associated with the principal use and is located on the same lot as the principal building or use.

**USE, CONDITIONAL.**

(1) A use permitted in a particular zoning district only upon showing that the use in a specified location will comply with all standards of this chapter for the location or operation of the use.

(2) The city may impose additional conditions in specific instances to protect the public health, safety or welfare.

**USE, INTERIM.** An interim use is a temporary use of property until a certain date established by the City Council or until the use is no longer permitted by this chapter.

**USE, NON-CONFORMING.** The use of land, buildings or structures existing at the time of adoption of this chapter or subsequent amendments that do not comply with all the regulations of this chapter governing the zoning district in which the use is located.

**USE, PERMITTED.** A use that conforms to the requirements of this chapter.

**USE, PRINCIPAL.** The primary use of land or structures as distinguished from accessory uses.

**UTILITY BUILDING.** A detached accessory building, not used for vehicle storage, is one-story in nature, is used or intended for the storage of hobby tools, garden equipment and the like, and which is incidental to the principal dwelling structure.

**VARIANCE.** Any modification or variation of official controls where it is determined that because of practical difficulty (as defined in this chapter) that strict enforcement of official control is impractical.

**WAREHOUSING.** The storage of materials or equipment within an enclosed building.

**WATER MANAGEMENT PLAN, CARVER COUNTY.** The county's Water Management Plan, as may be amended.

**WATER MANAGEMENT PLAN, CITY.** The city's 2007 Storm Water Management Plan, as may be amended.

**WETLAND CONSERVATION ACT.** An act adopted by the state, as amended, classifying, governing and defining wetlands within the state.

**WINDMILLS (WIND ENERGY CONVERSION SYSTEMS).** An apparatus capable of converting wind energy into electricity.

**YARD.** An unoccupied and unobstructed open space between a building and the adjoining lot lines.

**ZONING AMENDMENT.** A change authorized by the City Council either in the text of the Zoning Ordinance or in the boundaries or location of a zoning district.

**ZONING DISTRICT.** An area of the city designated in the Zoning Ordinance text and delineated on the official zoning map, in which requirements for the use of land and building and development standards are prescribed and uniform.

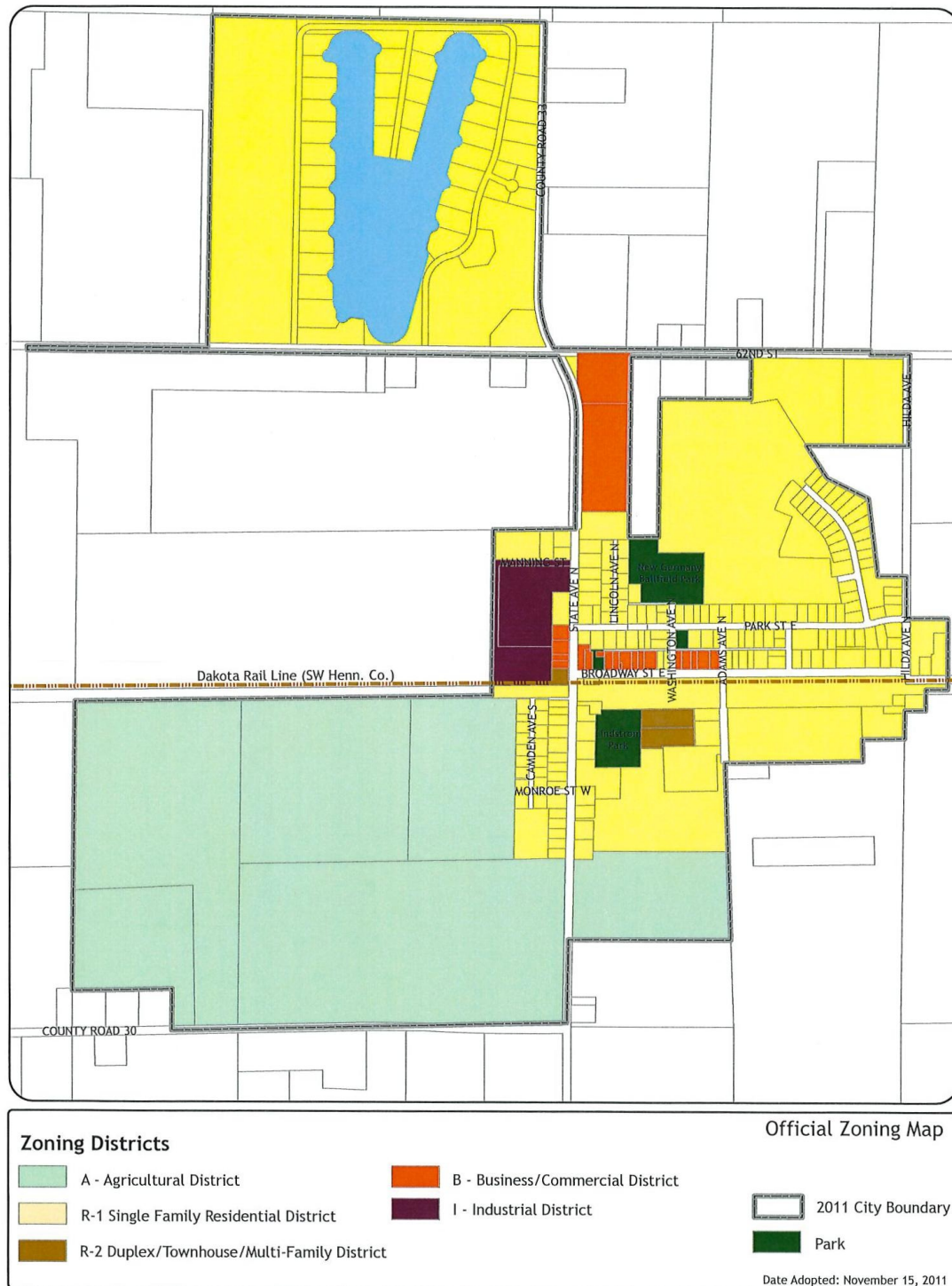
**ZONING MAP, OFFICIAL.** The map or maps incorporated into this chapter designating the zoning districts.

**ZONING OFFICER.** The City of New Germany City Clerk-Treasurer or other individual, as appointed by the City Council.  
(Ord. 100, passed 11-15-2011; Ord. 100A, passed - -2016; Ord. 116, passed 8-4-2020)

#### **§ 154.012 EFFECTIVE DATE.**

This chapter was adopted by the City Council on 11-15-2011 and shall be effective upon publication according to law.  
(Ord. 100, passed 11-15-2011)

## § 154.013 OFFICIAL ZONING MAP.



(Ord. 100, passed 11-15-2011)

**Cross-reference:**

*See also the city's current comprehensive plan map found in the office of the Clerk-Treasurer*

***PLANNING COMMISSION***

**§ 154.025 ESTABLISHMENT.**

The Planning Commission of five members is established and will constitute the planning agency of the city. The Planning Commission members shall be residents of the city and shall be appointed by the City Council.

(Ord. 100, passed 11-15-2011)

**§ 154.026 APPOINTMENT AND REMOVAL.**

(A) Each newly appointed Planning Commission member shall be subject to a six-month probationary period. At the end of the probationary period, the City Council may review the status and work effort of the member and may determine if the member should remain on the Planning Commission or be removed.

(B) A vote to remove the member shall be by majority vote of the entire City Council.

(Ord. 100, passed 11-15-2011)

**§ 154.027 TERM AND VACANCIES.**

Planning Commission members shall be appointed for staggered terms of three calendar years. Members shall hold their offices until their successors are appointed and qualified. Vacancies shall be filled by the City Council for the unexpired portion of the term.

(Ord. 100, passed 11-15-2011)

**§ 154.028 POWERS AND ACTIONS.**

(A) The Planning Commission shall have such powers and duties as provided by state law and city ordinances; however, the Planning Commission's actions shall be advisory to the City Council and shall work under the direction of the City Council. Duties include, but are not limited to, investigating, reviewing and making recommendations to the City Council in regard to:

- (1) The Comprehensive Plan;
- (2) Zoning and subdivision ordinances;
- (3) Subdivision sketch plans, preliminary and final plats;
- (4) Variances;

- (5) Conditional use and interim use permits; and
- (6) General planning matters.

(B) The Planning Commission shall make recommendations to the City Council on items before it within a reasonable time or such time as shall be prescribed by state law or city ordinance. Failure by the Planning Commission to make a recommendation within the required period shall be deemed to be a recommendation for denial if the delay is appealed by the applicant.

(C) The Planning Commission may recommend that the City Council place conditions on applications and permits required under this chapter in order to carry out the intent of this chapter. The Planning Commission shall accompany its decision to recommend a denial of an application with a statement of its findings regarding the matter.

(D) The City Council may adopt, modify or reject the recommendation of the Planning Commission by vote of a majority of those present.  
(Ord. 100, passed 11-15-2011)

#### **§ 154.029 PROCEDURES.**

(A) At the first meeting of each year, the Planning Commission shall elect from its membership a Chairperson, a Vice Chairperson and a Secretary. The officers shall take office immediately following their election and shall hold office for a term of one calendar year until their successors are elected and assume office.

(B) The duties of the Commission officers are as follows.

(1) The Chairperson shall preside at all meetings and perform such other duties as may be directed by the Commission.

(2) The Vice Chairperson shall act in the capacity of the Chairperson in the absence of the Chairperson. If the office of the Chairperson becomes vacant, the Vice Chairperson shall succeed to this office for the unexpired term and the Commission shall elect a successor to the office of Vice Chairperson for the unexpired term.

(3) The Secretary shall be responsible for taking the minutes of the meeting and any other correspondence of the Commission.

(C) The Planning Commission shall hold regular meetings as it determines appropriate and necessary to efficiently and effectively carry out the work and duties of the Commission or as directed by the City Council. All meetings shall be open to the public and posted as required by law.



(D) The Planning Commission may adopt bylaws or rules for the conduct of its business. The Commission shall keep a record of its transactions, findings and minutes of each meeting. These records shall be a public record and shall be submitted to the city's Clerk-Treasurer to distribute to the City Council for review.

(E) Expenses of the Commission shall be within the amount appropriated for such purposes by the City Council.

(Ord. 100, passed 11-15-2011)

### ***ADMINISTRATION***

#### **§ 154.040 ENFORCEMENT OFFICER AND DUTIES.**

(A) The city's Clerk-Treasurer shall serve as the zoning officer for the city and shall be responsible for the administration and enforcement of this chapter as directed by the City Council. The city's Clerk-Treasurer may consult with other governmental agencies, the city's building official and other city consultants in the administration and enforcement of this chapter.

(B) The duties of the city's Clerk-Treasurer shall include the following:

(1) Determine that all uses of land and building permits comply with the terms of this chapter, including the interpretation of this chapter;

(2) Authorize the city's Building Inspector to conduct the inspection of buildings and use of land, as allowed by state statute, to determine compliance with the terms of this chapter;

(3) Maintain permanent and current records of this chapter, including, but not limited to, all maps, zoning ordinance and map amendments, variances, conditional use and interim use permits, applications, other permits and appeals;

(4) Receive, file and forward all applications for zoning ordinance and map amendments, variances, conditional use and interim use permits, appeals or other related matters to the Planning Commission, City Council, other governmental reviewing agency and other designated parties;

(5) Prepare for publication all public hearing notices and other notifications required by this chapter;

(6) Receive and deposit in the city account all required fees for zoning applications and building permits and manage any financial security as required by the City Council; and

(7) Any person aggrieved by any procedure or decision of the city's Clerk-Treasurer may appeal to the City Council.  
(Ord. 100, passed 11-15-2011)

#### **§ 154.041 DEADLINES FOR CITY ACTIONS AND VOTING REQUIREMENTS.**

*(A) Deadlines for city actions.*

(1) The City Council shall act upon all applications required by this chapter within 60 days of the submission of a complete application or a longer period agreed to by the applicant.

(2) The city may take an additional 60 days for a decision after notifying the applicant of the reasons for such an extension.

(3) If an application is denied by the City Council, the reasons for denial shall be stated in the record of the Council proceedings and the applicant shall be provided with a written statement on the reasons for denial.

(4) If the City Council fails to make a timely decision, the application shall be deemed to have been approved.

*(B) Voting requirements.*

(1) All applications for a conditional use permit, variance, interim use permit, site plan or an amendment to the text of this chapter shall be issued on the affirmative vote of a majority of the entire City Council.

(2) Any amendment to this chapter that changes the boundary of any zoning district (rezoning) or changes the regulation of any existing zoning district requires an affirmative vote of two-thirds of the entire City Council.

(Ord. 100, passed 11-15-2011)

#### **§ 154.042 PUBLIC HEARING REQUIREMENTS.**

(A) The following requirements shall apply to all public hearings required by this chapter.

(1) The city's Clerk-Treasurer publish a notice of the public hearing in the official newspaper at least ten days prior to the date of the hearing, after submission of a complete application for the requested action to the city by the applicant.

(2) The city's Clerk-Treasurer shall mail notice of the public hearing for complete applications pertaining to a zoning amendment which involves a change in the boundaries of a zoning district, variance or conditional or interim use at least ten days prior to the date of a hearing to:

(a) The current owners of all property, as shown in the certified records of the county's Office of Taxpayer Services, that are located within 350 feet of the property that is the subject of the application; and

(b) Any other governmental agency required to review the application as specified by state law or applicable ordinance.

(B) Failure to mail the notice or failure of the property owners to receive the notice shall not invalidate the proceedings required by this chapter.  
(Ord. 100, passed 11-15-2011)

#### **§ 154.043 FEES.**

Fees, established by the City Council, for all building permits, zoning ordinance and map amendments, variances, conditional use and interim use permits and other related applications or permits shall be payable at the time of filing any application with the city and are not refundable.  
(Ord. 100, passed 11-15-2011)

#### **§ 154.044 SINGLE-FAMILY DETACHED DWELLING UNIT REQUIREMENTS.**

(A) All single-family detached dwellings, including manufactured homes, shall have a width of at least 22 feet for at least 50% of their depth and a depth of at least 22 feet for at least 50% of their width.

(B) All dwellings shall have a permanent foundation in conformance with the state's Building Code.

(C) The use and occupancy of a tent, recreational vehicle, unfinished dwelling or other temporary dwelling for the purpose of living quarters or residency is prohibited.

