

CHAPTER 152: ZONING CODE

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GENERAL PROVISIONS

§ 152.001 INTENT AND PURPOSE.

This Chapter is adopted for the purpose of:

- (A) Protecting the public health, safety, morals, and general welfare;
- (B) Protecting and preserving agricultural land;
- (C) Promoting orderly development of the agricultural, residential, commercial, industrial, recreational, and public areas;
- (D) Conserving the natural, scenic beauty, and attractiveness of the City;
- (E) Conserving and developing natural resources;
- (F) Providing for the compatibility of different land uses and the most appropriate use of land throughout the City; and
- (G) Minimizing environmental pollution.

§ 152.002 INTERPRETATION AND AUTHORITY.

- (A) Where the conditions imposed by any provision of this Chapter are either more or less restrictive than comparable conditions imposed by another Statute, City Code provision, rule or regulation of the City or the State, the Statute, City Code provision, rule or regulation which imposes the more restrictive condition, standard, or requirement shall prevail.
- (B) In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and general welfare.

(C) Except as herein provided, no structure shall be erected, converted, enlarged, reconstructed, or altered and no structure shall be used or occupied for any purpose nor in any manner which is not in conformity with the provisions of this Chapter.

(D) This Chapter is enacted pursuant to the authority granted by the Municipal Planning Act, M.S. §§ 462.351 to 462.363, as amended.

§ 152.003 DEFINITIONS.

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

(1) **ACCESSORY APARTMENT.** Room within a single-family dwelling used for lodging purposes of one or two people without cooking facilities.

(2) **ACCESSORY BUILDING.** A building on the same lot with and of a nature customarily incidental and subordinate to the principal structure.

(3) **ACCESSORY USE.** A use subordinate to and exclusively for a purpose incidental to the principal use on the lot.

(4) **AGRICULTURE.** The use of land for the growing or production of field crops, livestock, and livestock products for the production of income.

(5) **AIRPORT (LANDING STRIP, HELIPORT, or AIRCRAFT STOP).** Any premises or buildings which are used or intended for use, for the landing, take-off, and support of aircraft.

(6) **ALLEY.** A public right-of-way usually 20 feet or less in width which normally affords a secondary means of vehicular access to abutting property.

(7) **ANTENNA (BROADCASTING, RADIO, and TELEVISION).** Towers exceeding 35 feet district height limitations.

(8) **APARTMENT.** A part of a building consisting of a room or suite of rooms which is designed for or used as a residence and is equipped with cooking facilities.

(9) **AUTOMOBILE REPAIR GARAGE.** A place for the general repair of motor vehicles.

(10) **AUTOMOBILE SERVICE STATION (GAS STATION).** A place where gasoline, kerosene, or other motor fuel, lubrication, oil, or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles.

(11) **BASEMENT.** A portion of a building located partially underground having more than half of its clear floor-to-ceiling height below the average grade of adjoining ground.

(12) **BED AND BREAKFAST INN FACILITIES.** An owner-occupied single-family dwelling where lodging in up to four guest rooms and breakfast are provided to the traveling public by the resident owner for compensation.

(13) **BLOCK.** An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary of the subdivision, or a combination of the above with a river or lake.

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

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

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

(16) **BLUFF, TOE OF THE.** The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be the lowest point on a bluff that is the lower end of the lowest 50 foot segment, measured on the ground, with an average slope exceeding 18%.

(17) **BLUFF, TOP OF THE.** The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in slope is apparent, the top of the bluff shall be the highest point on a bluff that is the upper end of the highest 50 foot segment, measured on the ground, with an average slope exceeding 18%.

(18) **BOARDING HOUSE (ROOMING OR LODGING HOUSE).** A building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodgings are provided for three or more persons but not to exceed 20 persons.

(19) **BOATHOUSE.** A building designed and used solely for the storage of boats or boating equipment.

(20) **BUFFER.** The use of land, elevation, fences, or landscaping to screen or partially screen a use or premises from another use or premises.

(21) **BUILDING.** Any structure which may provide shelter or enclosure of persons, animals, or property of any kind. When the structures are divided by party walls or common walls, each portion of the structure so separated shall be deemed a separate building.

(22) **BUILDING AREA.** The area remaining on a lot after the minimum setbacks and open space requirements have been met (See Appendix B).

(23) **BUILDING HEIGHT; NONSHORELAND.** The vertical distance to be measured from grade level to the uppermost part of the building.

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

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

(26) **BUILDING SETBACK.** The minimum horizontal distance between a building and a lot line.

(27) **BUSINESS.** Any occupation, employment, or enterprise where merchandise is exhibited or sold or where services are offered for compensation.

(28) **CAR WASH.** A building, or portion thereof, containing for hire facilities for washing motor vehicles.

(29) **CHURCH.** A building where persons regularly assemble for religious worship.

(30) **CLUB or LODGE.** A nonprofit association of persons with the use of the premises being restricted to members and their guests.

(31) **COMPREHENSIVE PLAN.** The general plan for land use, housing, and transportation, including the series of maps, reports, statement of goals, objectives, and criteria adopted by the Council to designate long range orderly growth and development of the City.

(32) **COMMISSIONER.** The Commissioner of the Department of Natural Resources.

(33) **CONCEPT PLAN.** A report in map and text form submitted depicting the location, general purpose, general type of land use and traffic pattern, primary relationships between site elements and the proposed development and surrounding development, proposed general schedule of development, and information on the proposed developer.

(34) **CONDOMINIUM.** Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. *REAL ESTATE* is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

(35) **COOPERATIVE.** A multi-unit building operated for and owned by its occupants. Individual occupants do not own their specific housing unit outright as in a condominium, but they own shares in the *COOPERATIVE*.

(36) **DAY CARE FACILITY.** Any facility licensed by the State Department of Public Welfare or its successor, public or private, which regularly provides one or more persons with care or training on a regular basis for periods of less than 24 hours per day.

(37) **DECK.** A horizontal, unenclosed platform, with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use and at any point extending more than 30 inches above ground.

(38) **DENSITY RESIDENTIAL.** A number expressing the relationship of the number of dwellings to an acre of land.

(39) **DISTRICT, ZONING.** Sections of the City for which the regulations governing the height, area, and use of buildings and premises are the same.

(40) **DORMITORY.** A building with rooms that provide sleeping accommodations for four or more students attending school.

(41) **DRIVE-IN or DRIVE-THROUGH.** Any use where products or services are provided to the customer under conditions where the customer does not have to leave the automobile regardless of whether service is also provided within a building.

(42) **DUPLEX, TRIPLEX, and QUAD.** A dwelling structure on a single lot, having two, three, and four units, respectively, being attached by common walls which are designed for or used as residences and each unit is equipped with sleeping, cooking, eating, living, and sanitation facilities.

(43) **DURABLE MATERIAL.** A material used to create a hard surface impervious to water, dust free, and requiring minimal maintenance.

(44) **DWELLING UNIT.** A residential building or portion thereof intended for occupancy by a single family but not including hotels, motels, or boarding houses.

(45) **DWELLING UNIT, ATTACHED.** A dwelling unit which is joined to another at one or more sides by a party wall, common wall or adjoining outer walls.

(46) **EASEMENT.** A grant by a property owner of the use of an area of land by the public or other party for any specific purpose.

(47) **ENERGY SYSTEM.** An assembly consisting of an energy collector, storage facility, and components for the distribution of energy.

(48) **ESSENTIAL SERVICES.** Underground or overhead transmission, distribution, collection, supply or disposal systems for communication, electrical, gas, sewage, steam, telephone, television, or water.

(49) **EXTRACTIVE USE.** The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under M.S. §§ 93.44 to 93.51.

(50) **FAMILY.** One or more persons related by blood, marriage, or adoption, or a group of not more than five persons not so related maintaining a common household in a dwelling unit.

(51) **FEEDLOT.** A lot or building, or combination of lots and buildings, intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure.

(52) **FLOOD PLAIN.** The areas adjoining a body of water which have been or hereafter may be designated by the Federal Emergency Management Agency as flood plain on the Flood Insurance Rate Map.

(53) **FLOOR AREA.** The sum of the gross horizontal area of all floors of a building. A basement shall not be used in calculating floor area.

(54) **FOREST LAND CONVERSION.** The clear cutting of forested lands to prepare for a new land use other than re-establishment of a subsequent forest stand.

(55) **GARAGE, PRIVATE.** An attached or detached accessory building or accessory portion of the principal building which is under 1,500 square feet or less in floor area and is intended for and used to store private motor vehicles, recreational vehicles, and similar items of the family or families resident upon the premises. The gross floor area is subject to further restriction.

(56) **HEALTH CLUB.** A facility which provides athletic activities such as tennis, handball, racquetball, track, aerobics, basketball, exercise devices and such incidental services as whirlpool, sauna, or massage service.

(57) **HOME OCCUPATION.** Any gainful occupation or profession conducted within the dwelling unit or accessory building by a resident thereof.

(58) **HOTEL/MOTEL.** A building which provides a common entrance and lodging for compensation, with or without meals.

(59) **HOUSE, EARTH SHELTERED.** A dwelling unit constructed so that more than 50% of the exterior surface area of the building, excluding garages and other accessory buildings, is covered with earth and the Building Code standards are satisfied. Partially completed buildings shall not be considered earth sheltered.

(60) **INDUSTRY.** A business which involves the assembly, production, processing, or storage of materials, goods, or products.

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

(62) **KENNELS.** Any lot or premises where three or more dogs or cats are boarded for compensation or where dogs or cats are bred on a commercial scale.

(63) **LIVESTOCK.** Animals kept or raised for commercial use or pleasure, excluding household family pets.

(64) **LOADING AREA.** An area or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials and which abuts upon a street, alley, or other appropriate means of access.

(65) **LOT.** A parcel of land designated by plat, metes and bounds, registered land survey, auditor's plat, or other accepted means and separated from other parcels or portions by the description and which is of sufficient size to meet zoning requirements.

(66) **LOT AREA.** The area of a horizontal plane within the lot lines.

(67) **LOT DEPTH.** The horizontal distance between the front lot line and the rear lot line.

(68) **LOT LINE.** A boundary line of any lot, except where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way.

(69) **LOT LINE, FRONT.** That boundary of a lot which abuts an existing or dedicated public street. In the case of a corner lot, it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the *FRONT LOT LINE* shall be designated by the owner and shown on the site plan.

(70) **LOT LINE, REAR.** That boundary of a lot which is opposite the front lot line. If the *REAR LOT LINE* is less than ten feet in length or if the lot forms a point at the rear, the *REAR LOT LINE* shall be a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

(71) **LOT LINE, SIDE.** Any boundary of a lot which is not a front lot line or a rear lot line.

(72) **LOT TYPES.** This term includes the following:

(a) **CORNER LOT.** A lot at the intersection of two street lines, which intersection does not exceed 135 degrees. (See Appendix A);

(b) **DOUBLE FRONTAGE or THROUGH LOT.** A lot, other than a corner lot, with frontage on more than one street other than an alley. (See Appendix A); and

(c) **INTERIOR LOT.** A lot, other than a corner lot, with only one frontage on a street other than an alley. (See Appendix A).

(73) **LOT WIDTH.** The distance between the side lot lines measured along the building line.

(74) **MANUFACTURED HOME.** A structure, transportable in one or more Sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

(75) **MANUFACTURED HOME PARK.** Any site, lot, field, or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the *MANUFACTURED HOME PARK*.