(D) Pursuant to the authority granted in M.S. § 462.3593, as it may be amended from time to time, the city opts out of the requirements of M.S. § 462.3593, which defines and regulates temporary family health care dwellings, as it may be amended from time to time.  
(Ord. 100, passed 11-15-2011; Ord. 100A, passed - -2016)

#### **§ 154.045 LOT, YARD AND HEIGHT PROVISIONS AND EXCEPTIONS.**

(A) *Lots of record.* A lot of record shall be considered a buildable lot for the permitted uses within the zoning district the lot is located even though the lot area and/or dimensions are less than those required for the district; provided:

(1) The width of the lot is not less than 40 feet;

(2) The lot fronts on a public street; or

(3) No adjacent lot or land is owned by the owner of the lot of record lot or has been sold by the owner since the effective date of this chapter.

(B) *Principal uses and buildings.* No more than one principal building shall be located on a single lot, except as provided for in §§ 154.060 through 154.066 of this chapter.

(C) *Yard and setback requirements and exceptions.*

(1) No required yard or open space allocated to a structure or parcel of land in compliance with this chapter shall be used to satisfy yard, other open spaces or minimum lot area requirements for any other structure or land.

(2) On double frontage lots, the required front yard setback shall be provided on both streets.

(3) The following shall be exceptions on minimum yard requirements.

(a) Chimneys, flues, sills, gutters, mechanical devices, eaves, bay windows, ornamental features and other similar features may extend into the required yard setback area no more than three feet.

(b) Patio slabs, public utility and flag poles, mail boxes, plantings, recreation equipment and means of access such as sidewalks, driveways and steps may occupy any part of a required yard setback.

(c) Detached retaining walls that are less than five feet in height, including staged walls, which cumulatively do not exceed five feet in height.

(d) Yard lights may extend into the required yard setback areas; provided, the direct light source is not visible from a public right-of-way or an adjacent residential property.

(D) *Height exceptions.* Height limitations established in the A-1 Agricultural, R-1 Single-Family Residential District and R-2 Multiple-Family District may be increased by 50% when applied to the following:

(1) Personal receive only satellite dish antennas, other personal antenna devices and amateur radio devices;

(2) Spires, steeples and belfries on religious and educational institutions or public uses containing uninhabitable space;

- (3) Chimneys;
  - (4) Flag poles;
  - (5) Public water towers;
  - (6) Wind mills used in conjunction with agricultural uses; and
  - (7) Telecommunications facilities, if located on an existing structure.
- (Ord. 100, passed 11-15-2011)

### ***ZONING DISTRICTS AND PROCEDURES***

#### **§ 154.060 ZONING ORDINANCE TEXT AND MAP (REZONING) AMENDMENT.**

##### ***(A) General.***

(1) This chapter may be amended whenever the City Council finds it consistent with the intent of this chapter, the Comprehensive Plan and the public health, safety or general welfare. An amendment to this chapter may be initiated in accordance with the following:

- (a) An application by the owner or owners of the property of the zoning of which is proposed to be changed;
  - (b) A recommendation of the Planning Commission; or
  - (c) Action of the City Council.
- (2) All zoning amendments shall require a public hearing before the City Council.

##### ***(B) Zoning amendment application.***

(1) All applications for zoning amendments which are initiated by the owner or owners of the property to be rezoned shall be filed with the city's Clerk-Treasurer.

(2) When the petition involves the changing of a zoning district and its boundaries, it shall be accompanied by an application form provided by the city and be accompanied by the following:

- (a) A map or plat showing the property proposed to be changed;
- (b) The legal description and address of the property;

(c) Evidence of ownership or an interest in the property;

(d) A list of the names and addresses of all property owners within 350 feet from the county's Office of Taxpayer Services;

(e) The fee as established by the City Council; and

(f) Other information as may be required by the city.

(3) An application for a change in the boundaries of a zoning district which would result in the creation of a zoning district which is inconsistent with the land use designation of the property in the Comprehensive Plan must be accompanied by an application for an amendment to the Comprehensive Plan.

(4) All complete applications for zoning ordinance text and map (rezoning) amendments to this chapter shall be referred to the Planning Commission for review.

(5) (a) The Commission shall make a recommendation to the City Council after consideration of a complete application for the request or any continuance which is not appealed by the applicant.

(b) The Planning Commission shall base its recommendation to the City Council upon the following criteria:

1. Compliance with the text and maps of the Comprehensive Plan; and

2. Adherence of the property and any proposed use(s) to the provisions of the zoning district proposed for the property that is subject to the rezoning application.

(c) The Planning Commission may recommend that the City Council attach conditions to zoning map (rezoning) amendments to carry out the intent of this chapter.

(6) (a) The Planning Commission shall provide a report to the City Council of its findings and recommendations on the application.

(b) The City Council shall hold a public hearing to consider the Planning Commission's recommendation.

(c) The City Council shall act upon the amendment within the appointed time or a longer period agreed to by the applicant of the zoning amendment and shall state the reasons for the approval, denial or other action.

(d) The City Council may attach conditions to zoning map (rezoning) amendments to carry out the intent of this chapter.

(Ord. 100, passed 11-15-2011)

**§ 154.061 VARIANCES.***(A) General.*

(1) The City Council may grant variances from strict application of the provisions of this chapter in cases where strict enforcement would cause practical difficulties in complying with the requirements of this chapter applicable to the individual property under consideration when it is demonstrated that the variance would be consistent with the spirit and intent of this chapter and the Comprehensive Plan, economic considerations do not constitute practical difficulties.

(2) No variance shall be granted to declare a substandard lot buildable unless, in addition to meeting the requirements of division (A)(1) above, the applicant has exhausted all reasonable possibility of combining the lot with an adjacent vacant lot.

(3) No variance shall be granted to permit a use which is not allowed as a permitted, accessory or conditional use under this chapter for property in the zoning district in which the land is located.

(4) All variance requests shall require an official public hearing before the City Council.

*(B) Variance application procedure.*

(1) An application for a variance shall be filed with the city's Clerk-Treasurer stating the practical difficulties applicable to the individual property along with the following information:

(a) A map or plat of the property which shows all lot lines, existing and proposed structures, driveways and parking areas, and any significant features;

(b) The legal description and address of the property;

(c) Evidence of ownership or an interest in the property;

(d) A list of the names and addresses of all property owners within 350 feet from the county's Office of Taxpayer Services;

(e) The fee as established by the City Council; and

(f) Other information as may be required by the city.

(2) After the application for a variance has been found complete, the variance application shall be referred to the Planning Commission for review.

(C) *Planning Commission review.*

(1) The Commission shall make a recommendation to the City Council for the variance request or any continuance which is not appealed by the applicant, after consideration of the following criteria:

(a) The health, safety and welfare of the existing and anticipated land use and character of the city;

(b) Traffic conditions, light and air, danger of fire, risk to the public safety;

(c) Whether or not the conditions applying to the structure or land of the application present practical difficulties associated with the property or immediately adjoining property and do not apply generally to other land or structures in the zoning district in which the property of the application is located;

(d) Granting the proposed variance will not in any way impair health, safety, comfort or in any other respect be contrary to the intent of this chapter;

(e) The granting of the variance will not merely serve as a convenience to the applicant but is necessary to alleviate demonstrated practical difficulty associated with the property; and

(f) The variance request is not required for solely economic purposes.

(2) The Planning Commission may recommend that the City Council attach conditions to the variance to carry out the intent of this chapter.

(D) *City Council action.*

(1) The City Council shall consider the Planning Commissions recommendation and any conditions, the criteria listed in division (A) above and comments received at the public hearing.

(2) The City Council shall act upon the variance request within the appointed time or a longer period agreed to by the applicant of the variance request and shall state the reasons for the approval, denial or other action.

(3) The City Council may attach conditions to the variance to carry out the intent of this chapter.

(E) *Variance term and conditions.*

(1) Any variance granted by the city shall run with the land and shall be perpetual unless prior to December 31 of the year following the year of approval and no building permit has been issued or substantial work performed on the project that is subject to the variance, in which case the variance shall be null and void.



(2) The City Council may extend the period for construction upon finding that the interest of the owners of neighboring properties will not be adversely affected by the extension.

(3) The variance shall be valid only for the project for which it was granted and construction of the project shall be in substantial compliance with the plans approved by the City Council.

(4) A certified copy of the variance or notice of the variance shall be filed by the applicant with the county's Office of Taxpayer Services, in accordance with state law requirements.  
(Ord. 100, passed 11-15-2011)

#### **§ 154.062 CONDITIONAL USE PERMITS.**

(A) *General.*

(1) It shall be unlawful to use any structure or land for any purpose requiring a conditional use permit in the zoning district in which the property is located without first obtaining a conditional use permit from the city.

(2) All conditional use permits shall require a public hearing before the City Council.

(B) *Conditional use permit application.* An application for a conditional use permit shall be filed with the city's Clerk-Treasurer accompanied with the following information:

(1) The legal description and address of the property;

(2) Evidence of ownership or an interest in the property by the applicant;

(3) A list of the names and addresses of all property owners within 350 feet from the county's Office of Taxpayer Services;

(4) A narrative explaining the characteristics of the proposed conditional use;

(5) A site plan drawn at scale showing the proposed use and the location of all existing and proposed buildings, curb cuts, driveways, parking space and loading areas or other relevant conditions of the property;

(6) If the proposed conditional use involves a new development or redevelopment, the following shall be submitted:

(a) Elevation drawings indicating the architectural materials and design of all proposed buildings and structures;

(b) A landscaping plan including the location, size and type of all proposed planting materials;

(c) A general floor plan of all proposed buildings and structures; and

(d) Storm water drainage plan, and public sewer and water utility plan.

(7) The fee as established by the City Council; and

(8) Other information as may be required by the city.

*(C) Planning Commission review.*

(1) All complete applications for conditional use permits shall be referred to the Planning Commission for review of the application according to the standards found in § 154.067 of this chapter.

(2) The Planning Commission shall make its recommendation to the City Council after consideration of the application for the conditional use permit or any continuance which is not appealed by the applicant.

(3) The Planning Commission may recommend that the City Council attach conditions to the conditional use permit to carry out the intent of this chapter.

*(D) City Council action.*

(1) The City Council shall consider the conditional use permit application, the Planning Commissions recommendation, conditions for the conditional use permit, if any, and comments received at the public hearing.

(2) The City Council shall act upon the conditional use permit request within the appointed time or such longer period agreed to by the applicant.

(3) In evaluating the conditional use permit application, the City Council must consider and adopt findings regarding compliance with the standards for the use as established in § 154.067 of this chapter.

(4) The City Council may attach conditions to the conditional use permit to carry out the intent of this chapter.

*(E) Conditional use permit conditions.*

(1) A certified copy of the conditional use permit shall be recorded by the applicant with the county's Office of Taxpayer Services.

(2) The City Council may revoke a permit upon violation of any condition of the permit, any state or federal law, county regulation or any city ordinance.

(3) The conditional use permit shall remain in effect for so long as the conditions agreed upon by the applicant are observed and shall expire if:

(a) Normal operation of the use has been discontinued for 12 or more months from the date the conditional use permit is approved by the City Council; and

(b) If the conditional use permit involves new development or redevelopment, substantial construction has not been completed within 12 months from the date the conditional use permit is approved by the City Council, unless an extension has been granted by the City Council.

(4) (a) The city's Clerk-Treasurer shall refer all documented complaints of potential violations of any conditional use permit to the Planning Commission for review.

(b) The Planning Commission shall forward a recommendation to the City Council for appropriate action of violation, if any.  
(Ord. 100, passed 11-15-2011)

#### **§ 154.063 INTERIM USE PERMITS.**

(A) *General.* This section establishes interim use permit procedures to allow flexibility in the use of land or structures in the city when such uses are not permanent and when such uses meet appropriate conditions and performance standards that protect the public health, safety and welfare. The intent of the interim use permit procedure is:

(1) To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction;

(2) To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use; and

(3) To establish standards for interim uses in the location and circumstances under which the uses may be established without detriment to the public health, safety and welfare of neighboring property owners or occupants.

(B) *Interim use application and procedural requirements.*

(1) The application and procedure requirements for interim use permits shall be the same as those for amendments to this chapter, as established in § 154.060 of this chapter.

(2) If a proposed interim use is not listed as a permitted interim use in this chapter, an amendment to this chapter will be required, as established in § 154.060 of this chapter, before an interim use permit may be considered by the city.

(C) *Standards.*

(1) The interim use must be allowed in the zoning district where the property is located.

(2) The interim use must meet or exceed the standards established in §§ 154.080 through 154.092 of this chapter and other applicable city regulations.

(3) The interim use must comply with the specific standards for the use identified in this chapter and must comply with all conditions of approval of the permit.

(D) *Conditions.* The City Council may impose conditions on granting the interim use permit in order to ensure compliance with the criteria or to effect the purpose of this chapter.

(E) *Termination.* All interim use permits shall terminate on the occurrence of any of the following events, whichever occurs first:

(1) The termination date established by the City Council and stated in the interim use permit;

(2) A violation of the conditions under which the interim use permit was issued; or

(3) A change in this chapter that causes the use to become non-conforming.

(Ord. 100, passed 11-15-2011)

**§ 154.064 SITE PLAN REVIEW.**

(A) *General.* A site plan must be reviewed by the Planning Commission and approved by the City Council is required for all new non-single-family residential development and redevelopment in any zoning district prior to the issuance of any building permit to ensure compliance with the standards of this chapter.

(B) *Site plan application requirements.* Applications for site plan review shall include the following minimum submittal requirements:

(1) Legal description and ownership of the property;

(2) A narrative description of the proposed property uses;

(3) Scaled drawings of the existing property including property dimensions, easements, the locations and setbacks of all existing buildings and the locations and setbacks of all other structures and uses, such as driveways, parking areas and utilities;

(4) Scaled drawings of the proposed uses, easements and buildings including all dimensions and property setbacks;

(5) Scaled drawings of building elevations and descriptions of exterior building materials;

(6) Scaled locations and descriptions of any proposed fencing, screening, signage, landscaping or site lighting;

(7) A site grading and drainage plan, including erosion and sedimentation control plans, including scaled delineations of any wetlands or floodplain areas; and

(8) Identification of any wetland or floodplain encroachments and detailed mitigation plans.

*(C) Planning Commission review.*

(1) All complete applications for site plans shall be referred to the Planning Commission for review of the application according to the standards found in this chapter.

(2) The Planning Commission shall make its recommendation to the City Council after consideration of the site plan application or any continuance which is not appealed by the applicant.

(3) The Planning Commission may recommend that the City Council attach conditions to the site plan to carry out the intent of this chapter.

*(D) City Council action.*

(1) The City Council shall consider the site plan application, the Planning Commission recommendation and any recommended conditions.