(76) **MANUFACTURED HOME SUBDIVISION.** Any site, lot, field, or tract of land purchased for two or more manufactured homes.

(77) **MOTOR FREIGHT TERMINAL.** A building or area in which freight brought by truck is assembled or stored for routing by truck.

(78) **NONCONFORMING LOT.** A lot or parcel of land for which a deed has been recorded in the office of the Pennington County Recorder prior to September 26, 1967 and which does not meet the minimum lot area, structure setbacks, or other dimensional standards of this Chapter.

(79) **NONCONFORMING STRUCTURE.** A structure which does not comply with floor area, lot requirements, or height regulations.

(80) **NONCONFORMING USE.** Any lawfully established use of a building or lot which on September 26, 1967 did not comply with the use regulations of the zoning district in which such building or lot is located.

(81) **OPEN SPACE, COMMON.** A parcel of land or an area of water within a planned unit development designated as private open space for the use of lot owners within the planned unit development.

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

(83) **PARKING SPACE.** An area of such shape and dimensions and so prepared as to be usable for the parking of motor vehicles and so located as to be accessible to a public street or alley.

(84) **PERFORMANCE STANDARDS.** Criterion established to control potential effects to the physical and social environment such as, but not limited to, odor, smoke, toxic or noxious matter, vibration, fire, explosive hazard, glare, run-off, density, traffic flow or generated by or inherent in uses of land or buildings.

(85) **PLAN, SITE.** A map drawn to scale depicting the development of a tract of land, including but not limited to, the location and relationship of structures, streets, driveways, recreation areas, parking areas, utilities, landscaping, and walkways as related to a proposed development.

(86) **PLANNED UNIT DEVELOPMENT.** A tract of land containing not less than two acres and which contains or will contain two or more principal buildings or uses, developed or to be developed under unified ownership or control, the development of which is unique and of a substantially different character than that of the surrounding areas.

(87) **PLANNING COMMISSION.** The Planning Commission of the City.

(88) **PRINCIPAL BUILDING.** A nonaccessory building in which the primary use of the lot on which it is located is conducted.

(89) **PUBLIC WATERS.** Any waters as defined in M.S. § 103G.005.

(90) **RECREATION, PUBLIC.** Sites owned and operated by a unit of government or leased from a unit of government for private operation for the purpose of providing recreation.

(91) **RECREATION, COMMERCIAL.** Sites privately owned and operated for the purpose of providing recreation with the intention of earning a profit.

(92) **RECREATIONAL CAMPING VEHICLES.** This term includes the following:

(a) A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreation, and vacation;

(b) Any structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation;

(c) Any portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle; or

(d) Any folding structure, mounted on wheels and designed for travel, recreation and vacation use.

(93) **RECREATIONAL CAMPING AREA.** Any area, whether privately or publicly owned, used on a daily, nightly, weekly, or longer basis for the accommodation of five or more tents or recreational camping vehicles.

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

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

(96) **RESTAURANT.** An eating and drinking establishment which serves food to be consumed while seated at tables, booths, or counters.

(97) **RETIREMENT HOME.** A retirement facility for the elderly who are generally in good health and able to care for themselves. The facilities are characterized as having separate dwelling units or sleeping rooms with central eating facilities. The facilities do not contain health facilities for the care of occupants.

(98) **SALVAGE YARD.** A place where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled, including auto wrecking yards, house wrecking yards, used material yards, but not including pawn shops or the placing of used cars in operable condition.

(99) **SCHOOL.** A building used for the purpose of preschool, elementary, secondary, or post secondary education which meets all the requirements of the laws of the state and not providing residential accommodations.

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

(101) **SETBACK.** The minimum horizontal distance between the roof overhang of a structure, sewage treatment system or other facility, and a lot line, an ordinary high water level, or a top of a bluff.

(102) **SETBACK, SHORELAND.** The yard extending between any building line and the ordinary high water level.

(103) **SETBACK, YARD.** The minimum horizontal distance between a structure and the lot line, disregarding steps and upgraded platforms. The yard setback area shall be unoccupied and unobstructed by a structure.

(104) **SETBACK, YARD FRONT.** The line extending between the front building line and the front lot line (See Appendix B).

(105) **SETBACK, YARD REAR.** The yard extending between the rear building line and the rear lot line (See Appendix B).

(106) **SETBACK, YARD SIDE.** The yard extending between the side building line and the side lot line (See Appendix B).

(107) **SEWAGE TREATMENT SYSTEM.** A septic tank and soil absorption system or other individual or cluster type sewage treatment system.

(108) **SEWER COLLECTION SYSTEM.** Pipelines or conduits, pumping stations and force mains, and all other construction devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

(109) **SHOPPING CENTER.** A retail center, 40,000 square feet or larger, designed for the purpose of retailing and/or providing services, including value retailers such as category killers, discount department stores, off-price retailers, outlet stores, and warehouse clubs. Such a center may be comprised of several stores under one roof or joined by common walls or sharing a common parking lot.

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

(111) **SHORELAND.** Land located within 300 feet from a river, stream, or floodplain. The limits of *SHORELANDS* may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.

(112) **SIDEWALL HEIGHT.** The vertical dimension from the top of the finished floor to the bottom of the finished ceiling, or bottom of rafter if the ceiling is unfinished, at the intersection of the exterior wall, per story.

(113) **SIGN.** Any billboard, notice, poster, display, or other device visible to and primarily intended to advertise, inform or attract attention and shall include any structure erected primarily for use in connection with the display of any such device and all lighting or other attachments used in connection therewith.

(114) **SIGN CLASSIFICATIONS AND TYPES.** This term includes the following:

(a) **ADVERTISING SIGN.** A sign which directs attention to an activity, business, commodity, product, or service not necessarily conducted, sold or offered upon the premises where the sign is located;

(b) **AGRICULTURAL PRODUCT SIGN.** A sign displayed on any agricultural-zoned property by the owner or operator thereof for the purpose of identifying the farm or advertising the products grown thereon;

(c) **ATTACHED SIGN.** Any sign posted, painted, or constructed, attached to the canopy, facade, marquee, porch, roof, or wall of any structure, provided the sign does not extend any higher than one foot below the roof line;

(d) **BUSINESS SIGN.** A sign which directs attention to a business, commodity, entertainment, profession, product, or service sold or offered upon the premises where the sign is located or to which it is attached;

(e) **DIRECTIONAL SIGNS.** A sign directing traffic on private property but bearing no advertising matter;

(f) **FLASHING SIGN.** An illuminated sign on which such illumination is not kept stationary or is not kept constant in intensity or color at all times, including electronic readerboard signs;

(g) **FREESTANDING SIGN.** A sign standing on the ground. The signs may be supported from the ground by one or more poles or posts or similar uprights with or without braces;

(h) **HOME OCCUPATION SIGN.** An attached wall sign permitted in association with an occupation conducted on the premises in conjunction with a home occupation permit;

(i) **IDENTIFICATION SIGN.** A permanent, on-site sign announcing the name of a church, City, group housing project, nursing home, park, planned industrial center, public or quasi-public areas, school, shopping center, or subdivision;

(j) **ILLUMINATED SIGN.** A sign which has character, designs, figures, letters, or outlines illuminated by electric lights, luminous tubes, or reflective materials;

(k) **MESSAGE BOARD SIGN.** A nonflashing, nonmotion sign which allows characters, figures, or letters displayed thereon to be changed, which changes shall not be made more often than every ten seconds, and which directs attention to a commodity, entertainment, product, or service offered upon the premises where the sign is located or to which it is attached or which advertises any bona fide bazaar, carnival, fair, festival, horse show, or similar event when conducted by a public agency or for the benefit of any civic or charitable cause; all subject to Section 152.097;

(l) **MOTION SIGN.** A sign which moves, revolves, rotates, or simulates motion by the use of flashing or intermittent lighting or reflective materials;

(m) **NONCONFORMING SIGN.** A sign which existed prior to September 26, 1967 and does not conform to the requirements of this Chapter;

(n) **PARASITIC SIGN.** A sign placed on another sign or placed on the supporting structure of another sign that does not advertise a business, commodity, entertainment, profession, product, or service in that location;

(o) **PUBLIC SERVICE SIGN.** A banner, pennant, or sign advertising only the name, time, and place of any bona fide bazaar, carnival, fair, festival, horse show, or similar event when conducted by a public agency or for the benefit of any civic or charitable cause, provided that the sign shall not be displayed for more than 21 days in any ten-month period;

(p) **PROJECTING SIGN.** An attached sign which is mounted substantially parallel with a wall or is mounted to and substantially parallel with a canopy, facade, marquee, porch, or roof of any structure;

(q) **REAL ESTATE SIGN.** An on-premises sign for the purpose of advertising the sale or lease or the completion of the sale or lease of real estate when erected or displayed on the real estate so advertised;

(r) **SANDWICH SIGN.** A freestanding inverted V-type portable sign;

(s) **SIGN STRUCTURE.** The bracing, framework, supports, or uprights of any structure exhibiting a sign;

(t) **SUSPENDED SIGN.** An attached sign which is suspended by brackets, chains, hooks, or other means and which is mounted substantially perpendicular to the main building structure;

(u) **TEMPORARY SIGN.** A nonpermanent sign affixed, erected, or maintained on a premises for a limited period of time, including mobile signs which are designed for and capable of being moved from one location to another and including banners and pennants; and

(v) **TRAFFIC CONTROL SIGN.** A sign erected, either permanently or temporarily, by a governmental unit for the purpose of directing or regulating vehicular and pedestrian traffic.

(w) **Dynamic Display:** Any sign, portion of a sign, or characteristics of a sign that appears to have movement or that appears to change and which is caused to change by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, waving, flashing, blinking, or animated display or structural element, and any display that incorporates rotating panels, LED lights manipulated through digital input, “digital ink”, incandescent bulbs, or any other method or technology that allows a sign face, or any other device, to present a series of images or displays.

1. Dynamic Display Programming: The hardware, software, and all necessary equipment and operations associated with the control and programming of a dynamic display.

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(115) **SIGN, SURFACE AREA OF.** The entire area within a single, continuous perimeter enclosing the extreme limits of characters, illustrations, lettering, ornamentations, or other figures, together with any material or color forming an integral part of the display or to differentiate the sign from the background to which it is placed. Sign structure bearing no sign copy shall not be included in the sign surface area. The sign surface area shall be computed using only one side of a double-face or V-type sign structure.

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

(117) **SOLAR ACCESS.** The space between a solar energy collector and the sun which must remain unobstructed in order to assure the reasonable operation of the solar energy system.

(118) **SOLAR EASEMENT.** A right, whether or not stated in the form of a restriction, easement, covenant, or condition in any deed, will or other instrument executed for the purpose of insuring adequate access to solar energy.

(119) **SOLID FUEL BURNING DEVICE.** A device located outside of the principal building and designed for solid fuel combustion so that usable heat is derived for the interior of a building.

(120) **STEEP SLOPE.** Lands having average slopes over 12%, as measured over horizontal distances of 50 feet or more, that are not bluffs.

(121) **STORY.** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above.

(122) **STREET.** A public right-of-way which affords a primary means of access to abutting property and shall include avenue, highway, or road.

(123) **STREET TYPES.** This term includes the following:

(a) **STREET, ARTERIAL.** A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between heavy traffic generating areas;

(b) **STREET, COLLECTOR.** A street designed to distribute traffic between local and arterial street systems;

(c) **STREET, FRONTAGE.** A street constructed along the main traveled lanes of a trunk highway or other major street, or at a reasonable distance out from the limits of the trunk highway or other major street, which street provides access to the trunk highway or other major street from the properties that are adjacent to the trunk highway or other major street; and

(d) **STREET, LOCAL.** A street intended to serve primarily as an access to

abutting properties.

(124) **STREET PAVEMENT.** The wearing or exposed bituminous or concrete surface of the street used by vehicular traffic.

(125) **STREET WIDTH.** The width of the right-of-way or easement measured at right angles to the centerline of the street.

(126) **STRUCTURAL ALTERATION.** Any change that will alter the shape, enlarge, or require the altering of load bearing walls within a building.

(127) **STRUCTURE.** Anything constructed, the use of which requires permanent location on the ground, or is attached to something having a permanent location on the ground, including all antennas, weather earth station, satellite dishes, towers or other shapes. Satellite dishes shall have same setback requirements as accessory buildings.

(128) **STRUCTURE; WATER-ORIENTED ACCESSORY.** A small, aboveground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the direct relationship to a surface water feature or nature of its use reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, pumphouses, and detached decks.

(129) **SUBDIVISION.** The division of any tract of land into two or more lots.

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

(131) **TOWNHOUSE.** A single-family dwelling attached by party or common walls with other single family dwellings and oriented so that all exits open to the outside.

(132) **USE.** The purpose or activity for which land or structures are occupied, utilized, or maintained.

(133) **USE, CONDITIONAL.** A land use as defined in this Chapter that would not be appropriate generally but may be allowed with appropriate conditions upon a finding that certain criteria as detailed in this Chapter exist.

(134) **USE, PERMITTED.** A use which conforms with the purposes, objectives, requirements, regulations, and performance standards of a particular zoning district.

(135) **USE, PRINCIPAL.** The main use of land or structures.

(136) **VARIANCE.** A modification of certain provisions of this Chapter.

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

(138) **ZONING ADMINISTRATOR.** The individual charged with the administration and enforcement of this Chapter.

(139) **ZONING AMENDMENT.** A change authorized by the Council in the boundaries of a zoning district or of certain provisions of this Chapter.

§ 152.004 ZONING DISTRICTS MAP

The location and boundaries of the zoning districts established by this Section are set forth on the Zoning Districts Map, which is incorporated as part of this Section.

DISTRICT REGULATIONS

§ 152.020 FLOOD PLAIN DISTRICT (FP).

(A) **Purpose.**

- (1) Protect areas that have potential flood hazard.
- (2) Provide those areas prone to flooding the legal designation necessary to receive national flood insurance.
- (3) Provide protection to areas adjacent to designated flood plains.

(B) **Authority, interpretation and requirements.**

(1) **Authority.** The legislature of the state has, in M.S. Chapter 103F and M.S. § 462.351, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

(2) **Official flood plain maps.** The official zoning districts map of the City shall delineate the 100 year flood hazard areas. The flood insurance study for Pennington County, Minnesota and Incorporated Areas, prepared by the Federal Emergency Management Agency dated May 3, 1990 and the Flood Insurance Rate Map dated May 3, 1990 (annotated by the Letter of Map Revision issued by the Federal Emergency Management Agency, Case No. 14-05-0815P, with an effective date of September 18, 2014, including all attached maps, tables, and flood profiles) are incorporated into this Section. The official zoning map shall be on file in the office of the Zoning Administrator.

(3) **Notification.** The Zoning Administrator shall submit by mail to the Commissioner of Natural Resources a copy of any application for proposed variances or zoning amendments affecting the Flood Plain District sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing. A copy of all decisions granting variances or zoning amendments within the Flood Plain District shall be forwarded by mail to the Commissioner of Natural Resources within ten days of such action.

(4) **Structures.** Structures shall not be permitted within the Flood Plain District other than for public facilities which public facilities must receive prior approval of appropriate state agencies.

(C) Permitted uses.

- (1) Agriculture: forestry, general farming, pasture, and truck farming.
- (2) Recreation: archery courses, golf courses, picnic grounds, public and private parks, and wildlife preserves.

(D) Accessory uses.

- (1) Signs accessory to permitted agricultural and recreation uses.
- (2) Business signs for surface water-oriented commercial uses.

§ 152.021 AGRICULTURAL DISTRICT (AG).**(A) Purpose.**

- (1) Establish areas of the City to be retained and utilized for open space or agricultural uses.
- (2) Prevent scattered nonfarm uses from improper or premature development.
- (3) Secure economy in government expenditures for public utilities and services.
- (4) Preserve and enhance the natural environment as land becomes urbanized.

(B) Permitted uses.

- (1) Agricultural: forestry, forest management, general cultivation farming, pasture, and truck farming.
- (2) Other: home occupation, sensitive resource management, and single-family dwellings.

(C) Conditional uses.

- (1) Commercial agricultural.
- (2) Commercial recreation.
- (3) Extractive uses to include only gravel, sand, and topsoil.
- (4) Feedlots.
- (5) Kennels and veterinary clinics.
- (6) Public: cemeteries, essential services, parks, and historic sites.
- (7) Seasonal produce stands and commercial nurseries.

(D) Accessory uses.

- (1) Boat docks and water-oriented accessory structures.
- (2) Fences.
- (3) Garages.
- (4) Horticultural uses where no sale of products is conducted on the site.
- (5) Satellite dishes.
- (6) Signs.

(E) Yard requirements.**(1) General yard requirements.**

	<i>One Family Dwellings</i>	<i>Accessory Buildings</i>	<i>All Other Uses</i>
Lot area, minimum	1 acre		1 acre
Lot frontage, minimum at front yard setback	150 feet		150 feet
Front yard setback	25 feet	25 feet	25 feet
Rear yard setback	35 feet	5 feet	35 feet
Side yard setback			
Interior	15 feet	15 feet	15 feet
Corner	25 feet	25 feet	25 feet
Shoreland setback			
Sewered	50 feet	30 feet	50 feet
Unsewered	100 feet	30 feet	100 feet
Sewage treatment system			75 feet

(2) Nongeneral yard requirements. The above general yard requirements shall apply except as follows:

(a) Setbacks for the following uses located within the shoreland shall be not less than:

1. Boat docks: 0 feet.
2. Boathouse: 10 feet.

- 3. Detached decks: 10 feet.
- 4. Fences: 0 feet.
- 5. Gazebos: 10 feet.
- 6. Pumphouses: 5 feet.
- 7. Recreational equipment: 10 feet.
- 8. Satellite dishes: 30 feet.
- 9. Screen houses: 10 feet.
- 10. Signs: 5 feet.

(b) Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is one adjacent structure, the minimum front yard setback shall be the average of the adjacent structure and the required setback. In no case shall the front yard setback be less than 15 feet; and

(c) A water-oriented accessory structure may be located on the lot at less setback in conformance with this Chapter.

(F) *Additional restrictions.* Performance standards and supplemental restrictions are set forth in this Chapter.

§ 152.022 PARK AND RECREATION DISTRICT (PR.)

(A) *Purpose.* The purpose of this District is to:

- (1) Provide the City with open space and natural areas for recreation;
- (2) Provide for aesthetic quality within the City; and
- (3) Provide areas for a public service to the City.

(B) *Permitted uses.*

- (1) Flood prevention structures: dams, dikes, and spillways.
- (2) Recreational: bandstands, game and sport areas, nature study areas, pavilions, picnic shelters, recreational equipment, swimming pools, and trails.
- (3) Sale of alcohol and food, auctions and sales, conventions, and trade shows at locations authorized by the Council.

(C) Conditional uses.

- (1) Boat and canoe rentals.
- (2) Cemeteries.
- (3) Fairgrounds.
- (4) Temporary food stands.
- (5) Publicly-owned marinas.
- (6) Publicly-owned recreational camping areas.

(D) Accessory uses.

- (1) Bathhouses.
- (2) Fences.
- (3) Parking lots complimentary to the principal use.
- (4) Signs.
- (5) Temporary buildings for public use.
- (6) Watercraft access ramps, boat docks, and water-oriented accessory structures.

(E) Yard requirements.**(1) General yard requirements.**

	<i>Permitted and Conditional Uses</i>	<i>Accessory Uses</i>
Lot area, minimum square feet	5,000	
Lot frontage, minimum at front yard setback	N.A.	
Lot frontage for shoreland, minimum at front yard setback	100 feet	
Front yard setback	25 feet	25 feet
Rear yard setback	20 feet	20 feet

	<i>Permitted and Conditional Uses</i>	<i>Accessory Uses</i>
Side yard setback		
Interior	15 feet	15 feet
Corner	20 feet	20 feet
Shoreland setback		
Sewered	50 feet	50 feet
Unsewered	100 feet	100 feet
Sewage treatment system	75 feet	75 feet

(2) *Nongeneral yard requirements.* The above general yard requirements shall apply except as follows:

(a) Setbacks for the following uses located within the shoreland shall be not less than:

1. Ball diamonds: 50 feet.
2. Bathhouses: 10 feet.
3. Boat docks: 0 feet.
4. Boathouses: 10 feet.
5. Fences: 0 feet.
6. Playground equipment: 50 feet.
7. Signs: 5 feet.
8. Tennis courts: 50 feet.
9. Water craft access ramps: 0 feet.

(b) A water-oriented accessory structure may be located on the lot at less setback in conformance with this Chapter.

(F) *Additional restrictions.* Performance standards and supplemental restrictions are set forth in this Chapter.

§ 152.023 RESIDENTIAL GENERALLY.

The general purposes of the Residential Districts are the following:

- (A) To preserve and enhance the existing living qualities of residential neighborhoods;
- (B) To insure future high-quality neighborhoods;
- (C) To increase convenience and comfort by providing usable open space and recreational areas;
- (D) To prevent alterations or additions to structures and uses which would damage the character or living desirability of existing residential neighborhoods;
- (E) To protect residential neighborhoods from abnormal traffic volumes; and
- (F) To encourage a variety of dwelling types, subdivision design, and population densities consistent with the Comprehensive Plan.

§ 152.024 SUBURBAN RESIDENTIAL DISTRICT (R-1).

- (A) **Purpose.** The purpose of this District is as follows:
 - (1) Low-density development as an extension of existing residential area; and,
 - (2) Allow low-density development of two to four dwelling units per acre.
- (B) **Permitted uses.**
 - (1) Cultural and educational: nursery schools and day care facilities of up to 12 persons.
 - (2) Recreational: publicly-owned recreational uses and historic sites.
 - (3) Residential: single-family dwellings and home occupations.
- (C) **Conditional uses.**
 - (1) Boat and canoe rental and temporary food stands on publicly-owned lots.
 - (2) Cultural and educational: colleges, day care facilities for 13 or more persons, dormitories, libraries, public and private schools, and public museums.
 - (3) Health and social: hospitals, nursing homes, and retirement homes.
 - (4) Neighborhood businesses: permitted uses of a C-1 District, provided they are arranged and designed to be a functional and harmonious part of a residential neighborhood and are located on identified arterial or collector streets and are located at the corners of blocks, and bed and breakfast inns.