(2) The City Council shall act upon the site plan application within the appointed time or a longer period agreed to by the applicant.

(3) The City Council may attach conditions to the site plan to carry out the intent of this chapter.

(Ord. 100, passed 11-15-2011)

**§ 154.065 OFFICIAL ZONING MAP; INTERPRETATION AND DISTRICTS.***(A) Interpretation of the official zoning map.*

(1) The boundaries for the zoning districts listed in this chapter are indicated on the official zoning map which includes the map and all notations, references and data, which is hereby adopted by reference and may be amended by reference. The boundaries of the official zoning map shall be modified in accordance with § 154.060 of this chapter.

(2) Zoning district boundary lines are intended to follow lot lines, or be parallel or perpendicular to a lot line; or along the centerlines of streets, rights-of-way; or follow the boundaries of water features; unless the boundary lines are fixed by dimensions shown on the official zoning map.

(3) Where a zoning district boundary line divides a lot, the location of any zoning district boundary line, unless indicated by dimensions shown on the zoning map or rezoning description shall be determined by the map scale shown on the official zoning map.

(4) The city's Clerk-Treasurer shall make an interpretation of the map upon request of any person where there is an uncertainty, contradiction or conflict regarding the intended location of any zoning district boundary shown on the official zoning map due to the scale, lack of detail, illegibility or other conflicting information. The City Clerk-Treasurer's interpretation may be appealed to the City Council.

(5) All property within the city shall have a zoning designation shown on the official zoning map. If there is any discrepancy or inconsistency between the official zoning map and any other map, ordinance or source which purports to indicate the zoning of property, the official zoning map shall take precedence.

*(B) Establishment and classification of zoning districts.* For purposes of this chapter, the city shall be divided into the following districts:

- (1) A, Agricultural District;
- (2) R-1, Single-Family Residential District;
- (3) R-2, Multiple-Family Residential District;
- (4) B, Business/Commercial District;
- (5) I, Industrial District; and

- (6) PUD, Planned Unit Development.

(Ord. 100, passed 11-15-2011)

**§ 154.066 ZONING DISTRICT REGULATIONS.****(A) *A - Agricultural District.***

(1) *Purpose.* The A - Agricultural District is established to allow agricultural activities as a transitional use of the land until such time that municipal services are available to serve the property. Because of the limited long-term duration of the agricultural uses within this zoning district and the incompatibilities, which often exist between agricultural and non-agricultural land uses, permitted uses in the A - Agricultural District are oriented towards non-intensive agricultural uses. This zoning district applies to properties that are annexed into the city limits in accordance with orderly annexation agreements or other municipal adjustment proceedings with Camden and Hollywood Townships.

(2) *Permitted uses.* Within any A - Agricultural District, no structure or land shall be used, except for one or more of the following uses:

(a) Single-family detached residential dwellings at a density not exceeding one dwelling per 40 acres;

(b) Agriculture and horticulture land uses, except feedlots, including existing agricultural buildings and equipment typically associated with agriculture activities;

(c) A state-licensed residential facility or housing with services establishment registered to serve six or fewer persons, except those as provided for under M.S. § 462.357, subd. 7, as it may be amended from time to time;

(d) A state-licensed day care facility serving 12 or fewer persons or a group family day care facility serving 14 or fewer children and licensed under Minn. Rules parts 9502.0315 to 9502.0445;

(e) Cemeteries; and/or

(f) Public parks and playgrounds.

(3) *Accessory uses.* Within any A - Agricultural District, the following uses shall be permitted accessory uses:

(a) Private garages and parking spaces, utility buildings, detached decks, gazebos and fences and similar structures;

(b) Private swimming pools meeting any state rules, tennis courts and other recreational facilities for exclusive use by the property owner;

(c) Solar collection and geo-thermal heating and cooling systems used in conjunction with permitted uses;

(d) Roadside stands for sale of agricultural products grown on the property; provided, sufficient off-street parking is available;

(e) Personal receive-only satellite dish antennas, other personal antenna devices and amateur radio devices;

(f) Home occupations meeting the definition of “home occupation” found in § 154.011 of this chapter;

(g) Telecommunication facilities that meet the height requirements of this district if free-standing or may be allowed up to 70 feet in height if located on an existing structure; and

(h) Signs, as regulated in § 154.090 of this chapter.

(4) *Conditional uses.* Within the A - Agricultural District, no structure or land shall be used for the following uses, except by conditional use permit and in conformance with the standards found in § 154.067 of this chapter:

(a) Religious institutions that may include state-licensed day care facilities serving more than six persons;

(b) Public buildings and facilities that are greater than 1,000 square feet in area such as water treatment facilities, wastewater treatment plants, water towers and other similar uses; and

(c) Home occupations that do not meet the definition of a “home occupation” as found in § 154.011 of this chapter.

(5) *Interim uses.* Retail solar electric systems.

(6) *District standards.* No building or land in the A - Agricultural District shall be used, except in conformance with the following:

(a) Minimum lot area: two acres;

(b) Minimum lot width: 150 feet of frontage on a public road;

(c) Maximum structure height: 35 feet;

(d) Minimum setbacks (all structures):

1. Front: 75 feet;

2. Corner lot: 30 feet; and

3. Interior:



- a. Side: 30 feet; and
- b. Rear: 30 feet.

(e) All uses shall comply with the provisions of §§ 154.080 through 154.092 of this chapter.

(B) *R-1 - Single-Family Residential District.*

(1) *Purpose.* The purpose of the R-1 Single-Family Residential District is to provide areas for single-family detached homes consistent with the low-density residential land use designation in the Comprehensive Plan. Residential development within the R-1 Single-Family Residential District shall occur at densities that are less than four dwelling units per net acre and shall be served by municipal sanitary sewer and water facilities.

(2) *Permitted uses.* Within any R-1 Single-Family Residential District, no structure or land shall be used, except for one or more of the following uses:

(a) Single-family detached residences;

(b) A state-licensed residential facility or housing with services establishment registered to serve six or fewer persons, except those as provided for under M.S. § 462.357, subd. 7, as it may be amended from time to time;

(c) A state-licensed day care facility serving 12 or fewer persons or a group family day care facility serving 14 or fewer children licensed under Minn. Rules parts 9502.0315 to 9502.0445; and

(d) Public and private parks, athletic fields, playgrounds and open space.

(3) *Accessory uses.* Within any R-1 Single-Family Residential District, the following uses shall be permitted accessory uses:

(a) Private garages and parking spaces, utility buildings, detached decks, gazebos, private boathouses, fences and similar structures;

(b) Private swimming pools meeting state rules, tennis courts and other recreational facilities for exclusive use by the property owner;

(c) Solar collection and geo-thermal heating and cooling systems used in conjunction with permitted uses;

(d) Personal receive-only satellite dish antennas, other personal antenna devices and amateur radio devices;

(e) Home occupations meeting the definition of “home occupation” found in § 154.011 of this chapter;

(f) Telecommunication facilities that meet the height requirements of this district if free-standing or may be allowed up to 70 feet in height if located on an existing structure; and

(g) Signs, as regulated in § 154.090 of this chapter.

(4) *Conditional uses.* Within the R-1 Single-Family Residential District, no structure or land shall be used for the following uses, except by conditional use permit and in conformance with the standards found in § 154.067 of this chapter:

(a) Double-family residential dwellings;

(b) Educational facilities and religious institutions that may include state-licensed day care facilities serving more than six persons;

(c) Public buildings and facilities greater than 1,000 square feet in area, such as water treatment facilities, wastewater treatment plants, water towers and other similar uses;

(d) Home occupations not meeting the definition of a “home occupation”, as found in § 154.011 of this chapter; and

(e) Community boathouses.

(5) *Interim uses.* Retail solar electric systems.

(6) *District standards.* No building or land in the R-1 Single-Family Residential District shall be used, except in conformance with the following:

(a) Minimum lot area: 10,000 square feet per dwelling unit;

(b) Minimum lot width: 70 feet;

(c) Maximum structure to lot coverage: 35%;

(d) Maximum structure height: 35 feet;

(e) Minimum front yard setbacks requirements (all structures) from property line:

1. Front yards abutting right-of-way of new minor arterial or collector roadways constructed after the date of adoption of this chapter: 50 feet;

2. Front yards abutting right-of-way of local streets: 25 feet; and

3. Minimum setbacks:

a. Corner lot:

- i. Principal structures: 25 feet; and
- ii. Accessory structures: 15 feet.

b. Interior:

i. Side:

- (A) Principal structures: ten feet; and
- (B) Accessory structures: five feet.

ii. Rear:

- (A) Principal structures: 30 feet; and
- (B) Accessory structures: ten feet.

(f) All uses shall comply with the provisions of §§ 154.080 through 154.092 of this chapter.

(C) *R-2 - Multiple-Family Residential District.*

(1) *Purpose.* The purpose of the R-2 Multiple-Family Residential District is to provide area for multiple-family dwelling units consistent with the medium density residential land use designation in the Comprehensive Plan. Residential development within the R-2 Multiple-Family Residential District shall occur at densities that are more than four dwelling units per net acre, but do not exceed ten dwelling units per net acre. Greater densities per net acre may be allowed at the discretion of the City Council to achieve city goals for life cycle and affordable housing.

(2) *Permitted uses.* Within any R-2 Multiple-Family Residential District, no structure or land shall be used, except for one or more of the following uses:

- (a) Double-family residential dwellings, townhouses and multiple-family dwellings; and
- (b) Public and private parks, athletic fields, playgrounds and open space.

(3) *Accessory uses.* Within any R-2 Multiple-Family Residential District, the following uses shall be permitted accessory uses:

- (a) Private garages and parking spaces, detached decks, gazebos, fences and similar structures;
- (b) Private swimming pools meeting state rules, tennis courts and other recreational facilities for exclusive use by the residents of the property;
- (c) Solar collection and geo-thermal heating and cooling systems used in conjunction with permitted uses;
- (d) Personal receive-only satellite dish antennas, other personal antenna devices and amateur radio devices;
- (e) Signs as regulated by § 154.090 of this chapter;
- (f) Telecommunication facilities that meet the height requirements of this district if free-standing or may be allowed up to 70 feet in height if located on an existing; and
- (g) Home occupations meeting the definition of “home occupation”, found in § 154.011 of this chapter.

(4) *Conditional uses.* Within the R-2 Multiple-Family Residential District, no structure or land shall be used for the following uses, except by conditional use permit and in conformance with the standards found in § 154.067 of this chapter:

- (a) A state-licensed residential facility serving from seven through 16 persons;
- (b) A state-licensed day care facility serving from 13 through 16 persons;
- (c) Educational facilities and religious institutions that may include state-licensed day care facilities serving more than six persons;
- (d) Public buildings and facilities greater than 1,000 square feet in area such as water treatment facilities, wastewater treatment plants, water towers and other similar uses; and
- (e) Home occupations not meeting the definition of a “home occupation”, as found in § 154.011 of this chapter.

(5) *Interim uses.* Retail solar electric systems.

(6) *District standards.* No building or land in the R-2 Multiple-Family Residential District shall be used, except in conformance with the following:

(a) Minimum lot area:

1. Double-family residential dwelling: 12,000 square feet per building;
2. Townhomes: 20,000 square feet per building; and
3. Multiple-family dwellings: 35,000 square feet per building.

(b) Density:

1. Minimum of four dwelling units per net acre to a maximum of ten dwelling units per net acre; and
2. The City Council, at its discretion, may allow additional density up to 16 units per net acre to achieve city goals for life cycle and affordable housing structure.

(c) Minimum lot width: 150 feet;

(d) Maximum structure-to-lot coverage: 50%;

(e) Maximum structure height: 35 feet;

(f) Minimum front yard setbacks requirements (all structures) from property line:

1. Front yards abutting right-of-way of new minor arterial or collector roadways constructed after the date of adoption of this chapter: 50 feet;
2. Front yards abutting right-of-way of local streets: 30 feet;
3. Minimum rear yard setback from property line: 30 feet;
4. Minimum side yard setback from property line: 15 feet, plus two feet for every foot by which the building exceeds 25 feet in height; and
5. Minimum building spacing: if more than one multiple-family building is proposed for one lot of record, building spacing for the structures shall be equal to one-half the average height of each structure.

(g) All uses shall comply with the provisions of §§ 154.080 through 154.092 of this chapter.

(D) *B - Business/Commercial District.*

(1) *Purpose.* The B - Business/Commercial District is established to provide areas for business and mixed residential/commercial uses in the downtown area where apartments are located above

businesses as designated in the Comprehensive Plan. The B -Business/Commercial District standards are designed to accommodate retail, commercial and office uses as well as residential uses located above business establishments.

(2) *Permitted uses.* Within any B - Business/Commercial District, no structure or land shall be used, except for one or more of the following uses:

- (a) Retail, office or business service uses within an enclosed building;
- (b) Residential dwelling units within the same building as a retail, office or business service use;
- (c) Hotels and motels and associated recreational uses for guests;
- (d) Restaurants and on-sale liquor establishments within an enclosed building;
- (e) Automobile service stations and other retail uses having service bays and/or gas pump islands;
- (f) Automobile repair garages;
- (g) Municipal buildings; and
- (h) Public parks, athletic fields, playgrounds and open space.

(3) *Accessory uses.* Within any B - Business/Commercial District, the following uses shall be permitted accessory uses:

- (a) Private garages, off-street parking and loading spaces;
- (b) Fences;
- (c) Storage, manufacturing and servicing related to a permitted use and occupying no more than 30% of the gross floor area of the principal structure;
- (d) Solar collection and geo-thermal heating and cooling systems used in conjunction with permitted uses;
- (e) Signs as regulated by § 154.090 of this chapter;
- (f) Personal receive-only satellite dish antennas, other personal antenna devices and amateur radio devices; and
- (g) Telecommunication facilities that meet the height requirements of this district if free-standing or may be allowed up to 80 feet in height if located on an existing structure

(4) *Conditional uses.* Within the B - Business/Commercial District, no structure or land shall be used for the following uses, except by conditional use permit and in conformance with the standards found in § 154.067 of this chapter:

- (a) A state licensed day care facility;
- (b) Outdoor dining areas associated with restaurants and on-sale liquor establishments;
- (c) Uses having a drive-up window; and
- (d) Telecommunication facilities that exceed 80 feet in height.

(5) *Interim uses.* Retail solar electric system.

(6) *District standards.* No building or land in the B - Business/Commercial District shall be used, except in conformance with the following:

- (a) Maximum structure height: 40 feet;
- (b) Side and rear yard setback adjacent to a residential district: ten feet; and
- (c) All uses shall comply with the provisions of §§ 154.080 through 154.092 of this chapter.

(E) *I - Industrial District.*

(1) *Purpose.* The I - Industrial District is established to provide areas for industrial uses that are separate from residential land uses and located adjacent to major road networks as designated in the Comprehensive Plan. The Industrial District standards are designed to accommodate business, warehouse and manufacturing uses.

(2) *Permitted uses.* Within any I - Industrial District, no structure or land shall be used, except for one or more of the following uses:

- (a) Research and development within an enclosed building;
- (b) Business service uses and offices within an enclosed building;
- (c) Manufacturing, assembly, warehousing, storage and fabricating within an enclosed building;
- (d) Public buildings and facilities such as maintenance facilities, water treatment facilities, wastewater treatment plants, water towers and other similar uses; and

(e) Public parks, athletic fields, playgrounds and open space.

(3) *Permitted accessory uses.* Within any I - Industrial District, the following uses shall be permitted accessory uses:

(a) Private garages, off-street parking and loading spaces;

(b) Fences;

(c) Solar collection and geo-thermal heating and cooling systems used in conjunction with permitted uses;

(d) Signs as regulated by § 154.090 of this chapter;

(e) Personal receive-only satellite dish antennas, other personal antenna devices and amateur radio devices; and

(f) Telecommunication facilities that meet the height requirements of this district if free-standing or may be allowed up to 80 feet in height if located on an existing structure

(4) *Conditional uses.* Within any I - Industrial District, no structure or land shall be used for the following uses, except by conditional use permit and in conformance with the standards found in § 154.067 of this chapter:

(a) Telecommunication facilities that exceed 80 feet in height;

(b) Permanent outside storage of materials; and

(c) Adult uses.

(5) *Interim uses.* Retail and wholesale solar electric system.

(6) *District standards.* No building or land in the I - Industrial District shall be used, except in conformance with the following:

(a) Minimum lot area: 30,000 square feet;

(b) Minimum lot width: 100 feet;

(c) Maximum hard surface lot coverage: 85%;

(d) Maximum structure height: 40 feet;

(e) Minimum front yard setbacks requirements (all structures) from property line:



1. Front yards abutting right-of-way of new minor arterial or collector roadways constructed after the date of adoption of this chapter: 50 feet; and

2. Front yards abutting right-of-way of local streets: 30 feet.

(f) Minimum setbacks (all structures) from property line:

1. Corner lot: 30 feet;

2. Interior lot side yard: 15 feet; and

3. Rear yard: 30 feet.

(g) All uses shall comply with the provisions of §§ 154.080 through 154.092 of this chapter.

(F) *Planned Unit Development (PUD) District.*

(1) *Purpose.*

(a) The Planned Unit Development (PUD) District is established to allow flexibility in the design, density and intensity of development within areas served by municipal sewer, water and services. The PUD District is designed to be utilized in areas that are newly annexed to the city and where mixed uses require greater flexibility in the application of zoning standards to achieve the goals and policies of the Comprehensive Plan.

(b) The city will apply the PUD District to new development areas or redevelopment to allow for a greater variety of uses, varying residential density within the development and phasing of development and public improvements. Developments that utilize the PUD approach shall demonstrate high quality and sustainable development practices when compared to the use of the other applicable zoning districts.

(2) *General PUD District standards and requirements.*

(a) Dimensional requirements of the city zoning districts may be modified or varied for a PUD in exchange for higher design standards, site preservation techniques, extraordinary parkland development, pedestrian circulation, trails linkage to other neighborhoods and community destinations and other unique development considerations.

(b) Variations from the dimensional standards of the zoning district standards and other standards of this chapter shall only be approved when it is determined by the City Council that the variations are commensurate with benefits to the planned neighborhood and overall community. The a determination shall include, but not be limited to, the following considerations:

1. Master site planning and creative design in the proposed development of the land and uses;
2. Variety in housing styles and housing types including provisions for life-cycle and affordable housing opportunities;
3. Architectural design components and controls for all planned uses and structures;
4. Protection and incorporation of unique natural features into the planned development;
5. Creation of larger expanses of usable public and private open spaces, recreational facilities and pedestrian accesses throughout the proposed development;
6. Landscaping for all proposed land uses, public and private parks, major transportation corridors and transition areas between land uses;
7. Screening of residential uses from major transportation corridors and dissimilar land uses;
8. Compatibility with the Comprehensive Plan and the goals and policies of the city;
9. Compatibility with existing and potential development patterns and transitions between land uses within and adjacent to the proposed development; and
10. Consistency with the general intent of this chapter and compliance with §§ 154.080 through 154.092 of this chapter.

(c) The city shall require the following items be satisfied, as determined by the City Council, for any PUD District:

1. Private homeowner covenants to guarantee adherence to architectural standards, to implement master planning components of the proposed development and to satisfy required private and public area maintenance provisions; and
2. Financial participation in off-site improvements required to connect the proposed development to existing and planned neighborhoods and existing and planned public utility and transportation infrastructure.

(d) The review and approval of a PUD is a discretionary action by the City Council and the eligibility of a proposed development as a PUD shall be determined solely by the city.

(3) *Uses and development standards.*

(a) *Permitted, accessory and conditional uses.*

1. Each PUD District shall only be used for the use or uses for which the site is designated in the Comprehensive Plan; except that, the city may permit up to 25% of the gross floor area of all buildings in a PUD District to be used for land uses for which the site is not designated in the Comprehensive Plan if the City Council finds that the use is in the best interests of the city and is consistent with the requirements of this section.

2. Within residential areas of PUD Districts:

a. All permitted uses and accessory uses of the R-1 Single-Family Residential District and R-2 Multiple-Family Residential District are allowed; and

b. All uses allowed by conditional use permit within the R-1 Single-Family Residential District and R-2 Multiple-Family Residential District are allowed by conditional use permit, subject to the standards of § 154.067 of this chapter.

3. Within commercial areas of PUD Districts:

a. All permitted uses and accessory uses of the B - Business/Commercial District are allowed in the business areas of the PUD District; and

b. All uses allowed by conditional use permit within the B - Business/Commercial District are allowed by conditional use permit within the business areas of the PUD District, subject to the standards of § 154.067 of this chapter.

4. Within industrial areas of PUD Districts:

a. All permitted uses and accessory uses of the I- Industrial District are allowed in the industrial areas of the PUD District; and

b. All uses allowed by conditional use permit within the I - Industrial District are allowed by conditional use permit within the industrial areas of the PUD District, subject to the standards of § 154.067 of this chapter.

(b) *Design of development.*

1. PUDs shall require compatible street landscaping, street lighting and parking lot lighting throughout the development. The quality and amount of landscaping, screening and buffering between dissimilar uses shall be a major component of the PUD master development plan and final site and building plan reviews.

2. Architectural features and controls shall be a major component of all PUDs and all mixed-use PUDs will require compatibility of architectural features between dissimilar uses.

(c) *Residential density.*

1. Each residential PUD or the residential portion of each mixed-use PUD shall have a density within the range specified in the Comprehensive Plan for the property.

2. If the property is designated for non-residential use in the Comprehensive Plan, the appropriate density shall be determined by the City Council based upon the housing and land use policies of the Comprehensive Plan and the design of the Master Development Plan.

3. An increase in the density allowed by the Comprehensive Plan for the property for any residential uses shall result in corresponding increase in the amount or quality of the following:

- a. Usable open space, recreational amenities and pedestrian ways;
- b. Architectural features, housing styles and housing variety;
- c. Landscaping, screening and streetscape amenities;
- d. Environmental protection and controls; and
- e. Site design and development control.

(d) *Dimensional standards.*

1. The dimensional standards applied to lots, uses and structures within a PUD District shall be established by the city in the review and approval process, except as follows.

a. The setback for all buildings from the exterior boundary of the PUD District shall be 30 feet, except if abutting a new collector or arterial street as designated in the Comprehensive Plan, the setback shall be 50 feet.

b. Building setbacks from internal public or private streets within the PUD shall be determined by the city based on characteristics of the specific design of the PUD.

c. Parking lots and driving lanes shall be set back at least 20 feet from all exterior boundary of a PUD District.

2. The city shall have total discretion in establishing dimensional criteria, and departures from the standards of this chapter shall be based upon the level of site plan detail, architectural quality and controls, overall master planning, utility and roadway capacity, neighborhood and community benefit, public safety issues and overall development controls.

(e) *Open space and park requirements.*

1. Each residential PUD District or residential area of a mixed-use PUD District shall provide a minimum of 10% of the gross project area in open space, recreational uses or public recreation and park uses in accordance with § 153.074 of this code of ordinances.

2. The city shall determine whether open space provisions and recreational amenities shall be publicly dedicated or privately owned and maintained.

(f) *Subdivision and public utilities.* The city may modify the design standards for streets, utilities, public facilities and other standards as established in Ch. 153 of this code of ordinances to the uniqueness of the PUD; provided, the city finds that strict adherence to the requirements or specifications is not required to meet the intent of this section or to protect the health, safety or welfare of the residents of the PUD, the surrounding area or the city as a whole.

(g) *Other requirements.*

1. Private covenants, restrictions, homeowner association agreements or other acceptable mechanisms to the city are required for private open space and recreation areas, and specific improvements on public property, such as landscaped medians or subdivision monuments and design features within public rights-of-way, that guarantee perpetual private maintenance of the areas and improvements.

2. Signs shall be restricted to those which are permitted in a sign plan approved by the city and shall be regulated by permanent covenants.

(h) *Variations.* Nothing in this division (F)(3) shall be construed to approve or permit variations in construction materials, quality, Building Codes, Electrical Codes, Plumbing Codes, Fire Codes, design or construction of public improvements, which in any way suggest substandard or inferior development or construction.

(4) *PUD District review process and procedure.*

(a) *Review process.*

1. All PUD Districts requiring the subdivision of land shall follow the platting requirements of Ch. 153 of this code of ordinances.

2. Mandatory or discretionary review of the potential environmental effects of the proposed development may be required prior to the submission of a PUD sketch plan and preliminary plat.

3. A property shall be rezoned to PUD District by the city concurrent with the adoption of a master plan for development of the property by the city.

4. No building or grading permit shall be issued by the city for property that is zoned PUD District unless a master development plan has been approved for development of the property, and the applicant has received approval by the city of a final site plan for the development or applicable phase of development of the property.

(b) *Procedure.*

1. *Sketch plan review.*

a. The applicant may submit a sketch plan for review and comment by the Planning Commission and City Council Prior to submission of a formal application for a master development plan. Comments made by the Planning Commission and the City Council shall not bind the city to approve any applications for development of the property.

b. The Planning Commission and City Council shall review the sketch plan after a complete application has been submitted to the city's Clerk-Treasurer. The application shall be accompanied by the following information:

i. The name and address of the owner and applicant (if different) of the property;

ii. A map depicting the existing physical conditions of the property including all improvements, existing development, mature tree locations and location of wetlands and any water feature;

iii. Existing land uses and zoning of properties within 350 feet of the property; and

iv. General schematic drawings of the proposed development of the property including approximate building, parking area and road/driveway locations; use, height, bulk and area of buildings; the number and density of dwelling units; and the location of open space

c. Prior to the Planning Commission meeting, the city's Clerk-Treasurer shall mail notice at least ten days prior to the meeting to residents within 350 feet of the property advising of the date and time of the Commission meeting that the sketch plan review is scheduled.

d. The Planning Commission shall forward its comments regarding the sketch plan to the City Council within 30 days of the Planning Commission meeting.

e. The City Council shall review the sketch plan and Planning Commission comments and provide advisory direction to the applicant regarding the sketch plan.

2. *Master development plan and PUD District zoning amendment application and review.*

a. The applicant shall submit an application for the review of a master development plan and rezoning to the city's Clerk-Treasurer.

b. The application shall be deemed complete when accompanied by the following information submitted by the applicant that collectively represents the master development plan:

i. A map depicting the location and characteristics of existing physical conditions of the property including, but not limited to, all improvements and development, mature trees, topography at two foot contours, the delineation of wetlands and any water features;

ii. Existing land uses and zoning of properties within 350 feet of the property;

iii. Proposed land uses and building locations along with the height, bulk and gross square footage of the uses including the number and size of any dwelling units;

iv. The location and design of proposed parking areas, roadways, access drives, trails and walkways;

v. Type and square footage of required open space, park and recreational areas;

vi. Preliminary grading and drainage plan, including water storage areas, drainage calculations and erosion control measures;

vii. Preliminary landscape plan indicating the species, size and planting specifications and tree preservation;

viii. A narrative or drawing describing the preliminary exterior elevations of the proposed buildings (principal and accessory) including the type and color of building materials, floor plans and overall lighting and signage scheme;

ix. A preliminary plat of the property in conformance with the procedures and requirements of Ch. 153 of this code of ordinances, unless modified by this section;

x. A narrative describing the development objectives of the project, proposed development features, all proposed exceptions to or departures from conventional development standards as defined within this chapter, anticipated development timing or phases, a description of covenants or other restrictions proposed for the development; and

xi. A traffic impact analysis, if determined to be necessary by the city.

c. The procedures to review on the master development plan shall occur concurrently with the review of a rezoning to PUD District and shall follow the same procedures as a zoning amendment established in § 154.060 of this chapter.

d. The Planning Commission shall base its comments and the City Council shall base its actions regarding the application for a master development plan and zoning amendment on consideration of:

i. The effect of the development on the neighborhood and surrounding area of the city;

ii. The impacts of the development on community facilities including, but not limited to, adjacent roadways, utilities and parks;

iii. The quality of design of the project and its relationship to adjacent planned uses;

iv. The compliance of the application with the purpose and requirements of the PUD District as specified above; and

v. Other such factors as the city finds relevant to the evaluation of the application.

e. The Planning Commission shall recommend and the City Council shall approve, approve with modifications, deny or extend action if agreed to by the applicant, the application for the master development plan and zoning amendment. The City Council shall state the reasons for any extension of consideration of the application and the anticipated length of the extension in a written notice to the applicant.

f. The City Council shall state its reasons for approval, approval with modifications or denial of the application with written notice of the action and reasons provided to the applicant.

g. If approval or approval with modifications of the application is granted, the Planning Commission may recommend and City Council may attach reasonable conditions to ensure that implementation of the master development plan is consistent with the representations made by the applicant to the City for the project and other conditions deemed necessary and convenient to accomplish the purposes of this zoning district.