- (5) Public: essential services, fire stations, and police stations.
- (6) Recreational: accessory buildings, athletic fields, golf courses, and neighborhood pools.
- (7) Religious: cemeteries, churches, convents, monasteries, mosques, nunneries, seminaries, synagogues and temples.
- (8) Residential: one accessory apartment per dwelling unit, two-family dwellings on corner lots, and planned unit developments.

(D) Accessory uses.

- (1) Boat docks and water-oriented accessory structures.
- (2) Fences.
- (3) Parking lots complimentary to the principal use.
- (4) Private garages.
- (5) Recreational equipment.
- (6) Satellite dishes.
- (7) Signs.
- (8) Storage buildings, complimentary to the principal use and not exceeding 150 square feet.

(E) Yard requirements.**(1) General yard requirements.**

	<i>One Family</i>	<i>Two Family</i>	<i>Accessory Building</i>	<i>All Other Uses</i>
Lot area, minimum sq. ft.	9,000	12,000		14,000
Lot frontage, minimum at front yard setback	75 feet	75 feet		75 feet
Lot frontage for shoreland, minimum at front yard setback line				
Sewered lots	75 feet	115 feet		75 feet
Unsewered lots	100 feet	150 feet		100 feet
Front yard setback	25 feet	25 feet	25 feet	25 feet
Rear yard setback	35 feet	35 feet	5 feet	35 feet
Side yard setback				
Interior	10 feet	10 feet	10 feet Attached 5 feet Detached	15 feet
Corner	15 feet	15 feet	15 feet	20 feet
Shoreland setback				
Sewered lots	50 feet	50 feet	30 feet	50 feet
Unsewered lots	100 feet	100 feet	30 feet	100 feet
Sewage treatment system				75 feet

(2) Nongeneral yard requirements. The above general yard requirements shall apply except as follows:

(a) Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is one adjacent structure, the minimum front yard setback shall be the average of the adjacent structure and the required setback. In no case shall the front yard setback be less than 15;

(b) Buffers and essential services shall have no setback requirements and parking lots shall have no setback requirements except in shoreland;

(c) Additional yard requirements for signs are set forth in this Chapter.

(d) Setbacks for the following uses located within the shoreland shall be not less than:

- | | |
|----------------------------|----------|
| 1. Boat docks: | 0 feet. |
| 2. Boathouses: | 10 feet. |
| 3. Detached decks: | 10 feet. |
| 4. Fences: | 0 feet. |
| 5. Gazebos: | 10 feet. |
| 6. Parking lots: | 30 feet. |
| 7. Pumphouses: | 5 feet. |
| 8. Recreational equipment: | 10 feet. |
| 9. Satellite dishes: | 30 feet. |
| 10. Screen houses: | 10 feet. |
| 11. Signs: | 5 feet. |
| 12. Storage buildings: | 30 feet. |

(e) A water-oriented accessory structure may be located on the lot at less setback in conformance with this Chapter.

(F) *Additional restrictions.* Performance standards and supplemental restrictions are set forth in this Chapter.

§ 152.025 GENERAL RESIDENTIAL DISTRICT (R-2).

(A) *Purpose.* The purpose of this District is to allow medium density development of five to eight dwelling units per acre with a broad range of housing types.

(B) *Permitted uses.*

- (1) *General.* All permitted uses of the R-1 District.
- (2) *Residential.* Accessory apartments and two-family dwellings.

(C) Conditional uses.

(1) **General.** All conditional uses of the R-1 District.

(2) **Residential.** Multi-family dwellings, including townhouses and condominiums, provided that there are no more than four units in a row or in a single building and provided that they are developed on an identified arterial or collector street.

(D) **Accessory uses.** All accessory uses of the R-1 District.

(E) Yard requirements.

(1) **General yard requirements.**

	<i>One Family</i>	<i>Two Family</i>	<i>Multi Family</i>	<i>Accessory Buildings</i>	<i>All Other Uses</i>
Lot area, minimum sq. ft.	7,000	12,000	18,000		14,000
Lot frontage, minimum at front yard setback	50 feet	75 feet	75 feet		75 feet
Lot frontage for shoreland, minimum at front yard setback					
Sewered lots	75 feet	115 feet	175 feet		75 feet
Unsewered lot	100 feet	150 feet	225 feet		100 feet
Front yard setback	25 feet	25 feet	25 feet	25 feet	25 feet
Rear yard setback	35 feet	35 feet	35 feet	5 feet	35 feet
Side yard setback					
Interior	7 feet	10 feet	10 feet	7 feet Attached 5 feet Detached	
Corner	10 feet	15 feet	15 foot	10 feet	15 feet
Shoreland setback					
Sewered lots	50 feet	50 feet	50 feet	30 feet	50 feet
Unsewered lots	100 feet	100 feet	100 feet	30 feet	100 feet
Sewage treatment system					75 feet

(Ord. No. 107, 3rd Series – adopted 05/1/18)

(2) **Nongeneral yard requirements.** The above general yard requirements shall apply, except as follows:

(a) Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures.

If there is one adjacent structure, the minimum front yard setback shall be the average of the adjacent structure and the required setback. In no case shall the front yard setback be less than 15 feet;

(b) Where a detached accessory building, with a sidewall height of 10 feet or less, is located entirely within the rear one-half of a lot, the interior side yard setback for that accessory building may be three feet;

(c) Buffers and essential services shall have no setback requirements, and parking lots shall have no setback requirements except in shoreland;

(d) Additional yard requirements for signs are set forth in this Chapter;

(e) Setbacks for the following uses located within the shoreland shall not be less than:

- | | |
|----------------------------|----------|
| 1. Boat docks: | 0 feet. |
| 2. Boathouses: | 10 feet. |
| 3. Detached decks: | 10 feet. |
| 4. Fences: | 0 feet. |
| 5. Gazebos: | 10 feet. |
| 6. Parking lots: | 30 feet. |
| 7. Pumphouses: | 5 feet. |
| 8. Recreational equipment: | 10 feet. |
| 9. Satellite dishes: | 30 feet. |
| 10. Screen houses: | 10 feet. |
| 11. Signs: | 5 feet. |
| 12. Storage buildings: | 30 feet. |

(f) A water-oriented accessory structure may be located on the lot at less setback in conformance with this Chapter; and

(g) The lot area shall not be less than 6,000 square feet for each dwelling unit in a multiple family structure having four dwelling units or less and an additional 750 square feet for each dwelling unit over four dwelling units.

(F) *Additional restrictions.* Performance standards and supplemental restrictions are set forth in this Chapter.

§ 152.026 HIGH DENSITY RESIDENTIAL DISTRICT (R-3).

(A) *Purpose.* The purpose of this District is to allow higher density residential areas with smaller dwelling units and a broad range of housing types.

(B) *Permitted uses.*

- (1) General. All permitted uses of the R-2 District.
- (2) Manufactured Home Parks.
- (3) Manufactured Home Subdivisions.

(C) *Conditional uses.* All conditional uses of the R-2 District.

(D) *Accessory uses.* All accessory uses of the R-2 District.

(E) *Yard requirements.*

(1) *General yard requirements.*

	<i>One Family</i>	<i>Two Family</i>	<i>Multi Family</i>	<i>Accessory Buildings</i>	<i>All Other Uses</i>
Lot area, minimum sq. ft.	5,000	12,000	18,000		14,000
Lot frontage, minimum at front yard setback	40 feet	75 feet	75 feet		75 feet
Lot frontage for shoreland, minimum at front yard setback					
Sewered lots	75 feet	115 feet	175 feet		75 feet
Unsewered lots	100 feet	150 feet	225 feet		100 feet
Front yard setback	25 feet	25 feet	25 feet	25 feet	25 feet
Rear yard setback	25 feet	35 feet	35 feet	5 feet	35 feet
Side yard setback					
Interior	7 feet	10 feet	10 feet	7 feet Attached 3 feet Detached	10 feet
Corner	10 feet	15 feet	15 feet	10 feet	15 feet

	<i>One Family</i>	<i>Two Family</i>	<i>Multi Family</i>	<i>Accessory Buildings</i>	<i>All Other Uses</i>
Shoreland setback					
Sewered lots	50 feet	50 feet	50 feet	30 feet	50 feet
Unsewered lots	100 feet	100 feet	100 feet	30 feet	100 feet
Sewage treatment system				75 feet	75 feet

(2) *Nongeneral yard requirements.* The above general yard requirements shall apply, except as follows:

(a) Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is one adjacent structure, the minimum front yard setback shall be the average of the adjacent structure and the required setback. In no case shall the front yard setback be less than 15;

(b) Buffers and essential services shall have no setback requirements, and parking lots shall have no setback requirements except in shoreland;

(c) Additional yard requirements for signs are in this Chapter;

(d) Setbacks for the following uses located within the shoreland shall not be less than:

1. Boat docks: 0 feet.
2. Boathouses: 10 feet.
3. Detached decks: 10 feet.
4. Fences: 0 feet.
5. Gazebos: 10 feet.
6. Parking lots: 30 feet.
7. Pumphouses: 5 feet.
8. Recreational equipment: 10 feet.
9. Satellite dishes: 30 feet.
10. Screen houses: 10 feet.

11. Signs: 5 feet.

12. Storage buildings: 30 feet.

(e) A water-oriented accessory structure may be located on the lot at less setback in conformance with this Chapter; and,

(f) **Lot area:** not less than 6,000 square feet for each dwelling unit in a multiple-family structure having four dwelling units or less and an additional 750 square feet for each dwelling unit over four dwelling units.

(F) **Additional restrictions.** Performance standards and supplemental restrictions are set forth in this Chapter.

§ 152.027 MULTI-FAMILY RESIDENTIAL DISTRICT (R-4).

(A) **Purpose.** The purpose of this District is to allow areas of multi-family use at higher densities of nine to 19 dwelling units per acre for both permanent and transient families. It is appropriate only in areas served by adequate public utilities, immediate accessibility to arterial or collector streets, and public services.

(B) **Permitted uses.**

(1) **Health.** Convalescent homes, nursing homes, orphanages and retirement homes.

(2) **Residential.** Apartments, condominiums, cooperatives, duplexes and townhouses.

(C) **Conditional uses.**

(1) **General.** All conditional uses of the R-2 District.

(2) **Residential.** Single-family and two-family dwellings.

(D) **Accessory uses.** All accessory uses of the R-2 District.

(E) Yard requirements.

(1) General yard requirements.

	<i>One Family</i>	<i>Two Family</i>	<i>Multi Family</i>	<i>Accessory Buildings</i>	<i>All Other Uses</i>
Lot area, minimum sq. ft.	7,000	12,000	18,000		14,000
Lot frontage, minimum at front yard setback	50 feet	75 feet	75 feet		75 feet
Lot frontage for shoreland, minimum at front yard setback					
Sewered lots	75 feet	115 feet	175 feet		75 feet
Unsewered lots	100 feet	150 feet	225 feet		100 feet
Front yard setback	25 feet	25 feet	25 feet	25 feet	25 feet
Rear yard setback	35 feet	35 feet	35 feet	5 feet	35 feet
Side yard setback					
Interior	7 feet	10 feet	10 feet	7 feet Attached 3 feet Detached	10 feet
Corner	10 feet	15 feet	15 feet	10 feet Attached 10 feet Detached	15 feet
Shoreland setback					
Sewered lots	50 feet	50 feet	50 feet	30 feet	50 feet
Unsewered lots	100 feet	100 feet	100 feet	30 feet	100 feet
Sewage treatment system					75 feet

(2) Nongeneral yard requirements. The above general yard requirements shall apply, except as follows:

(a) Lot area: Not less than 3,000 square feet for each of the first four dwelling units and 2,000 square feet for each dwelling unit thereafter in a multi-family structure. This is subject to the minimum 18,000 square feet requirement set forth in paragraph (1) General Yard Requirements above. All lots with multi-family dwelling units shall have a maximum impervious coverage of 40% or up to 60% with a Conditional Use Permit.

(b) Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is one adjacent structure, the minimum front yard setback shall be the average of the adjacent structure and the required setback. In no case shall the front yard setback be less than 15;

(c) Buffers and essential services shall have no setback requirements, and parking lots shall have no setback requirements except in shoreland;

(d) Signs: additional yard requirements for signs are in this Chapter;

(e) Setbacks for the following uses located within the shoreland shall not be less than:

- | | |
|----------------------------|----------|
| 1. Boat docks: | 0 feet. |
| 2. Boathouses: | 10 feet. |
| 3. Detached decks: | 10 feet. |
| 4. Fences: | 0 feet. |
| 5. Gazebos: | 10 feet. |
| 6. Parking lots: | 30 feet. |
| 7. Pumphouses: | 5 feet. |
| 8. Recreational equipment: | 10 feet. |
| 9. Satellite dishes: | 30 feet. |
| 10. Screen houses: | 10 feet. |
| 11. Signs: | 5 feet. |
| 12. Storage buildings: | 30 feet. |

(e) A water-oriented accessory structure may be located on the lot at less setback in conformance with this Chapter.

(F) *Additional restrictions.* Performance standards and supplemental restrictions are set forth in this Chapter.

§ 152.028 PERFORMANCE STANDARDS FOR ALL RESIDENTIAL DISTRICTS.

(A) *Structure height.* Structures within shoreland shall be limited to 30 feet in height. Structures outside of shoreland shall be limited to 25 feet in height at the lowest point of egress for persons on the top floor of the structure and in no case, more than 47 feet in height at the structure peak.

A Conditional Use Permit may be requested to exceed the above height limitations provided that:

- (1) The Fire Chief and Building Official have approved;
- (2) The height of the structure will not destroy the scenic view, will not shut off light or air to surrounding properties, or otherwise be detrimental to the public; and
- (3) Structures over the above 30 foot or 25 foot height limitations shall provide an additional 5 feet of side yard for each 5 feet in height over the above 30 foot or 25 foot height limitations, respectively.

(B) *Minimum Dwelling Size.*

(1) Single-family and two-family dwellings located in the R-1, R-2, and R-4 Districts shall provide not less than 950 square feet of gross floor area per dwelling unit, shall be not less than 20 feet wide at the narrowest point, and shall be affixed to a permanent foundation as defined in the State Building Code. In addition to the requirements of the State Building Code, the permanent foundation, whether masonry, concrete, or treated wood, shall be constructed as continuous walls, which walls shall not have any openings except as required by the State Building Code or for windows.

(2) Single-family and two-family dwellings located in R-3 District shall provide 720 square feet of gross floor area per dwelling unit and shall be 12 feet wide at the narrowest point.

(3) Multi-family dwellings having four or more units shall provide a minimum of 330 square feet of gross floor area per living unit.

(C) *Accessory buildings.*

(1) ***Maximum floor area.*** The combined maximum floor area of all accessory buildings shall not exceed 1,500 square feet in R-1, R-2, and R-3 Districts.

(2) ***Maximum side wall height.*** Maximum side wall height shall be 11 feet in height. It shall be allowable to have one accessory building of up to a maximum of 775 square feet in floor area which may have side walls of up to 12 feet in height. There shall be no home occupation or commercial business in any accessory building with side walls in excess of 11 feet in height.

(D) *Multiple-family standards (apartments, condominiums, cooperatives, and townhouses).*

(1) Shall be located on arterial or collector streets or in areas specifically designed for high density development.

(2) May be placed as buffers in appropriate zoning districts between less dense residential uses and nonresidential uses.

(3) Each multiple-family development containing four or more dwelling units shall have a recreation area. The size and equipment provided shall be determined with the assistance of the Parks and Recreation Division.

(4) Sidewalks shall be provided from parking areas, trash collection areas, and recreation areas to a principal building.

(5) A multiple-family development shall have a front yard setback on any abutting street.

(E) *Supplemental lot regulations.*

(1) A single-family dwelling may be erected on a lot in the R-1 District having less than the minimum required area and width, provided the lot existed by virtue of a recorded plat or deed existing prior to September 26, 1967. In no event shall a single-family dwelling be erected on a lot less than 7,000 square feet in area or less than 50 feet in width measured at front building line.

(2) A single-family dwelling may be erected on a lot in the R-2 District having less than the minimum required area and width, provided the lot existed by virtue of a recorded plat or deed existing prior to September 26, 1967. In no event shall a single-family dwelling be erected on a lot less than 5,000 square feet in area or less than 40 feet in width measured at front building line.

(F) *Lighting.* Lighting used to illuminate a nonresidential use or sign shall be arranged so as to deflect light away from adjoining residential property.

(G) *Planned unit development (residential).* The placing of residential dwelling units into compact groupings may be permitted in any Residential District following the completion and approval of a Preliminary and Final Plat for a planned unit development.

(1) Common open space may be preserved as open recreation space for recreational facilities or for preservation of natural or scenic resources.

(2) Except for height limitations for the district in which the development is proposed, altered dimensional standards may be allowed as exceptions to this Chapter for a planned unit development, provided that:

(a) The planned unit development shall not increase the overall density as regulated by the requirements of the district in which it is located;

(b) A minimum of 40% of the site shall be kept in its natural state or utilized for recreation; and,

(c) Planned unit developments shall be two continuous acres or more in area.

(H) *Bed and breakfast inns.*

(1) Prior to applying for a Conditional Use Permit for a bed and breakfast inn, an applicant shall cause the Fire Marshal to inspect the premises and the Fire Marshal's report shall accompany the application for a Conditional Use Permit.

(2) The location and operation of the bed and breakfast inn shall comply with the following:

(a) The inn shall be licensed for a specific number of guest rooms not to exceed four in number;

(b) The inn shall be a owner occupied single-family dwelling having a minimum of 2,000 square feet of residential floor area. The owner must reside on the premises and be the operator of the inn;

(c) No cooking facilities shall be permitted in any guest room and meals provided by the operator shall be served only to registered overnight guests, subject to Subsection (i) below;

(d) Off-street parking shall be provided in accordance with the parking requirements of this Chapter; provided, that in no event shall there be less than one off-street parking space per guest room, subject to Subsection (i) below;

(e) There shall be a minimum distance of 350 feet between each inn as measured between the nearest lot lines;

(f) An on-premises sign advertising an inn located in any zoning district shall be limited to three square feet in area, shall be located on the building, shall be consistent with the character of the building, and shall be limited to identifying not more than the name and address of the inn. There shall be only one such sign per inn which may not be illuminated;

(g) All inns shall comply with applicable State Health and Building Code requirements;

(h) No other commercial enterprise, including a home occupation, shall be operated in the inn, subject to Subsection (i) below; and,

(i) An inn shall be allowed to serve meals to other than registered overnight guests upon the following conditions:

1. The Conditional Use Permit shall specifically allow this use and set parameters consistent with this Subsection;

2. Meals are served only to those who have advanced reservations;

3. No more than ten persons may be seated for meals at any one time; and,

4. One parking stall for every two dining seats shall be provided on site, in addition to the parking required by Subsection (d) above.

§ 152.029 NONRESIDENTIAL DISTRICTS.

The purpose of the Nonresidential Districts is as follows:

- (A) Group compatible commercial and industrial land uses;
- (B) Promote quality commercial and industrial development that will minimize land use, traffic, and environmental conflicts;
- (C) Encourage the development of commercial and industrial sites that produce an attractive image through architecture and landscaping; and,
- (D) Encourage commercial and industrial developers to provide for the capital improvements necessary to service the development.

§ 152.030 NEIGHBORHOOD BUSINESS DISTRICT (C-1).

(A) *Purpose.* The Neighborhood Business District is intended for business establishments for use by persons residing in adjacent residential areas. Uses within the district shall not attract community-wide consumer traffic.

(B) *Permitted uses.* Retail: barber or beauty shops, grocery stores without gas pumps. All uses shall not exceed 3,000 square feet in gross floor area.

(C) *Conditional uses.*

(1) **Retail:** barber or beauty shops, grocery stores with or without gasoline sales, and office buildings. All uses shall not exceed 5,000 square feet in gross floor area.

Ordinance No. 19, 3rd Series

(2) **Signs:** freestanding business signs.

(D) *Accessory uses.*

(1) Accessory buildings.

(2) Essential services.

(3) Fences.

(4) Parking lots.

(5) Satellite dishes.

(6) Signs.

(E) Yard requirements.

	<i>Permitted and Conditional Uses</i>	<i>Accessory Uses</i>
Lot area, minimum sq. ft.	9,000	
Lot frontage, minimum at front yard setback	75 feet	
Front yard setback	25 feet	25 feet
Rear yard setback	20 feet	5 feet
Side yard setback, interior	10 feet	10 feet
Side yard setback, corner	15 feet	15 feet

(F) Additional restrictions. Performance standards and supplemental restrictions are set forth in this Chapter.

§ 152.031 GENERAL BUSINESS DISTRICT (C-2).

(A) Purpose. The General Business District is intended for business establishments that offer a wide variety of goods and services to customers from a large trade area.

(B) Permitted uses.

(1) **Commercial service:** buses, cabs, clinics, commercial trade or business schools, dry cleaning, financial institutions, hospitals, medical laboratories, laundries, mortuaries, motels, hotels, radio and television studios, and train stations.

(2) **Entertainment:** private clubs, restaurants, and theaters.

(3) **Personal services:** barbers, beauticians, and shoe repair.

(4) **Professional services:** accountants, attorneys, dentists, doctors, engineers, financial consultants, insurance, realtors, and travel bureaus.

(5) **Public services:** armories, fire stations, government offices, libraries, parks, police stations, public buildings, and publicly-owned parking lots.

(6) ***Wholesale and retail:*** apparel, appliances, video, automobile sales, automobile service station and repair garage, bakeries, beverage, book, candy, carpet, hardware, jewelry, lumber yards, motels, music, office supply, nursery stock, plumbing and heating wholesale showrooms, and variety stores.

(7) ***Religious:*** churches, convents, monasteries, mosques, nunneries, seminaries, synagogues, temples, and all other religious institutions or places of religious assembly.

(8) ***Storage Facilities.***

(C) Conditional uses.

(1) ***Retail and wholesale:*** agricultural implement dealerships, beer and liquor establishments (on and off sale), lumber yards, manufactured home sales lots, pet and animal shops or clinics, shopping centers, and taxidermists.

(2) ***Commercial services:*** delivery and express businesses.

(3) ***Publicly-owned recreational camping areas and privately-owned recreational camping areas.***

(4) ***Surface water-oriented commercial uses.***

(D) Accessory uses.

(1) Accessory buildings and structures, including surface water-oriented structures accessory to commercial uses.

(2) Buffers.

(3) Essential services.

(4) Fences.

(5) Loading areas.

(6) Parking lots.

(7) Satellite dishes.