### 3. *Final site plan.*

a. Approval of a final site plan by the city is required for each master development plan or each phase of the master development plan.



b. A complete final site plan application shall be submitted to the city's Clerk-Treasurer, containing the following information:

i. Final development plan details, including grading and drainage, erosion control, landscaping and required modifications, except for phased developments;

ii. Detailed site and exterior architectural plans for all non-single-family detached residential uses. The city's Clerk-Treasurer may require the submission of additional information necessary to evaluate the final site and building plans with the approved master plan; and

iii. Draft covenants and documents for a homeowners association, condominium association or other joint maintenance mechanism for review by the city attorney and approval by the city that includes ownership and membership requirements; organization of the association; time at which the applicant turns the association over to the members; approximate monthly or yearly association fee for members; specific listing of items owned in common including such items as roads, recreational facilities, parking, common open spaces and utilities; and any public areas subject to association maintenance.

c. The final site and building plan shall be consistent with the approved Master Plan, except as modified and approved by the city.

d. The applicant may request review and consideration of a combined master development plan and final site plan by the Planning Commission and City Council by submitting all information required for both reviews simultaneously to the city in accordance with the procedures established above.

e. The Planning Commission shall recommend and the City Council shall approve, approve with modifications or deny the final site plan. The action shall be based upon the determination that the final site plan is consistent or inconsistent with the approved master development plan.

*(5) Development agreement and financial security.*

(a) A development agreement shall be entered into with the city to ensure compliance with the terms and conditions of an approved master development plan. The development agreement shall include the uses permitted in the master development plan and all other special conditions and features of the master development plan. The development agreement may be combined with the development agreement required for subdivisions as established in Ch. 153 of this code of ordinances to assure conformance with all ordinance requirements and financial guarantees.

(b) Financial security shall be submitted to the city in a form acceptable to the city attorney prior to the issuance of any permits by the city to assure that all improvements are constructed consistent with the master development plan and any conditions placed on the approval of the master development plan by the City Council.

1. The financial security may be combined with that required for subdivision improvements, as established in the development agreement and approved by the City Council.

2. The city may reduce the financial security after completion of specific segments of the improvements on the PUD District property; provided that, the improvements are installed in a satisfactory manner as determined by the city.

(6) *Amendments.*

(a) An amendment to the master development plan shall be required for any proposed development that does not substantially comply with the master development plan approved by the city. ***SUBSTANTIAL COMPLIANCE*** shall mean:

1. There is no change in use of any areas of the master development plan;
2. There is no change to the phases of development, if a phased master development plan is approved by the city;
3. The location of buildings, parking areas or roads are generally in the same location as approved in the master development plan;
4. There is no increase or decrease in the:
  - a. The number of residential dwelling units by more than 5%; and
  - b. The gross floor area of non-residential buildings by more than 5% or of any individual building by more than 10%.
5. The number of stories of any building has not increased;
6. The amount of open space is not altered in such a way as to change its original design or intended use; or
7. Any change creates non-compliance with any condition attached to the approval of the master development plan.

(b) Any other amendment may be made approved by the city's Clerk-Treasurer; however, the city's Clerk-Treasurer may request final review and approval of the amendment by the City Council.

(c) The application and review of the amendment to the master development plan requiring City Council review shall follow the same procedure as for the original review of the master development plan.

(7) *Term of approval.*

(a) If the applicant fails to obtain final site plan review for all or a part of the property within one year from the date of master development plan and rezoning approval, the City Council may rezone the property to the original zoning classification at the time of the PUD District rezoning application or to a zoning classification consistent with the Comprehensive Plan designation for the property. In the absence of a rezoning, the approved master development plan shall remain the legal control governing development of the property.

(b) The applicant may request in writing and the City Council may approve an extension of time for the applicant to obtain final site plan review for all or a part of the property. The request for extension must be considered by the City Council before one year has elapsed from the date of master development plan and PUD District rezoning approval.

(Ord. 100, passed 11-15-2011; Ord. 100A, passed - -2016; Ord. 100B, passed - -2018; Ord. 114, passed 5-5-2020)

**§ 154.067 CONDITIONAL USE PERMIT STANDARDS.**

(A) *Purpose.*

(1) The city has established conditional uses within the zoning districts for uses that typically possess unique characteristics that have the potential to impact adjacent land uses and city services. The city has adopted general standards and specific criteria for conditional uses to ensure that their location, size and design are consistent with the standards, purposes and procedures of this chapter and the Comprehensive Plan.

(2) In accordance with the provisions of state law and to effect the purpose of this chapter, the Planning Commission may recommend and the City Council may impose conditions on such uses to achieve the purpose of this chapter.

(B) *General conditional use permit standards.*

(1) No conditional use permit shall be granted unless the City Council finds that:

(a) All of the standards contained in this chapter and this chapter will be met;

(b) The use is consistent with goals and policies of the Comprehensive Plan;

(c) The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;

(d) The use will not negatively impact the use and enjoyment of other properties and uses in the immediate vicinity;

(e) The use will not impede planned development and improvement of the property, including the provision of municipal utilities, storm water drainage, roadways and access; or the planned development of surrounding properties in accordance with the Comprehensive Plan and the standards of this chapter; and

(f) The use does not have an undue adverse impact on the public health, safety or welfare.

(2) A conditional use shall conform to the following specific standards according to the zoning district in which it is located.

(a) *A - Agricultural District.*

1. Religious institutions that may include state-licensed day care facilities serving more than six persons shall meet the following conditions.

a. No building or structure shall be located within 35 feet of any lot line of an R-1 Single-Family Residential District, except for buildings, and structures that contain less than 1,000 square feet in area.

b. The use shall have access on a collector or arterial roadway or be designed to minimize excessive traffic on local residential streets.

c. The parking setbacks shall be the same as required for permitted structures.

d. Outdoor recreation and play areas shall be located a minimum of 20 feet from properties zoned R-1 Single-Family Residential District.

e. All maintenance-related equipment shall be kept within an enclosed structure.

f. Play areas located adjacent to public right-of-way shall be separated from the right-of-way by a landscaped yard area of at least 20 feet or a fence that meets the requirements of §§ 154.080 through 154.092 of this chapter.

g. Landscaping shall be provided that is in keeping with the neighborhood and provides screening where appropriate.

h. Site plan review approval shall be by the City Council.

2. Public buildings and facilities that are greater than 1,000 square feet in area such as water treatment facilities, wastewater treatment plants, water towers and other similar uses shall meet the following conditions.

a. No building or structure shall be located within 35 feet of any lot line of an R-1 Single-Family Residential District, except for buildings and structures that contain less than 1,000 square feet in area.

b. The use shall have access on a collector or arterial roadway or be designed to minimize excessive traffic on local residential streets.

c. The parking setbacks shall be the same as required for permitted structures.

d. All maintenance-related equipment shall be kept within an enclosed structure.

e. Landscaping shall be provided that is in keeping with the neighborhood and provides screening where appropriate.

f. Site plan review approval shall be by the City Council.

3. Home occupations not meeting the definition of a “home occupation”, as found in § 154.011 of this chapter shall meet the following conditions:

a. Only limited retail sales activity;

b. No exterior signs;

c. Maximum of one outside employee;

d. Adequate off-street parking is available based on the number of employees and customers per day;

e. Parking area screened from off site views;

f. No outside storage;

g. Shall not result in significant levels of noise, air or other pollution;

h. Business hours restricted to no earlier than 8:00 a.m. and no later than 9:00 p.m.; and

i. Outside parking of no more than one commercial type vehicle or vehicle identified for business purposes and meeting the following requirements.

i. The vehicle shall not exceed one and one-half-ton capacity.

ii. The vehicle shall be owned and registered by an occupant of the property and parked in a paved parking area.

(b) *R-1 - Single-Family Residential District.*

1. Double-family residential dwellings shall meet the following conditions:
  - a. Shall meet the district standards found in Chapter VIII {Zoning Districts}, Section 2, subd. B, subpart 6 of this chapter;
  - b. Shall meet the parking standards found in Chapter X, (Performance Standards) of this chapter; and
  - c. Site plan review approval by the City Council.
2. Educational facilities and religious institutions that may include state-licensed day care facilities serving more than six persons shall meet the conditions listed in division (B)(1)(a) above for religious institutions of this section.
3. Public buildings and facilities greater than 1,000 square feet in area, such as water treatment facilities, wastewater treatment plants, water towers and other similar uses, shall meet the conditions listed in divisions (B)(1)(b) above.
4. Home occupations not meeting the definition of a “home occupation”, as found in § 154.011 of this chapter shall meet the conditions listed in division (B)(1)(c) above.
5. Community boathouses shall meet the following conditions:
  - a. No retail or commercial activity may occur on the premises;
  - b. If bathrooms or kitchen facilities are constructed within the building, the building shall be connected to the public sanitary sewer and water system;
  - c. Sufficient parking shall be provided based on estimated usage of the facility;
  - d. Storage or use of the community boathouse by persons not residing within the planned residential community shall be prohibited; and
  - e. Shall meet the setback requirements for a principal building.

(c) *R-2 - Multiple Family Residential District.*

1. A state-licensed residential facility serving from seven through 16 persons shall meet the following conditions.
  - a. The facility must be in compliance with all applicable state licensing requirements and City and State Building and Fire Codes.

b. The facility shall have adequate off-street parking to accommodate one parking space for each employee on the major shift.

2. A state licensed day care facility serving from 13 through 16 persons shall meet the following conditions.

a. The facility must be in compliance with all applicable state licensing requirements and all applicable City and State Building and Fire Codes.

b. The facility shall have adequate off-street parking to accommodate one parking space for each employee on the major shift.

c. The site shall have loading and drop off points designed to avoid interference with traffic patterns and pedestrians.

d. Outdoor recreation and play areas shall be located at least 20 feet from properties zoned R-1 Single-Family Residential District and buffered or screened by appropriate landscape and/or fencing materials.

e. Play areas located adjacent to public right-of-way shall be separated from the right-of-way by a landscaped yard area of at least 20 feet or a fence that meets the requirements of §§ 154.080 through 154.092 of this chapter.

3. Educational facilities and religious institutions that may include state-licensed day care facilities serving more than six persons shall meet the conditions listed in division (B)(1)(a) above for religious institutions of this section.

4. Public buildings and facilities greater than 1,000 square feet in area, such as water treatment facilities, wastewater treatment plants, water towers and other similar uses, shall meet the conditions listed in division (B)(1)(b) above.

5. Home occupations not meeting the definition of a “home occupation”, as found in § 154.011 of this chapter shall meet the conditions listed in division (B)(1)(c) above.

(d) *B - Business/Commercial District.*

1. A state-licensed day care facility shall meet the following conditions.

a. The building shall have access on a collector or arterial roadway or be designed to minimize excessive traffic on local residential streets.

b. The facility must be in compliance with all applicable state licensing requirements and all applicable City and State Building and Fire Codes.

- c. The parking setbacks shall be the same as required for permitted structures.
- d. Outdoor recreation and play areas shall be located a minimum of 20 feet from properties zoned R-1 Single-Family Residential District and R-2 Multiple-Family Residential District.
- e. All maintenance-related equipment shall be kept within an enclosed structure.
- f. Play areas located adjacent to public right-of-way shall be separated from the right-of-way by a landscaped yard area of at least 20 feet or a fence that meets the requirements of §§ 154.080 through 154.092 of this chapter.
- g. Landscaping shall be provided that is in keeping with the neighborhood and provides screening where appropriate.

2. Outdoor dining areas associated with restaurants and on-sale liquor establishments shall meet the following conditions:

- a. The design and placement of the outdoor dining area shall comply with the following:
  - i. Shall not be located to obstruct parking spaces or replace the number of required parking spaces;
  - ii. Shall comply with building setback requirements;
  - iii. Railings or fencing shall be used to surround the outdoor dining area and access to the outdoor dining area shall be only through the principal building;
  - iv. Refuse containers shall be provided and periodically patrolled for litter pickup; and
  - v. All exterior lighting shall be directed away from any residential property.
- b. Outdoor dining may be allowed between the hours of 11:00 a.m. to 1:00 a.m. or as established by the City Council as part of issuance a liquor license;
- c. Noise levels from the outdoor dining area shall maintain compliance with this chapter, city ordinances and state law; and
- d. Shall be in compliance with of the provisions of the liquor license issued by the City Council and state law requirements

3. Uses having a drive-up window shall meet the following conditions:



- a. Shall not be located adjacent to any residential lot lines;
  - b. Shall be provided with a suitable visual screen from adjacent properties; and
  - c. Stacking for a minimum of two cars per aisle shall be provided within applicable parking lot setbacks.
4. Telecommunication facilities that exceed 80 feet in height shall meet the following conditions:
- a. New telecommunications antennas must be co-located on existing structures in the city, unless it can be documented that it is impractical to co-locate on an existing structure because of:
    - i. Technical performance;
    - ii. System coverage or system capacity;
    - iii. An existing structure cannot support co-location from a structural engineering standpoint; or
    - iv. The lease rate of an existing structure is not “rate reasonable”. Rate reasonable shall mean that the co-location lease rate is not more than 150% of the co-location lease rate for towers within ten miles, for which the lease rate information can be obtained. The determination that co-location on an existing structure is not practical because of technical performance, system coverage or system capacity shall be supported by findings from a qualified engineer.
  - b. New telecommunication towers shall be designed and constructed to permit the future co-location of other commercial wireless telecommunication services.
  - c. The height of a new telecommunication tower shall not be greater than 150 feet in height, unless the applicant demonstrates to the City Council the need for the increased height. The reason for the increase in height must be supported by findings from a qualified engineer.
  - d. Telecommunications tower and antenna design shall meet the following requirements.
    - i. Towers and antennas shall be located and designed to blend into the surrounding environment to the maximum extent possible.
    - ii. Towers shall be of a monopole design unless it is determined that an alternative design would be appropriate for the particular site or circumstances.

iii. All towers shall be painted in a color best determined by the city to blend into the particular environment.

e. Telecommunications tower setbacks shall meet the following.

i. All towers shall be setback from structures, rights-of-way and property lines at a distance equal to the height of the towers and antennas.

ii. The setbacks may be reduced to a distance agreed upon by the city, if the applicant for the tower furnishes a registered engineer's certification that the tower is designed to collapse or fall within a distance or zone shorter than the total tower height.

iii. The city may waive or modify setback requirements for antennae proposed to be co-located on existing towers or structures.

f. Telecommunication towers and antennas shall not be illuminated unless required by the state or any federal agency.

g. The site area for telecommunications towers and accessory facilities shall be totally fenced in to discourage access by unauthorized persons. The city shall review and approve or modify all plans for fencing and security measures.