(8) Signs.

(E) Yard requirements.

(1) General yard requirements.

	<i>Permitted and Conditional Uses</i>	<i>Accessory Uses</i>
Lot area, minimum sq. ft.	7,000	
Lot frontage, minimum at front yard setback	50 feet	
Lot frontage for shoreland, minimum at front yard setback	100 feet	
Front yard setback	25 feet	25 feet
Rear yard setback	20 feet	5 feet
Side yard setback, interior	15 feet	15 feet
Side yard setback, corner	15 feet	15 feet
Shoreland setback		
Sewered lots	50 feet	50 feet
Unsewered lots	100 feet	50 feet
Sewage treatment system		75 feet

(2) Nongeneral yard requirements. The above general yard requirements shall apply, except as follows:

(a) Principal buildings in excess of 3,000 square feet of gross floor area shall have a minimum lot area equal to 2.5 times the gross floor area of the principal buildings;

(b) General business uses adjacent to a frontage street shall have a front yard setback of no less than 25 feet beginning at the interior edge of the frontage street;

(c) Buffers and essential services shall have no setback requirements, and parking lots shall have no setback requirements except in shoreland;

(d) **Signs:** additional yard requirements for signs are set forth in this Chapter; and,

(e) Setbacks for the following uses located within the shoreland shall not be less than:

1. Bait and fish houses: 10 feet.
2. Boat docks: 0 feet.

- | | | |
|----|----------------------------|----------|
| 3. | Detached decks: | 10 feet. |
| 4. | Fences: | 0 feet. |
| 5. | Gazebos and screen houses: | 10 feet. |
| 6. | Recreational equipment: | 10 feet. |
| 7. | Satellite dishes: | 30 feet. |
| 8. | Signs: | 5 feet. |

(F) *Additional restrictions.* Performance standards and supplemental restrictions are set forth in this Chapter.

§ 152.032 CENTRAL BUSINESS DISTRICT (C-3).

(A) *Purpose.* The Central Business District recognizes the existing downtown development and the need for future expansion, rehabilitation, and redevelopment.

(B) *Permitted uses.*

(1) *Commercial services:* buses, cabs, clinics, commercial trade or business schools, dry cleaning, financial institutions, hospitals, medical laboratories, laundries, mortuaries, motels, hotels, radio and television studios, and train stations.

(2) *Entertainment:* private clubs, restaurants, and theaters.

(3) *Personal services:* barbers, beauticians, and shoe repair.

(4) *Professional services:* accountants, attorneys, dentists, doctors, engineers, financial consultants, insurance, realtors, and travel bureaus.

(5) *Public services:* armories, fire stations, government offices, libraries, parks, police stations, public buildings, and publicly-owned parking lots.

(6) *Retail: apparel,* appliance, video, automobile parts, bakeries, beverage, book, candy, carpet, department, drugs, fabric, flower, furniture, grocery, hardware, jewelry, music, office supply, and variety stores.

(7) *Religious:* churches, convents, monasteries, mosques, nunneries, seminaries, synagogues, temples, and all other religious institutions or places of religious assembly.

(C) Conditional uses.

(1) **Educational:** day care centers, nursery schools, and public and private schools.

(2) **Residential:** multi-family dwellings of at least three stories and not exceeding 60 feet in height nor less than four units per structure and apartments over commercial units.

(3) **Retail:** pet stores, excluding kennels.

(4) **Services:** automobile sales, automobile service station and repair garage, on/off sale liquor establishments, printing, publishing, and wholesale outlets.

(5) **Shopping centers.**

(6) **Surface water-oriented commercial uses.**

(D) Accessory uses.

(1) **Accessory buildings and structures, including surface water-oriented structures accessory to commercial uses.**

(2) **Buffers.**

(3) **Essential services.**

(4) **Fences.**

(5) **Loading areas.**

(6) **Parking lots.**

(7) **Satellite dishes.**

(8) **Signs.**

(E) Yard requirements.**(1) General yard requirements.**

	<i>Permitted and Conditional Uses</i>	<i>Accessory Uses</i>
Lot area, minimum sq. ft.	3,500	
Lot frontage, minimum at front yard setback	25 feet	
Lot frontage for shoreland, minimum at front yard setback	25 feet	
Front yard setback	0 feet	20 feet
Rear yard setback	20 feet	20 feet
Side yard setback, interior and corner	0 feet	0 feet
Shoreland setback		
Sewered lots	50 feet	50 feet
Unsewered lots	100 feet	50 feet
Sewage treatment system		75 feet

(2) Nongeneral yard requirements. The above general yard requirements shall apply, except as follows:

(a) Multi-family units.

1. Lot area. Not less than 6,000 square feet of lot area for each dwelling unit in a multiple-family structure having four dwelling units or less and an additional 750 square feet for each dwelling unit over four dwelling units, except this shall not apply to apartments over commercial units.

2. Recreational area. Each multiple-family development containing four or more dwelling units shall have a recreation area. The size and equipment provided shall be determined with the assistance of the Parks and Recreation Division. This shall not apply to apartments over commercial units.

(b) Buffers. Buffers and essential services shall have no setback requirements, and parking lots shall have no setback requirements except in shoreland;

(c) Signs. Additional yard requirements for signs are set forth in this Chapter; and,

(d) Setbacks. Setbacks for the following uses located within the shoreland shall not be less than:

- | | |
|-------------------------------|----------|
| 1. Bait and fish houses: | 10 feet. |
| 2. Boat docks: | 0 feet. |
| 3. Detached decks: | 10 feet. |
| 4. Fences: | 0 feet. |
| 5. Gazebos and screen houses: | 10 feet. |
| 6. Recreational equipment: | 10 feet. |
| 7. Satellite dishes: | 30 feet. |
| 8. Signs: | 5 feet. |

(F) *Additional restrictions.* Performance standards and supplemental restrictions are set forth in this Chapter.

§ 152.033 DOWNTOWN FRINGE DISTRICT (C-4).

(A) *Purpose.* The Downtown Fringe District is intended to establish a transition area between the C-3 District and adjacent Residential Districts.

(B) Permitted uses.

(1) *General.* All permitted uses of the C-3 District with commercial buildings not to exceed 3,000 square feet in gross floor area.

(2) *Residential.* Condominiums, cooperatives, duplexes, single-family dwellings, townhouses, and multi-family dwellings not to exceed 35 feet in height.

(C) Conditional uses.

(1) All permitted uses of the C-3 District with commercial buildings not to exceed 5,000 square feet in gross floor area.

(2) Churches and philanthropic institutions.

(3) Educational: daycare centers, nursery schools, and public and private schools.

(4) Residential: multi-family dwellings not to exceed 60 feet in height, nor less than four units per structure and apartments over commercial units.

(5) Services: automobile service stations and repair garages, printing, and wholesale outlets.

(D) *Accessory uses.* All accessory uses permitted in the R-2 District and C-3 District.

(E) *Yard requirements.*

(1) *General yard requirements.*

	<i>One-Family</i>	<i>Two-Family</i>	<i>Multi-Family</i>	<i>Permitted and Conditional Uses</i>	<i>Accessory Uses</i>
Lot area, minimum sq. ft.	7,000	12,000	18,000	7,000	
Lot frontage, min. at front yard setback	50 feet	75 feet	75 feet	50 feet	
Lot frontage for shoreland, min. at front yard setback					
Sewered lots	75 feet	115 feet	175 feet	50 feet	
Unsewered lots	100 feet	150 feet	225 feet	100 feet	
Front yard setback	25 feet	25 feet	25 feet	25 feet	25 feet
Rear yard setback	35 feet	35 feet	35 feet	35 feet	20 feet
Side yard					
Interior	7 feet	10 feet	10 feet	7 feet	5 feet
Corner	10 feet	15 feet	15 feet	15 feet	15 feet
Shoreland setback					
Sewered lots	50 feet	50 feet	50 feet	50 feet	50 feet
Unsewered lots	100 feet	100 feet	100 feet	100 feet	100 feet
Sewage treatment system					75 feet

(2) *Nongeneral yard requirements.* The above general yard requirements shall apply, except as follows:

(a) The rear yard setback for private garages shall not be less than ten feet from the rear lot line;

(b) Buffers and essential services shall have no setback requirements, and parking lots shall have no setback requirements except in shoreland;

(c) Multi-family:

1. **Lot area.** Not less than 6,000 square feet of lot area for each dwelling unit in a multiple-family structure having four dwelling units or less and an additional 750 square feet for each dwelling unit over four dwelling units, except this shall not apply to apartments over commercial units;

2. **Recreational area.** Each multiple-family development containing four or more dwelling units shall have a recreation area. The size and equipment provided shall be determined with the assistance of the Parks and Recreation Division. This shall not apply to apartments over commercial units;

(d) Signs: additional yard requirements for signs are set forth in this Chapter; and,

(e) Setbacks for the following uses located within the shoreland shall not be less than:

- | | |
|-------------------------------|----------|
| 1. Bait and fish houses: | 10 feet. |
| 2. Boat docks: | 0 feet. |
| 3. Detached decks: | 10 feet. |
| 4. Fences: | 0 feet. |
| 5. Gazebos and screen houses: | 10 feet. |
| 6. Parking lots: | 30 feet. |
| 7. Pumphouses: | 5 feet. |
| 8. Recreational equipment: | 10 feet. |
| 9. Satellite dishes: | 30 feet. |
| 10. Signs: | 5 feet. |

(F) Additional restrictions. Performance standards and supplemental restrictions are set forth in this Chapter.

§ 152.034 LIGHT INDUSTRIAL DISTRICT (I-1).

(A) Purpose. The Light Industrial District is intended to permit uses that are free from objectionable influence. The uses are limited to wholesaling, light manufacturing, and related uses which can be carried on in an unobtrusive manner and which would not be considered detrimental to an adjacent lower intensity district or to shoreland. Uses within this district shall be conducted wholly

within buildings, except storage, which must be fully screened in a manner acceptable to the Zoning Administrator.

(B) Permitted uses.

(1) Light manufacture: fabrication and assembly of books, cameras and photographic equipment, confectionary supplies, electronic equipment and supplies, footwear, luggage, medical equipment and supplies, office furniture and supplies, sports equipment, and telephone/telegraph equipment and supplies.

(2) Wholesaling: warehousing and wholesale business facilities.

(C) Conditional Uses.

(1) Engineering offices requiring storage for larger equipment.

(2) Motor freight terminals.

(3) Towers.

(D) Accessory uses.

(1) Accessory buildings and structures.

(2) Buffers.

(3) Essential services.

(4) Fences.

(5) Loading areas.

(6) Parking lots.

(7) Satellite dishes.

(8) Signs.

(E) Yard requirements.

(1) General yard requirements.