(e) *I - Industrial District.*

1. Telecommunication facilities that exceed 80 feet in height shall meet the conditions listed in division (B)(4)(d) above.

2. Permanent outside storage of materials shall meet the following standards.

a. The materials must be utilized in conjunction with the business occurring on the property.

b. All outdoor storage areas shall be completely screened from roads or developed areas with a solid fence or a 20-foot wide landscaped area consisting of coniferous plantings that are a minimum of six feet in height when planted. The fence or landscaped area shall be maintained in good condition on a continual basis.

c. No outdoor storage areas shall be located closer than 50 feet to any R-1 Single-Family Residential or R-2 Multiple-Family Residential District.

d. All storage areas open to vehicles must be paved with asphalt surfacing, crushed rock or other dust-free materials.

e. No outside storage of maintenance equipment, trucks over one and one-half tons in weight or stockpiling of materials shall be permitted.

3. Adult uses shall meet all requirements of §§ 154.105 through 154.107 of this chapter.  
(Ord. 100, passed 11-15-2011)

### ***PERFORMANCE STANDARDS***

#### **§ 154.080 PURPOSE.**

The purpose of this subchapter is to establish minimum standards to guide development in a manner that promotes a compatible relationship of uses, minimizes pollution and protects public health and safety; provided, certain standards are maintained to manage the impacts of the development, design and use of property. Permitted, conditional use, accessory and interim uses within all zoning districts shall conform to standards within this subchapter.

(Ord. 100, passed 11-15-2011)

#### **§ 154.081 TRAFFIC VISIBILITY.**

(A) No wall, fence, structure, tree, shrub, vegetation or other obstruction shall be permitted in any yard or setback which poses a danger to traffic by obscuring the view from any street or roadway.

(B) Visibility from any street or roadway shall be unobstructed above the height of two and one-half feet within the triangle described as beginning from a point at the paved edge of the intersection, two sides of which extend a distance of 30 feet along the edge of each street and the third side being a line connecting the other sides.

(Ord. 100, passed 11-15-2011) Penalty, see § 10.99

#### **§ 154.082 ACCESSORY BUILDINGS AND STRUCTURES.**

(A) A building permit is required for any accessory structures as regulated by the Minnesota State Building Code, as may be amended from time to time.

(B) No accessory buildings or structures shall be permitted on any lot without a principle building, except as follows:

(1) Fences, in compliance with § 154.084 of this chapter; and

(2) A temporary construction office for development of the property provided the temporary construction office shall be removed immediately following completion of the project.

(C) Setbacks shall be a minimum of five feet from all property lines, or as allowed by the zoning district.

(D) Accessory structures shall not be used as an occupied dwelling unit.

(E) The maximum size of the combined area of all accessory structures on one lot shall not exceed 1,200 square feet.

(F) Structures utilizing pole-style construction methods shall have concrete floors.

(G) Shipping containers, storage containers, fabric/poly/plastic-covered structures, and hoop-framed structures shall not be used as permanent accessory structures.

(H) Siding and roof covering materials for accessory structures that are regulated by the Minnesota State Building Code shall be of the same style siding and roofing materials as the principal building. (Ord. 100, passed 11-15-2011; Ord. 116, passed 8-4-2020) Penalty, see § 10.99

### **§ 154.083 SWIMMING POOLS.**

(A) No swimming pool shall be constructed, erected, repaired or altered without first obtaining the necessary building, plumbing and/or electrical permits from the city.

(B) Detailed plans and specifications are required to be submitted with permit application for a swimming pool. Plans shall include details for site excavation, construction, plumbing, electrical and fencing. The city's Building Official shall determine the plan detail necessary to obtain permits for proposed swimming pool construction.

(C) (1) Swimming pools shall meet all yard setback requirements for the zoning district in which they are located. No part of the pool or deck shall encroach into the required yard.

(2) Water lines to a swimming pool shall not be located closer than ten feet from any sanitary sewer line or sanitary sewer system.

(3) Swimming pools shall not be located closer than ten feet from any sanitary sewer line.

(4) Swimming pools and pool equipment, such as filters, pumps and heaters, shall not be located in any front or side yard, except in the A - Agricultural Zoning District.

(5) Discharge from swimming pools shall not overflow onto any adjacent property and must meet State Pollution Control Agency discharge standards for chlorinated water.

(6) Security fencing for swimming pools shall meet the following requirements:

(a) All private swimming pools shall be enclosed with five-foot high security fencing (chain link or decorative) that discourages climbing and all fence gates shall be equipped with self-closing and self-latching devices. All gates shall have the latch mounted no less than 54 inches above the walking surface on either side of the gate.

(b) In the A - Agricultural Zoning District, the requirement for security fencing may be waived for a private swimming pool; provided, the swimming pool is fitted with an automatic safety cover. The city shall have complete discretion in determining whether a particular proposed automatic safety cover is adequate to waive the requirement for security fencing. Manufacturer's detailed information including the weight resistance shall be submitted with the pool permit application.

(7) Swimming pool construction, operation and maintenance shall be consistent with all federal, state and city laws and regulations.

(8) All public swimming pools must meet the requirements of the state's Department of Health requirements and any other federal, state and local laws and regulations.

(9) Lighting at all outdoor swimming pools shall be shrouded and downcast to minimize ambient lighting or direct lighting on adjacent property.

(10) The use of any outdoor swimming pool shall not disturb the peace of neighboring properties or cause a public nuisance.

(Ord. 100, passed 11-15-2011) Penalty, see § 10.99

#### **§ 154.084 FENCES.**

(A) No property owner shall construct or relocate a permanent fence on his or her property without first obtaining a fence permit from the city, in accordance with the following.

(1) The applicant for a permanent fence permit shall submit a site plan to the city's Clerk-Treasurer showing the location of the fence and describing the type and method of anchoring the fence on the property.

(2) The city's Clerk-Treasurer may require the submission of a survey or other information with the permanent fence permit application to establish the boundary lines of the property on which the fence will be located.

(B) Electric and barb wire fencing is not allowed on property in any zoning district, except for property located within the A - Agricultural District.

(C) Fencing in all zoning districts shall conform to the following.

(1) No fence shall be permitted on a public right-of-way or boulevard area.

(2) Fences shall be located entirely upon the applicant's property and the applicant shall be responsible for maintaining any property located between the fence and his or her property line.

(3) Fences located on any corner lot erected within 30 feet of the intersecting curb lines and shall comply with § 154.081 of this chapter.

(4) Permanent fences shall be constructed and maintained so that the exposed outer surface shall be uniformly painted or stained and face abutting property.

(5) Temporary snow fencing may be erected from November 1 to April 1 on an annual basis.

(D) Fencing in R-1 Single-Family Residential and R-2 Multiple-Family Residential Districts.

(1) Fences shall not exceed a maximum height of six feet along the side and rear lot lines behind the front edge of a house and shall not exceed four feet along the side and front lot lines from the front edge of a house to the street right-of-way.

(2) A fence shall be setback a minimum of two feet from all property lines.

(E) Fencing in B - Business/Commercial and I - Industrial Districts.

(1) No setback is required for fences, except a minimum setback of two feet from the property line is required abutting any residential zoning district.

(2) Fences shall not exceed a maximum height of six feet, except if abutting any residential zoning district, the city may permit a maximum height of eight feet; provided, a building permit is obtained prior to construction.

(F) Fences shall require a survey with property corner stakes.

(Ord. 100, passed 11-15-2011) Penalty, see § 10.99

#### **§ 154.085 SEWER AND WATER FACILITIES.**

(A) All new development shall be connected to city sanitary sewer and water facilities.

(B) No wells for the purpose of providing domestic water for human household use shall be drilled, installed or constructed, and no existing well shall be further developed to provide potable water.

(C) New wells may be drilled for agricultural use, excluding use for a domestic water supply, in the A - Agricultural District; provided, a permit is obtained from the state.  
(Ord. 100, passed 11-15-2011) Penalty, see § 10.99

#### **§ 154.086 GRADING AND EROSION CONTROL.**

(A) The purpose of this section is to require the preparation and implementation of grading and erosion control plans for land-disturbing activity to protect, preserve and maintain public and private property to the extent possible from the adverse impacts of uncontrolled erosion.

(B) A grading permit is required for all land-disturbing activities, except as provided below:

(1) Minor land-disturbance activities such as home gardens and individuals' landscaping, repairs and maintenance work;

(2) Construction, installation and maintenance of public or private utility lines or private service connections to these utilities, except where more than 10,000 square feet of land is anticipated to be disturbed, or where more than 50 cubic yards of materials are anticipated to be moved in a activities;

(3) Tilling, planting or harvesting of agricultural or horticultural crops, except where such practices have resulted in the deposition of sediment into a natural or artificial water storage or retention area including public waters;

(4) Preparation of land for individual single-family home construction, unless:

(a) The property is part of planned construction within a subdivision development; or

(b) Ten thousand or more square feet of land is anticipated to be disturbed or where 50 or more cubic yards of materials are anticipated to be moved in such activities.

(5) Disturbed land areas of less than 10,000 square feet in size from any use or where 50 or more cubic yards of materials are anticipated to be moved in such activities, except where any wetland areas or public waters are anticipated to be filled or drained;

(6) Installation of fence, sign, utility poles and other kinds of posts or poles; and

(7) Emergency work to protect life, limb or property and emergency repairs; provided, the land area disturbed is adequately shaped and stabilized when appropriate in accordance with the requirements of the city.

(C) A grading and erosion control plan is required as part of an application for a grading permit, preliminary plat or a building permit for an addition or new construction, if at least 50 cubic yards of material is moved or material is moved from an area or areas encompassing at least 10,000 square feet.

(D) No person may undertake, authorize or permit any excavating, grading, filling or other change in the earth's topography that violates or is not in compliance with a city-approved grading and erosion control plan or a required grading permit issued by the city, including the approved plans and all terms and conditions of the permit.

(E) All grading and erosion control activities requiring a permit shall comply with Ch. 152 of this code of ordinances, the city's Storm Water Management Plan and other city, county, state and federal laws and regulations.

(F) (1) All applications for a permit to conduct a land-disturbing activity shall be accompanied by a Resource Management Plan, a fee established by the city, and a cash escrow to reimburse the city for any expenses incurred in the review of the application and grading activity.

(2) No developer shall conduct any land-disturbing activity, unless exempted in division (B) above, prior to receiving an approved permit from the City Council.

(3) After receipt of a complete application for a grading permit, the city shall review the application and a Resource Management Plan for compatibility with this chapter, Ch. 152 of this code of ordinances, the city's Storm Water Management Plan and other city, county, state and federal laws and regulations. The city may consult with the City Engineer or other city consultants, the county or state in the review of the submitted information. If the city determines that the proposed activities are in compliance with all regulations, the city shall approve the application permit.

(G) The Resource Management Plan must comply with all of the following control measures.

(1) All work must conform to Ch. 152 of this code of ordinances, the city's Storm Water Management Plan, county requirements, current State Pollution Control Agency rules regarding protecting water quality in urban areas and current best management practices.

(2) If permits are required for land-disturbing and water management activities from the county or the state, those permits must be on file with the city before construction activity begins. Any signs that are required must be posted in public view.

(3) The work must be scheduled so as to minimize the amount of soil exposed at any one time.

(4) Temporary rock construction driveways may be required wherever vehicles enter and exit the property.

(Ord. 100, passed 11-15-2011) Penalty, see § 10.99

#### **§ 154.087 SURFACE WATER MANAGEMENT.**

(A) The purpose of this section is to promote, preserve and enhance the water resources within the city and to protect them from the adverse effects of development or activities by regulating land-



disturbing or development activities that would have an adverse effect and potentially irreversible impact on water quality and water quantity.

(B) All new development shall comply with the provisions of Ch. 152 of this code of ordinances, the city's Surface Water Management Plan, county, state and federal requirements.

(C) Storm water for new development shall be managed in accordance with the National Urban Runoff Program standards for the design of new storm water ponds and the state's Pollution Control Agency's *Protecting Water Quality in Urban Areas* to reduce non-point source pollutant loadings in storm water runoff.

(D) Existing natural drainageways, natural water storage or retention areas and vegetated soil surfaces should be used to the greatest extent possible to store, filter and retain storm water runoff before discharge occurs into any public waters.

(E) When natural features and vegetation are not available to handle storm water runoff, constructed facilities such as diversions, settling basins, skimming devices, dikes and human-made waterways and ponds may be used. Preference shall be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and human-made materials and facilities.

(Ord. 100, passed 11-15-2011) Penalty, see § 10.99

#### **§ 154.088 WETLAND CONSERVATION.**

(A) The purpose of this section is to preserve and protect wetlands within and around the city in accordance with the requirements of the Wetland Conservation Act, as established in M.S. Ch. 103G, as may be amended, and the accompanying rules of the state's Board of Water and Soil Resources established in Minn. Rules Ch. 8420, as may be amended.

(B) The following regulations shall apply to all wetland areas within the city.

(1) All development within the city shall comply with the requirements of Ch. 152 of this code of ordinances, the city's Storm Water Management Plan and county wetland information and requirements.

(2) Prior to approval of any development affecting wetlands, a grading plan is required that includes wetland delineations prepared in accordance with the city's Storm Water Management Plan and county requirements.

(3) New development around existing wetland areas shall maintain a minimum vegetated buffer region around the delineated wetland boundary in accordance with the following.

(a) The buffer area shall consist of a "natural" area that will contain undisturbed vegetation, to the extent reasonable.

(b) In the event that disturbance of the buffer area is necessary for site grading, the buffer area shall be restored at a slope no greater than five to one (5:1) and re-seeded with a native seed mix approved by the city.

(c) The width of the required buffer will be dependent on the wetland value as determined by the functional value assessment performed at the time of wetland delineation. The functional value assessment will be reviewed and approved by the county and the city.

(C) (1) The wetland buffers shall be established according to the wetland value, as follows:

<i>Wetland Value</i>	<i>Minimum Buffer Width</i>
Low	25 feet
Medium and high	35 feet
Exceptional	50 feet

(2) All newly constructed wetlands shall have a minimum 35-foot wide vegetated buffer region, regardless of type of wetland replaced.

(3) The buffer region shall consist of a “natural” area with planted materials for vegetated buffers recommended by the state’s Board of Water and Soil Resources or city-approved seed mix.

(4) The wetland buffer shall not be routinely maintained or mowed by the landowner.

(5) Wetland monument signs stating; “wetland buffer - no mow, no fill” shall be posted along the buffer boundary at a minimum of every other lot corner.