	<i>Permitted and Conditional Uses</i>	<i>Accessory Uses</i>
Lot area, minimum sq. ft.	20,000	
Lot frontage, minimum at front yard setback	100 feet	
Lot frontage for shoreland, minimum at front yard setback	150 feet	

	<i>Permitted and Conditional Uses</i>	<i>Accessory Uses</i>
Front yard setback	75 feet	75 feet
Rear yard setback if abutting Residential or Agricultural Districts	35 feet 75 feet	35 feet 75 feet
Side yard setback, interior if abutting Residential or Agricultural Districts	25 feet 75 feet	25 feet 75 feet
Side yard setback, corner	25 feet	25 feet
Shoreland setback Sewered lots Unsewered lots Sewage treatment system	75 feet 150 feet	75 feet 150 feet 75 feet

(2) *Nongeneral yard requirements.* The above general yard requirements shall apply, except as follows:

(a) Buffers and essential services shall have no setback requirements, and parking lots shall have no setback requirements except in shoreland;

(b) Signs: additional yard requirements for signs are set forth in this Chapter; and,

(c) Setbacks for the following uses located within the shoreland shall not be less than:

1. Fences: 0 feet.
2. Parking lots: 30 feet.
3. Pumphouses: 5 feet.
4. Satellite dishes: 30 feet.
5. Signs: 50 feet.

(F) *Additional restrictions.* Performance standards and supplemental restrictions are set forth in this Chapter.

Amended: Ordinance 21, 3rd Series

Amended: Ordinance 22, 3rd Series

§ 152.035 GENERAL INDUSTRIAL DISTRICT (I-2).

(A) *Purpose.* The General Industrial District is intended to provide for the establishment of a heavy industrial and manufacturing district which because of the nature of the product or character of activity requires isolation from residential, agricultural, or commercial uses.

(B) *Permitted uses.*

(1) General: all fabricating, manufacturing, production, processing, or warehousing of materials, goods, and products, except as provided in Division (C)(1) of this Section.

(2) Wholesale **uses.**

(3) Shoreland: no permitted uses in shoreland.

(C) *Conditional uses.*

(1) Uses which are objectionable by reason of odor, dust, smoke, gas, vibration, or noise, such as salvage yards, distillation operations, fertilizer manufacture, and food processing.

(2) Shoreland: no conditional uses in shoreland.

(3) Crematories.

(2) Towers.

(3) Engineering Offices requiring storage for larger equipment.

(D) *Accessory uses.*

(1) Accessory buildings and structures.

(2) Buffers.

(3) Essential services.

(4) Fences.

(5) Loading areas.

(6) Parking lots.

(7) Satellite dishes.

(8) Signs.

(E) Yard requirements.

(1) General yard requirements.

	<i>Permitted and Conditional Uses</i>	<i>Accessory Uses</i>
Lot area, minimum sq. ft.	20,000	
Lot frontage, minimum at front yard setback	150 feet	
Lot frontage for shoreland, minimum at front yard setback	N.A.	
Front yard setback	75 feet	75 feet
Rear yard setback if abutting Residential or Agricultural Districts	35 feet	35 feet
	75 feet	75 feet
Side yard setback, interior if abutting Residential or Agricultural Districts	25 feet	25 feet
	75 feet	75 feet
Side yard setback, corner	25 feet	25 feet
Shoreland setback		
Sewered lots	N.A.	75 feet
Unsewered lots	N.A.	150 feet
Sewage treatment system		75 feet

(2) Nongeneral yard requirements. The above general yard requirements shall apply, except as follows:

- (a) Accessory buildings shall not be permitted in shoreland;
- (b) Signs: additional yard requirements for signs are set forth in this Chapter; and,
- (c) Setbacks for the following uses located within the shoreland shall not be less than:
 - 1. Fences: 0 feet.
 - 2. Parking lots: 30 feet.
 - 3. Pumphouses: 5 feet.

4. Satellite dishes: 30 feet.
5. Signs: 50 feet.

(F) **Additional restrictions.** Performance standards and supplemental restrictions are set forth in this Chapter.

§ 152.036 PERFORMANCE STANDARDS FOR COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS.

(A) **Buffers.** All uses, excluding single and two-family dwellings where a structure or parking lot is located adjacent to a Residential or Agricultural District shall provide a buffer strip 35 feet in width.

(1) The buffer strip shall be landscaped and screened.

(2) The buffer strip shall be landscaped with vegetation.

(3) The buffer strip shall be screened with a sight-obscuring fence, six feet in height or vegetation of sufficient type, density, and height so as to provide year-round screening acceptable to the Zoning Administrator and City Forester.

(4) All landscaping and screening shall be maintained.

(5) Accessory buildings, parking lots, and storage shall not be permitted in the buffer strip.

(6) All outdoor commercial or industrial storage shall be screened by an eight-foot, sight-obscuring fence from adjacent Residential or Agricultural Districts.

(B) **Drive-in business.**

(1) The entire area of any drive-in business shall have a drainage system approved by the Public Works Director.

(2) The entire area, other than that occupied by structures, landscaped area, or the required buffers, shall have a durable surface.

(3) Each drive-in business serving food shall place a trash receptacle at all entrances and exits as well as one receptacle in the parking lot per 20 parking stalls.

(4) A drive-in business shall front on designated arterial or collector streets.

(5) A solid fence not less than eight feet in height shall be constructed around all drive-in theaters.

(C) **Lighting.** Lighting used to illuminate an off-street parking area or sign shall be arranged so as to deflect light away from any adjoining residential property.

(D) **Shopping centers.**

(1) Shopping centers shall be located adjacent to designated arterial or collector streets.

(2) An overall plan shall be submitted and approved, including architecture of all structures, parking, driveways, lighting, sidewalks, including sidewalks connecting adjacent neighborhoods, landscaping, and screening. This shall include Preliminary Plat of all lots, including those for peripheral developments. Final Plat shall be approved before certificate of occupancy is issued.

(3) Time limits for construction and completion shall be in accordance with this Chapter.

(4) The minimum lot area shall be two acres.

(5) To avoid the undesirable monotony, heat, and wind associated with large parking lots, landscaped islands shall be provided in parking lots containing more than 25 parking stalls. The total area of islands shall be at least two percent of the parking lot area, except that no island shall be less than the size of a standard parking stall. Islands shall be surrounded by concrete curb. Islands shall be planted with a minimum two and one-half inch diameter tree at the rate of one tree per 150 square feet of island area.

(6) Driving area and parking area on the front and sides of structures shall not be any closer than ten feet to the structure, except for approved loading areas. The ten feet adjacent to structures is intended to be used for pedestrian traffic.

(7) Required drainage, landscaping, screening, parking, islands, and driveways shall be in place prior to issuance of an Occupancy Permit.

(E) **Off-street loading areas.**

(1) Any industrial structure which requires the receipt or distribution of materials or merchandise by trucks shall provide an off-street loading area.

(2) Loading areas shall be located adjacent to the building or use being served.

(3) Loading areas shall not be located within 35 feet of a Residential District or the intersection of two streets.

(4) Loading areas located in Industrial or General Business Districts shall be not less than 12 feet in width, 50 feet in length and 14 feet in height, exclusive of aisle and maneuvering space.

(5) Loading areas shall be improved with a durable material.

(6) Any place designated as a loading area shall not be used for the storage of goods, inoperable vehicles, or be included as part of the space requirements necessary to meet the off-street parking area.

(F) Storage facilities in General Business Districts (C-2).

(1) All storage shall be conducted within buildings.

(2) Maximum height of sidewalls of any building used for storage shall be 16 feet.

(3) No hazardous materials as defined by federal law or state law shall be allowed on the premises.

(Ord. No. 110, 3rd Series – adopted 06/5/18)

(G) Storage facilities in Central Business District (C-3).

(1) All storage shall be conducted within buildings.

(2) Storage shall only be for goods used or sold within the principal building on the property.

Amended: Ordinance 21, 3rd Series

Amended: Ordinance 22, 3rd Series

Amended: Ordinance 85, 3rd Series (1/5/2016)

GENERAL REGULATIONS

§ 152.050 DWELLING UNITS PROHIBITED.

No accessory building, basement, garage, recreational camping vehicle, or tent shall be used as a dwelling. The basement portion of a finished home or apartment may be used for normal eating and sleeping purposes, provided it is properly damp proofed, has suitable fire protection and exits, and is otherwise approved by the Building Official.

§ 152.051 EXPLOSIVES.

No activities involving the storage, utilization, or manufacturing of materials, goods, or products which could detonate by decomposition shall be permitted except as specifically licensed by the City.

§ 152.052 HOME OCCUPATIONS.

(A) *Purpose.* It shall be the purpose of this Section to provide homeowners and residential renters with the opportunity to conduct a small scale commercial use within a home or accessory building they occupy.

(B) *General provisions.*

(1) *Permitted use.* Single-family dwellings, apartments, and private residential garages may be used for a home occupation. The use of a single-family dwelling, apartment, or private residential garage for a home occupation shall be clearly incidental and subordinate to the principal use of the residential structure.

(2) *Area requirements.* The area to be used for the home occupation shall not exceed one-third of the main floor area of a dwelling unit or apartment and shall not exceed one-half of the main floor area of a private residential garage.

(3) *Employees.* Only members of the family residing on the premises shall be engaged in the home occupation.

(4) *Structural changes.* Exterior changes to a structure to accommodate or promote a home occupation are not permitted.

(5) *Entrances and exits.* The home occupation shall use existing entrances and exits.

(6) *Lighting and advertising.* There shall be only one nonilluminated wall sign with a surface area not to exceed three square feet.

(7) *Parking.* On-street parking shall be limited to the property boundaries.

(8) *Outside storage.* There shall be no outside storage.

(9) *Performance characteristics.* Home occupations shall not adversely affect the residential character of the dwelling or neighborhood by the emission of smoke, noise, odor, water, dust, gases, refuse, heat, light, vibration, excess traffic, or electrical interference.

(C) Home Occupation Permit.

(1) **Permit required.** A Home Occupation Permit shall be obtained prior to starting a home occupation.

(2) **Application.** Application for a Home Occupation Permit shall be made to the Zoning Administrator on an application provided by the Zoning Administrator. The permit may be issued by the Zoning Administrator upon payment of required fee and completion of other requirements.

(3) **Permit fee.** The fee for a home occupation permit shall be established by the City Council by resolution and changed from time to time.

(D) Review and termination.

(1) Home Occupation Permits shall be reviewed annually to insure compliance with the permit.

(2) A home occupation shall be terminated when either:

(a) The use has been discontinued for a period exceeding 60 consecutive days;

(b) When the Council finds violations of the conditions imposed by this Section; or

(c) When the Council finds the home occupation has become a danger to the public health, safety, morals, or general welfare.

§ 152.053 SOLID FUEL BURNING DEVICE.

(A) **Location.** Any solid fuel burning device located outside of the principal building shall be subject to the same setback requirements as the principal building.

(B) **Number.** Only one solid fuel burning device shall be allowed per residential structure. A commercial unit located within a commercially zoned district shall be allowed one solid burning device per 10,000 square feet of main floor area. An industrial unit located within an industrially zoned district shall be allowed one solid fuel burning device per 10,000 square feet of main floor area.

(C) **Fuel.** Only nontreated wood and wood products or products approved by the State for burning in solid fuel burning devices shall be burned in a solid fuel burning device. All combustible material for use in solid fuel burning devices shall be in a dry and burnable condition and safely stored so as not to create a fire hazard or habitat for vermin.

(D) **Chimney height and requirements.** All solid fuel burning devices shall have a minimum chimney height of 18 feet. All chimneys shall be constructed in compliance with the State Building Code as adopted and as hereafter amended.

§ 152.054 CREMATORIES.

(A) **Location.** Crematories shall only be permitted in the General Industrial District (I-2) as a conditional use.

(B) **Proximity to Residential Districts.** Buildings housing crematories must be located at least 300 feet from any residential district.