(6) The following minimum setbacks are established from the edge of the buffer area:

(a) Principal building: 35 feet; and

(b) Accessory building: ten feet.

(Ord. 100, passed 11-15-2011) Penalty, see § 10.99

#### **§ 154.089 OFF-STREET PARKING AND LOADING.**

(A) *General.*

(1) No change of use, tenancy or occupancy of a parcel of land or building, including construction of a new building or an addition to a building, which requires additional parking spaces, shall be allowed until additional parking is approved and furnished.

(2) Existing off-street parking spaces shall not be reduced in numbers unless the number of remaining parking stalls meets the requirements of this section for the existing use.

(3) Required parking facilities accessory to residential structures in a residentially zoned district shall not be used for the storage of commercial vehicles, except as permitted by this chapter.

(4) Required off-street parking spaces shall not be utilized for the open storage of materials or for the storage of vehicles that are inoperable.

(5) Required off-street parking in residential zoning districts shall be on the same lot as the principal building.

(6) In all residential districts, parking of vehicles shall be prohibited in any portion of the property, except designated driveways.

(B) *Parking setback requirements.*

<i>Location</i>	<i>B - Business/ Commercial District</i>	<i>I - Industrial District</i>
Abutting any residential zoning district lot line	10 feet	20 feet
Across the street from a residential zoning district	Not applicable	20 feet
Interior, side or rear lot line	5 feet	5 feet
Street right-of-way line	8 feet	10 feet

(C) *Dimensional requirements.*

(1) The dimension of each parking space shall be not less than nine feet wide and 20 feet in length and shall be clearly marked.

(2) The minimum required aisle width for accessing parking stalls is as follows:

<i>Angle of Parking Stall</i>	<i>Aisle Width</i>
90-degree stall	24-foot aisle width
60-degree stall	18-foot aisle width
45-degree stall	13-foot aisle width
30-degree stall	10-foot aisle width

(D) *Parking space requirements.*

(1) Calculating the number of spaces shall be in accordance with the following.

(a) If the number of off-street parking spaces results in a fraction, each fraction of one-half or more shall constitute another space.

(b) In religious institutions and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each 24 inches of seating shall be counted as one seat for the purpose of this section.

(2) Except where joint parking arrangements have been approved by the city, if a structure contains two or more uses, each use shall be calculated separately in determining the total number of required off-street parking spaces.

(3) The city may allow reductions in the number of parking spaces constructed on the property provided a proof of future parking plan showing the location for all minimum required parking spaces in conformance with applicable setback requirements is submitted and approved by the city. The city may require the property owner to install additional parking spaces whenever the need arises.

(4) The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement and/or lease for each respective use:

Automobile repair, service or gas	A minimum of 3 outside spaces, plus 2 stations' spaces for each enclosed service stall, and 1 space for each 250 square feet of gross building area used for the sale of goods or services
Educational institutions, elementary and junior high	1 space for each classroom, plus 1 additional space for each 100 student capacity
Educational institutions, high schools	1 space for each classroom, plus 1 additional space for 5 students based on design capacity
Hotels and motels	1 space per unit, plus 1 additional space for each 4 units
Licensed day care facility	1 space for each 6 children based on the licensed capacity of the facility
Manufacturing, assembly, fabricating or processing	3 spaces per 1,000 square feet of gross floor area, plus 1 space for each company vehicle stored on the property
Multiple-family dwellings (apartments and condominiums)	2 spaces per unit, plus additional spaces shall be provided for visitor parking based on the specific characteristics of the development and the anticipated demand for visitor spaces

Multiple-family housing developments designed for senior citizens	1 space per unit and the city may require proof of parking of 2 spaces per unit if conversion to general housing appears possible; the visitor parking requirements for multiple-family dwellings shall apply
Office buildings or uses, including banks and other service uses	1 space per 250 square feet of gross floor area
Religious institutions, funeral homes and places of assembly	1 space for each 3 seats based on the design capacity of the main sanctuary or assembly space
Residences (single-family, double-family and townhouse dwellings)	2 spaces per unit
Restaurants and on-sale liquor establishments	1 space for every 3 seats
Retail sales	4 spaces per 1,000 square feet of gross floor space, less storage space
Warehousing and storage	3 spaces, plus 1 for each 2,000 square feet of gross floor area

(5) The parking requirement for uses not listed in this subpart may be established by the city based on the characteristics and information on parking demand for the use.

(E) *Drive-up facilities.* Businesses containing drive-up facilities, including restaurants and financial institutions, shall provide a stacking area for vehicles on the site in accordance with the following.

(1) A minimum of three vehicle spaces per staking lane shall be provided.

(2) All stacking lanes shall be entirely on the property and shall be in addition to parking spaces required for the principal use.

(3) The vehicle stacking area shall not extend beyond the street right-of-way line and shall be delineated in a manner that vehicles waiting in line will not interfere with, nor obstruct, the primary driving, parking and pedestrian facilities on the property.

(F) *Parking area design.*

(1) All parking, loading and driveway areas shall be surfaced with asphalt, concrete or equivalent material approved by the city. The city may require the submittal of a grading and drainage plan for new parking areas containing more than four spaces for review by the City Engineer. Catch basins, sumps and underground storm sewers may be required.

(2) Any lighting used to illuminate an off-street parking area shall be shaded or diffused to reflect the light away from adjoining property, abutting residential uses and public rights-of-way.

(3) All off-street parking areas shall be designed and constructed with a means of vehicular access to a public street.

(4) In the B - Business/Commercial District and I - Industrial District, all off-street parking areas shall be equipped with curbing to prevent any vehicle from encroaching into the required setback area and to control drainage.

*(G) Driveway requirements.*

(1) The distance from a driveway to the intersection of two or more streets shall be not less than 25 feet.

(2) Curb cuts to local public streets shall require a permit from the city and shall be a minimum of five feet from the side lot line in all zoning districts.

(3) Permits for driveways to any county road must be obtained from the county prior to issuance of any building or grading permits for property that access county roads. A turnaround is required on driveways that access a county road.

(4) Access driveways for residential dwellings shall not exceed 24 feet in width as measured along the property line. All other access driveways shall not exceed 30 feet wide as measured along the property line unless otherwise recommended by the City or County Engineer.

*(H) Off-street loading and unloading.*

(1) All required loading berths shall be located off-street and shall be located on the same lot as the building or use to be served.

(2) A loading berth shall not be located less than 25 feet from the intersection of two street rights-of-way, nor less than 50 feet from residential property unless screened by plantings or a fence.

(3) Loading berths shall not occupy the required front yard setback area.

(4) Any loading berth or access drive shall not be used for storage of goods, inoperable vehicles or to satisfy the required number of parking spaces for the property.

(Ord. 100, passed 11-15-2011) Penalty, see § 10.99

**§ 154.090 SIGNS.**

(A) *Purpose.* The purpose of this section is to establish reasonable regulations to govern the placement, design and lighting of signs and other related informational devices within the city. The sign regulations are not intended to restrict, limit or control the content or message of signs. Specifically, the sign regulations are intended to:

(1) Regulate the number, location, size, type, illumination and other physical characteristics of signs in order to promote the public health, safety and welfare, and pleasing visual appearance of the city;

(2) Maintain, enhance and improve the visual appearance of the city while providing for effective means of communication, consistent with constitutional guarantees and the city's goals for public safety and aesthetics;

(3) To encourage creative and well-designed signs that contribute to the effective use of signs as a means of communication; and

(4) To protect, conserve, and enhance property values.

(B) *General provisions.*

(1) Signs existing on the effective date of this chapter that do not conform to the regulations established in this section are non-conforming and are regulated according to § 154.010 of this chapter.

(2) The following are the setback and height regulations for all permanent signs unless specifically modified by this section.

(a) The setbacks of all signs shall be the same as the principal building setbacks for the zoning district in which the sign is located.

(b) The height of all signs shall not exceed the height of the principal building on the property.

(3) (a) Signs are prohibited within the public right-of-way, except for the following:

1. Public identification, directional or traffic-control signs; and

2. A temporary banner or decoration approved by the city for a period of time not to exceed 60 days in accordance with state law requirements.

(b) Illuminated flashing signs;

(c) Any sign, device, lamp or light which is so constructed, operated or used that illumination emanating there from is concentrated or beamed; and

(d) Off-premises signs.

(4) Unpainted signs, broken signs and signs on vacated buildings shall be repaired in compliance with this chapter or removed from the premises on order of the City Council.

(C) *Sign permits.*

(1) No permanent or temporary sign shall be erected, altered, reconstructed, maintained or moved in the city without first obtaining a permit from the city, except a permit shall not be required for the following signs:

- (a) Signs that do not exceed six square feet;
- (b) Signs erected by a governmental agency; and
- (c) The changing of the copy on the surface or face of a sign structure.

(2) An application for a permit shall contain the following information:

(a) The name and address of the applicant, owners of the sign and the address at which the sign is to be placed;

(b) A sign plan that shows the location, setbacks, size, the type (i.e., wall sign, monument sign and the like) and the sign design; and

(c) A fee as established by the City Council.

(3) The city's Clerk-Treasurer shall issue a permit within 30 days following the receipt of a complete application to the city.

(D) *Permanent signs.*

(1) Within the A - Agricultural, R-1 Single-Family Residential, R-2 Multiple-Family Residential Districts and the residential portions of PUD - Planned Unit Development Districts, the following signs are permitted:

(a) One wall sign for each dwelling which shall not exceed two square feet in area per surface;

(b) One free-standing sign for each permitted or conditional use other than a single-family detached double-family residential dwelling, home occupation or community boathouse which shall not exceed 32 square feet in area per surface; and

(c) Symbols, statues, sculptures and integrated architectural features on non-residential buildings may be illuminated by floodlights; provided, the direct source of light is not visible from the public right-of-way or adjacent residential property.

(2) Within the B - Business/Commercial, I - Industrial and commercial/industrial portions of PUD - Planned Unit Development Districts, the following signs are permitted:



(a) Free-standing signs: one free-standing sign is allowed per lot in accordance with the following.

1. The maximum height of the sign shall not exceed 15 feet or the height of the principal building, whichever is greater.

2. The maximum sign area shall not exceed 32 square feet.

3. Signs may be illuminated; provided that, the source of lighting is shielded to prevent visibility of the light source by translucent material, diffusion or placement to prevent glare.

(b) Wall signs.

1. For single tenant buildings, one wall sign shall be permitted per building, except for buildings located on a corner lot where one wall sign shall be permitted per road frontage, not to exceed two wall signs per building.

2. For multi-tenant buildings, one wall sign per tenant space is permitted.

3. Wall signs shall meet the following requirements.

- a. A maximum of 10% of the building face or 32 square feet, whichever is less, may be used for a wall sign.

- b. Wall signs shall not project above the roof line.

- c. Wall signs may be illuminated provided that the source of lighting is shielded to prevent visibility of the light source by translucent material, diffusion or placement to prevent glare.

(c) Awning signs.

1. One awning sign shall be allowed per lot; provided, the sign area of the awning does not exceed eight square feet.

2. The sign area of any awning sign shall reduce, square foot for square foot, the sign area of any permitted wall signs on the same building face.

(E) *Temporary signs.*

- (1) Temporary signs less than six square feet in area may be displayed for no longer than 30 days for occupied premises and in the case of unoccupied properties, indefinitely until the premises is occupied.

(2) Temporary signs more than six square feet in area, but less than 32 square feet in area may be displayed no longer than 30 days.

(3) Temporary signage for projects under construction within R-2 Multiple-Family Residential, B - Business/Commercial, I - Industrial and the PUD - Planned Unit Development Districts shall comply with the following.

(a) One temporary sign no more than 32 square feet in area may be installed at a construction site for the period of the construction.

(b) The temporary sign must be removed within ten days of issuance of a certificate of occupancy for the property.

(c) The temporary sign shall be located within the front yard of the property under construction and shall be setback a minimum of 15 feet from the front lot line..

(F) *Signs containing non-commercial speech.*

(1) During even numbered years, all signs of any size containing non-commercial speech may be posted in any number from 46 days before the state primary until ten days following the state general election.

(2) For a special election, all signs of any size containing non-commercial speech may be posted in any number between 30 days before and until ten days after a special election.

(3) Signs containing non-commercial speech signs must comply with the fair campaign practices specified in M.S. Ch. 211B, as may be amended.

(G) *Design and maintenance standards.*

(1) All signs shall be constructed in accordance with the following:

(a) The Minnesota State Building Code, as applicable to each sign;

(b) All electric signs shall be approved and labeled as conforming to the standards of the Underwriters' Laboratories, Inc., the Federal Bureau of Standards or other similar institutions of recognized standing. All illuminating elements shall be kept in working condition or immediately repaired or replaced. Signs that are partly illuminated shall meet all electrical requirements for that portion which is illuminated;

(c) All permanent free-standing signs shall have self-supporting structures erected on and permanently attached to concrete foundations;

(d) For wall signs, the wall must be designed for and have sufficient strength to support the sign; and

(e) Signs shall be constructed to withstand applicable wind loads.

(2) All signs shall be maintained in a safe, presentable and good structural condition at all times, including the replacement of defective parts, cleaning and other items required for maintenance of the sign. Vegetation around, in front of, behind and underneath the base of ground signs for distance of ten feet shall be neatly trimmed and free of weeds and no rubbish or debris that would constitute a fire or health hazard shall be permitted under or near the sign.

(Ord. 100, passed 11-15-2011) Penalty, see § 10.99

#### **§ 154.091 POLLUTION CONTROL AND NUISANCES.**

(A) (1) Noises emanating from any use shall be in compliance with and regulated by the standards of the state's Pollution Control Agency.

(2) Vibrations from all uses established after the effective date of this chapter shall comply with the following:

(a) Shall be operated in a manner to prevent vibration discernable at any point beyond the lot line of the property on which such use is located; and

(b) Ground vibration and noise caused by motor vehicles, trains, aircraft operations or temporary construction or demolition shall be exempt from these regulations.

(B) No use shall produce or emit smoke, dust or particulate matter exceeding applicable regulations established by the state's Pollution Control Agency.

(C) No use or operation shall emit a concentration of toxic or noxious matter across the property line which exceeds applicable regulations of the state's Pollution Control Agency.

(D) No use shall produce unreasonable or disturbing odors beyond the property line exceeding applicable regulations established by the state's Pollution Control Agency.

(E) No use shall produce any unreasonable, disturbing or unnecessary emissions of heat or humidity beyond the property line which cause material distress, discomfort or injury to persons of ordinary sensitivity.

(F) No operation that produces radiation and other health hazards shall be conducted which exceeds the standards established by applicable regulations of the state's Department of Health.

(G) All uses shall be subject to the fire prevention requirements of the city and applicable regulations established by the state's Pollution Control Agency.

(H) All uses shall be subject to applicable regulations of the city, county, the Metropolitan Council and state governing discharge of liquid and solid waste material into a public storm or sanitary sewer, waterway or stream.

(I) The city finds it necessary to provide for the regulation of businesses or commercial enterprises which operate as massage parlors, saunas, rap parlors, conversation parlors, adult sensitivity groups, adult encounter groups, escort services, dancing services, hostess services and similar adult uses operating under different names in order to protect the public health, safety and welfare, and to guard against the inception and transmission of disease. The city further finds that commercial enterprises such as the type described above, and all other similar establishments whose services include sessions offered to adults, conducted in private by members of the same or the opposite sex and employing personnel with no specialized training, are susceptible to operating in a manner contravening, subverting or endangering the morals of the community by being sites of acts of prostitution, illicit sex and occurrences of violent crimes, thus requiring close inspection, licensing and regulation.

(J) The city finds that control and regulation of commercial enterprises of these types, in view of the abuses often perpetrated, require intensive police and public health efforts by the city and local governmental units contracting with the city to provide such services. As a consequent, the concentrated use of the services in the control detracts from and reduces the level of services.

(Ord. 100, passed 11-15-2011) Penalty, see § 10.99

#### **§ 154.092 SOLAR ENERGY SYSTEMS.**

(A) Solar energy systems require an interim use permit in all zoning districts.

(B) Wholesale solar energy systems shall be limited to the I - Industrial District.

(C) Retail solar energy systems in the R-1 Single-Family Residential District and R-2 Multiple-Family Residential District shall be limited to rooftop systems. Rooftop solar energy systems shall be installed in accordance with the Minnesota State Building Code and shall not occupy more than 75% of the area of the roof plane it is affixed to.

(1) Rooftop solar energy systems mounted on roofs with slopes greater than two units vertical in 12 units horizontal shall be mounted parallel to the plane of the roof, shall not extend more than one foot above the plane of the roof, and shall not be located any closer than three feet from any side or bottom edge of the roof.

(2) Rooftop solar energy systems mounted on roofs with slopes of two units vertical in 12 units horizontal shall not project more than four feet above the plane of the roof and there shall be a minimum six-foot wide clear perimeter around the edges of the roof.

(D) Retail solar energy systems located in the A - Agricultural District, B - Business/Commercial District and I - Industrial District may include rooftop systems and ground mounted systems and shall be installed in accordance with the Minnesota State Building Code.

(1) Rooftop solar energy systems mounted on roofs with slopes greater than two units vertical in 12 units horizontal shall be mounted parallel to the plane of the roof, shall not extend more than one foot above the plane of the roof, and shall not be located any closer than three feet from any side or bottom edge of the roof.

(2) Rooftop solar energy systems mounted on roofs with slopes of two units vertical in 12 units horizontal shall not project more than four feet above the plane of the roof and there shall be a minimum six-foot wide clear perimeter around the edges of the roof.

(3) Ground mounted solar energy systems shall not exceed 15 feet in height, shall not be located in any front yard area, shall not be located closer than 15 feet to a side or

rear yard, and shall not be located closer than 100 feet to an existing adjacent residence. Ground mounted solar energy systems shall not exceed 10% lot coverage or 10,000 square feet, whichever is less. The square footage of the ground mounted solar energy system is calculated by the area encumbered by the outermost measurements of the solar equipment layout.

(E) Wholesale solar energy systems shall be set back a minimum of 50 feet from roadways and a minimum of 50 feet from all property lines. The maximum height of wholesale solar energy system equipment, structures and accessory appurtenances shall not exceed 15 feet. Wholesale solar energy systems shall be enclosed in accordance with subdivision (N) of this section.

(F) Wholesale solar energy systems shall not be lighted, except for shrouded, downcast security lights on major equipment or storage buildings. Signage shall be limited to equipment labeling, security warnings and messages, entrance identification and directional signs and a single site identification sign. No individual sign shall exceed 36 square feet in area or extend more than 15 feet in height.

(G) No solar energy equipment or solar energy systems shall create or cause unreasonable glare on other property or public roadways. Unreasonable glare shall mean a public safety hazard as determined by the Board of Supervisors or the appropriate roadway authority.

(H) No solar energy system shall create or constitute a public nuisance, as regulated in this chapter.

(I) Electric power lines within all ground mounted solar energy systems shall be buried underground.

(J) All solar energy systems, supporting structures or other buildings shall be consistent with applicable State Building Codes, State Electrical Codes, State Fire Codes and State Plumbing Codes.

(K) All applicable solar energy equipment shall be certified by either the Underwriters

Laboratories (UL) or Canadian Electrical Code (CSA 22.1) or the Solar Rating and Certification Corporation (SRCC) for thermal systems.

(L) All solar energy systems unused, abandoned or inoperable for more than 12 months shall be removed by the system owner or the property owner. The property shall be returned to a condition comparable to that prior to the installation of the solar energy system.

(M) In addition to the site plan review application submittal requirements, solar energy system applications shall include the following details:

- (1) Grading plan;
- (2) Location of access roads;
- (3) Locations of overhead and underground electric lines;
- (4) Dimensions, location and spacing of PV panels;
- (5) Description of the racking method, including fixed or tracking technology;
- (6) Description and location of buildings, inverters, transformers, disconnects and combiners and other structures and equipment;
- (7) Typical elevations or photos of sample solar arrays;
- (8) Site lighting and signage;
- (9) Decommissioning plan and site restoration plan, including financial assurances; and
- (10) Fire Department access.

(N) Fencing (a minimum of six feet in height), landscaping and other approved screening shall be required for any ground-mounted solar energy system. Such fencing, landscaping and other approved screening shall provide visual impairment of the solar energy system from adjoining properties and roadways. Other screening methods shall be determined approved or not approved during the application process. Deviations from dimensional standards (including setbacks) may be considered through public hearing procedures for permitting, based upon mitigation of off-site impacts through fencing, landscaping, screening or other mitigation measures.

(O) All ground mounted solar energy systems shall prepare a storm water management plan consistent with the county's Watershed Management Organization requirements. Any site grading shall be accompanied by an erosion and sedimentation control plan consistent with best management practices for control components.

(P) All permit applications for ground-mounted solar energy systems shall include a description of the vegetation or material under the solar system components and the method of ground care and vegetative maintenance.

(Ord. 100A, passed - -2016; Ord. 100B, passed - -2018; Ord. 116, passed 8-4-2020) Penalty, see § 10.99

***ADULT USES***

**§ 154.105 PURPOSE.**

The purpose of this subchapter is to make available to the rest of the community and thereby diminishes the ability of the city to promote the general health, welfare, morals and safety of the community. The city finds that the regulations of this chapter will protect property values, eliminate or reduce blight, prevent deterioration of neighborhoods, prevent the exodus of residents and businesses from city neighborhoods and prevent the increase of crime and juvenile delinquency.

(Ord. 100, passed 11-15-2011)





**§ 154.106 DEFINITIONS.**

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

**ADULT USE.** Includes adult bookstores, adult motion picture theaters, adult motion picture rental, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios and other premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of “specified sexual activities” or “specified anatomical areas” (as such terms and phrases are defined below) which are capable of being seen by members of the public.

(1) **SPECIFIED ANATOMICAL AREAS.**

(a) Less than completely and opaquely covered human genitals, pubic region, buttock, anus or female breast(s) below a point immediately above the top of the areola; and

(b) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

(2) **SPECIFIED SEXUAL ACTIVITIES.**

(a) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship or the use of excretory functions in the context of a sexual relationship and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty;

(b) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence;

(c) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation;

(d) Fondling or touching of nude human genitals, pubic region, buttocks or female breast;

(e) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons;

(f) Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or

(g) Human excretion, urination, menstruation, vaginal or anal irrigation

**ADULT USE - ACCESSORY.** A use, business, or establishment having 10% or less of its stock in trade or floor area allocated to, or 20% or less of its gross receipts derived from movie rentals, magazine sales or sales of other merchandise in which there is an emphasis on “specified sexual activities” or “specified anatomical areas”.

**ADULT USE - PRINCIPAL.** A use, business or establishment having more than 10% of its stock in trade or floor area allocated to, or more than 20% of its gross receipts derived from, any adult use.

**ADULT USE - BODY PAINTING STUDIO.** An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of “specified anatomical areas”.

**ADULT USE - BOOKSTORE.** A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape or motion picture file if the building or portion of a building is not open to the public generally, but only to one or more classes of the public excluding any minor by reason of age and if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas”.

**ADULT USE - CABARET.** A building or portion of a building used for providing dancing or other live entertainment, if the building or portion of a building excludes minors by virtue of age and if the dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of “specified sexual activities” or “specified anatomical areas”.

**ADULT USE - COMPANIONSHIP ESTABLISHMENT.** A companionship establishment, which excludes minors by reason of age and which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment, and a customer, if the service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

**ADULT USE - CONVERSATION/RAP PARLOR.** A conversation/rap parlor which excludes minors by reason of age and which provides the service of engaging in or listening to conversation, talk or discussion, if the service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

**ADULT USE - HEALTH/SPORT CLUB.** A health/sport club which excludes minors by reason of age and if the club is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

**ADULT USE - HOTEL OR MOTEL.** A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis

on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”.

***ADULT USE - MASSAGE PARLOR, HEALTH CLUB.*** A massage parlor or health club which restricts minors by reason of age and which provides the services of massage, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

***ADULT USE - MINI-MOTION PICTURE THEATER.*** A building or portion of a building with a capacity for less than 50 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age and if such material is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

***ADULT USE - MODELING STUDIO.*** An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in “specified sexual activities” or display “specified anatomical areas” while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by the customers.

***ADULT USE - MOTION PICTURE ARCADE.*** Any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled or operated still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas”.

***ADULT USE - MOTION PICTURE THEATER.*** A building or portion of a building with a capacity of 50 or more persons used for presenting material if the building or portion of a building as a prevailing practice excludes minors by virtue of age and if the material is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

***ADULT USE - NOVELTY BUSINESS.*** A business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.

***ADULT USE - SAUNA.*** A sauna which excludes minors by reason of age and which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

***ADULT USE - STEAM ROOM/BATHHOUSE FACILITY.*** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation

or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

**EDUCATIONAL FACILITY.** A public school as defined in M.S. § 120A.05, as it may be amended from time to time, or a non-public school or a non-sectarian non-public school, as defined in M.S. § 123B.41, as it may be amended from time to time.

**RELIGIOUS INSTITUTION.** A building or structure, or group of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and associated accessory uses.

**YOUTH FACILITY.** A public playground, park, public swimming pool, public library or licensed day care facility.  
(Ord. 100, passed 11-15-2011)

#### **§ 154.107 ADULT USES.**

(A) *Purpose.* The nature of adult uses is such that they are recognized as having adverse secondary characteristics, particularly when they are accessible to minors and located near residential property or related residential uses such as schools, day care centers, libraries or parks. Furthermore, the nature of adult uses requires that they not be allowed within certain zoning districts or within minimum distances from each other or residential uses. Special regulation of adult uses is necessary to ensure that the adverse secondary effects do not contribute to the blighting or downgrading of the surrounding property and lessening of its value.

(B) *General.* Adult uses, as defined in this subchapter, shall be subject to the following general provisions.

(1) Adult uses, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.

(2) Adult uses, either principal or accessory, shall be prohibited from locating in any place which is also used to dispense or consume alcoholic beverages.

(3) An adult use which does not qualify as an accessory use pursuant to division (D) below shall be classified as an adult use - principal.

(C) *Adult uses - principal.*

(1) Adult use - principal shall be located at least 1,000 feet, as measured in a straight line from the closest point of the property line of the building upon which the adult use-principal is located, from the property line of:

(a) A licensed day care center;

(b) A public or private educational facility classified as a preschool, or an elementary, junior high or senior high school;

(c) A public library;

(d) A public park;

(e) Another adult use - principal;

(f) An on-sale liquor establishment;

(g) Any religious institution or related facility or organization; or

(h) Any residential property.

(2) Adult use - principal activities will be allowed only by conditional use permit in the industrial land use category as specified in the Comprehensive Plan and the I - Industrial District as specified in this chapter.

(3) Adult use - principal activities, as defined by this chapter, shall be classified as one use. No two adult uses - principal shall be located in the same building or upon the same property and each use shall be subject to this chapter.

(4) Adult use - principal shall adhere to the following sign regulations.

(a) Sign messages shall be generic, not graphic in nature and shall only identify the type of business which is being conducted.

(b) Sign messages shall not contain material classified as advertising.

(c) Signs shall comply with the requirements of size and number for the district in which they are located.

(5) Adult use - principal shall be limited to 10:00 a.m. to 10:00 p.m. for its hours of operation. A differing time schedule may be approved by the city if it can be satisfactorily demonstrated by the operator to the city that extended operational hours:

- (a) Will not adversely impact or affect uses or activities within 1,000 feet;
- (b) Will not result in increased policing and related service calls; and
- (c) Are critical to the operation of the business.

(D) *Adult uses - accessory.*

(1) Adult use - accessory shall:

- (a) Comprise no more than ten percent of the floor area of the establishment in which it is located.
- (b) Comprise no more than 20 percent of the gross receipts of the entire business operation.
- (c) Not involve or include any activity except the sale or rental of merchandise.

(2) Adult use - accessory shall be located at least 1,000 feet, as measured in a straight line from the closest point of the property line of the building upon which the adult use - principal is located, from the property line of:

- (a) A licensed day care center;
- (b) A public or private educational facility classified as a preschool, or an elementary, junior high or senior high school;
- (c) A public library;
- (d) A public park;
- (e) Another adult use - principal;
- (f) An on-sale liquor establishment;
- (g) Any religious institution or related facility or organization; or
- (h) Any residential property.

(3) Adult use - accessory shall be restricted from and prohibit access to minors by the physical separation of such items from areas of general public access:

(a) *Movie rentals.* Display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the persons responsible for the operation of the business.

(b) *Magazines*. Publications classified or qualifying as adult uses shall not be physically accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.

(c) *Other use*. Adult uses - accessory not specifically cited shall comply with the intent of this section, subject to the approval of the city.

(4) Adult use - accessory shall be prohibited from both internal and external advertising and signing of adult materials and products.  
(Ord. 100, passed 11-15-2011)