(C) **Licensure.** The operator of a crematory shall be licensed by the State of Minnesota.

(Ordinance No. 17, 3rd Series – adopted May 24, 2005)

§ 152.055. OPTING-OUT OF THE REQUIREMENTS OF MINNESOTA STATUTES, SECTION 462.3593. Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Thief River Falls opts-out of the requirements of Minn. Stat. §462.3593, which defines and regulates Temporary Family Healthcare Dwellings.

(Ordinance No. 94, 3rd Series – adopted August 16, 2016)

§ 152.056 SOLAR ENERGY SYSTEMS.

(A) **Purpose.** It shall be the purpose of this Section to permit, as an accessory use, solar energy systems, while protecting the health, safety and welfare of city residents and the property interests of adjacent and surrounding land uses through appropriate zoning and land use controls.

(B) Definitions.

(1) **Building-integrated solar energy system.** A solar energy system that is directly integrated into the building by replacing typical building materials.

(2) **Interconnection.** When a customer-owned solar energy system is connected to or has access to the electric grid.

(3) **Ground-mounted solar energy systems.** A solar energy system that is installed directly onto the ground by means of brackets or poles.

(4) **Roof-mounted solar energy systems.** A solar energy system where the panels are mounted to a house or other building.

(5) **Solar energy system.** A set of devices whose primary purpose is to provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation or water heating.

(6) **Solar thermal system.** A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs of the building.

(C) **Permitted accessory use.** Solar energy systems are allowable as an accessory use in all residential districts and as a conditional use in all other zoning districts, subject to the following requirements:

(1) **Height.** Roof-mounted solar energy systems shall not project beyond the peak elevation of a pitched roof and shall not project more than 10 feet above the surface of a flat roof to which they are attached. Ground-mounted solar energy systems shall not exceed 20 feet in height or the height of the principal structure, whichever is less.

(2) **Location.** Ground-mounted solar energy systems must be located in the rear yard only.

(3) **Setbacks.** Ground-mounted solar energy systems, at minimum design tilt, setback distance from property lines shall be equivalent to the setback requirements of the underlying district or as otherwise needed so as not to impair sight distance for safe access to the property or other traffic or properties in the vicinity. Roof-mounted solar energy systems shall comply with all building setbacks in the applicable zoning district and shall not extend beyond the exterior perimeter of the building on which the system is mounted.

(4) **Coverage.** A roof-mounted solar energy systems surface shall not exceed the greater of one-half the footprint of the principal structure or 600 square feet, whichever is greater. Solar energy systems must have a 5 foot clearance around all edges (including the roof peak line), at minimum design tilt, to facilitate emergency responder access.

(5) **Feeder Lines.** All power exterior electrical or other service lines must be buried below the surface of the ground.

(6) **Exemption.** Building integrated solar energy systems are exempt for the requirements of this section and shall be regulated as any other building element.

(7) **Standards.** Reflection angles from collector surfaces shall be oriented away from neighboring windows. Where necessary, screening may be required to address glare.

(8) **Abandonment.** Any solar energy system that ceases to produce energy on a continuous basis for 6 months will be considered abandoned, unless the property owner provides substantial evidence to the Community Services Director of the intent to maintain and reinstate the operation of that solar energy system within an acceptable designated time period. Upon abandonment of a solar energy system, the property owner must remove all components of the solar energy system and restore the real property to its condition prior to development and installation of the solar energy system. If the property owner does not remove the abandoned solar energy system within 180 days of receiving written notice from the zoning administrator, the City may remove the solar energy system, sell any removed materials and initiate judicial proceedings or take any other steps legally authorized against the responsible parties to recover the costs required to remove the solar energy system and restore the site to a non-hazardous condition. All end of life disposal of solar products must comply with the Federal Resource Conservation and Recovery Act and any state policies governing solar product waste. If an applicant has received a permit, but has not completed construction of the solar energy system within 18 months from the date of issuance of the permit, the system shall be deemed abandoned.

(9) **Restoration.** Upon abandonment, the property owner must ensure the site is restored to a useful, non-hazardous condition in a timely manner, including, but not limited to the following:

(a) Removal of aboveground and below ground equipment, structures and foundations.

(b) Restoration of the surface grade and soil after removal of solar energy equipment.

(c) Re-vegetation of restored soil areas with native seeds mixes, excluding any invasive species.

(10) **Design Plan.** Any permit submittal shall include a site or design plan indicating the adequacy, location, arrangement, size, design and general site compatibility of the proposed solar energy system.

(D) Safety.

(1) **Compliance with building code.** All solar energy systems shall comply with all local and state building codes.

(2) **Compliance with electrical code.** All solar energy systems shall comply with the National Electrical Code.

(3) **Compliance with state plumbing code.** All solar energy systems shall comply with the Minnesota State Plumbing Code requirements.

(4) **Certifications.** Solar energy system components shall be certified by Underwriters Laboratories Inc. and the Solar Rating and Certification Corporation. The city reserves the right to deny a building permit for proposed solar energy systems deemed to have inadequate certification.

(5) **Batteries.** When solar storage batteries are included as part of a solar energy system, they must be placed in a secure container or enclosure meeting the requirements of the Minnesota State Building Code.

(E) Approval.

(1) **Permits.** The erection, alteration, improvement, reconstruction, and movement of all solar energy systems shall require a building permit from the city. Installer must be NABCEP Certified. The City Council shall set the solar energy system permit fee by resolution.

(2) **Utility Notification.** All solar energy systems that will interconnect with the electric grid shall have an agreement with the local utility prior to the issuance of a building permit. Any connection with a local utility must be inspected by the local utility prior to use.

(3) **Aviation.** If the solar energy system is over ½ acre in size and located within 5 nautical miles of an airport, or is located within the airport zoning district, airport or FAA notification shall be provided and approval obtained.

(Ordinance No. 96, 3rd Series – adopted October 4, 2016)

*PARKING***§ 152.065 SURFACE AND DRAINING.**

Off-street parking areas shall be improved with a durable material. Parking areas shall be graded and drained to dispose of all surface water without damage to adjoining property. These requirements also apply to open sales lots.

§ 152.066 LOCATION.

Parking spaces shall be located as follows:

- (A) Parking areas for single, two and multi-family dwellings shall be adjacent to the principal use;
- (B) Parking areas for commercial and industrial uses shall be within 300 feet of the principal building; and,
- (C) There shall be no off-street parking area within any street right-of-way.

§ 152.067 ADDITIONAL PROVISIONS.

(A) Each parking stall shall, at a minimum, have 162 square feet, shall be nine feet in width and shall be 18 feet in length. Parking area shall, at a minimum, meet the requirements set forth in Appendix C which is made a part of this Section.

(B) Handicap parking stalls shall meet state requirements in effect at the time of construction of the stall(s).

(C) Parking areas shall not be utilized for storage of goods.

(D) Where a commercial use establishes a reciprocating parking agreement with a commercial or industrial use that is within 300 feet, only one-third of the required parking need be provided on site. However, the parking area as a whole shall be equal to the requirements for each use.

(E) No motor vehicle over one ton capacity bearing a commercial license and no commercially licensed trailer shall be parked or stored in a Residential District or a public street except when loading, unloading, or rendering a service. Recreation vehicles and pickups are not restricted by the terms of this Section.

(F) Any area designated as a parking area to meet off-street parking requirements shall not be converted to another use or be used by another unless another eligible parking area is obtained to meet off-street parking requirements.

§ 152.068 DESIGN AND MAINTENANCE OF OFF-STREET PARKING AREAS.

(A) Off-street parking areas shall be designed, laid out, and maintained as set forth in Appendix C.

(B) The minimum curb cut for driveways at the right-of-way line shall be 16 feet.

(C) It shall be the joint and several responsibility of the operator and owner of the principal use or building to maintain in a neat and adequate manner the parking area, driveways, landscaping, and screening.

(D) In order to be counted as a parking stall, the parking stall shall have direct access to a driving lane.

§ 152.069 OFF-STREET PARKING REQUIREMENTS.

(A) *Single-family*. Two stalls per dwelling unit and one stall per accessory apartment, subject to specific uses set forth in Divisions (J) through (T) of this Section.

(B) *Duplex*. Two stalls per dwelling unit, subject to specific uses set forth in Divisions (J) through (T) of this Section.

(C) *Townhouses and condominiums*. Two stalls per dwelling unit, subject to specific uses set forth in Divisions (J) through (T) of this Section.

(D) *Multi-family*. Two stalls per dwelling unit, subject to specific uses set forth in Divisions (J) through (T) of this Section. A garage stall shall equal one half of a parking stall in determining the number of parking stalls available.

(E) *Neighborhood Business District*. One stall per 200 square feet of sales floor area, plus one stall per employee on maximum shift, subject to specific uses set forth in Divisions (J) through (T) of this Section.

(F) *General Business District*. One stall per 400 square feet of sales floor area, plus one stall per employee on maximum shift, subject to specific uses set forth in Divisions (J) through (T) of this Section.

(G) *Central Business District*. One stall per 1,000 square feet of sales floor area, plus one stall per employee on maximum shift, subject to specific uses set forth in Divisions (J) through (T) of this Section.

(H) *Downtown Fringe District*. One stall per 200 square feet of sales floor area, plus one stall per employee on maximum shift, subject to specific uses set forth in Divisions (J) through (T) of this Section.

(I) *Industrial District*. One stall per two employees on maximum shift and one stall per commercial vehicle, subject to specific uses set forth in Divisions (J) through (T) of this Section.

(J) **Bar.** One stall per three seats based on the design capacity of the establishment.

(K) **Cafes, restaurants, and clubs.** One stall per 30 square feet of dining area and one stall per two employees on maximum shift.

(L) **Theaters.** For the first 100 stalls, one stall per three fixed seats, after the first 100 stalls, one stall per six fixed seats.

(M) **Professional offices.** One stall per 400 square feet of gross floor area, and one stall per two employees.

(N) **Motels and hotels.** One stall per rental unit and five stalls.

(O) **Home occupation.** One stall for every 300 square feet of home occupation area.

(P) **Schools.**

(1) *College and high school.* Three stalls per classroom and one stall per employee.

(2) *Junior high and elementary.* One stall per employee.

(Q) **Federal, State, City and County buildings.** Ten stalls and one stall per two employees.

(R) **Elderly housing.** One stall per three dwelling units.

(S) **Hospitals, rest homes, and nursing homes.** Two stalls per 1,000 square feet of gross floor area.

(T) **Churches, auditoriums, and mortuaries.** One stall per six seats.

(Ord. No. 11, 3rd Series – adopted 08/24/04)

(Ord. No. 60, 3rd Series – adopted 7/23/13)

§ 152.070 PARKING ASSESSMENT DISTRICT (PAD).

(A) In the Central Business District and the Downtown Fringe District, off-street parking requirements may be satisfied if the commercial use is included within a PAD and has been assessed pursuant to that PAD. Should the commercial use change, after the establishment and assessment of the PAD requiring an increase in off-street parking requirements, the commercial use shall be required to meet the additional off-street parking requirements or be assessed pursuant to the PAD assessment formula for the additional off-street parking requirements.

(B) Should a participant within a PAD have received credit for providing a certain number of off-street parking stalls, and should those parking stalls later be converted to another use or become unavailable for use by that participant, that participant, or the participant's successors or assigns, shall reimburse the City for the credit received in the PAD for those parking stalls that become unavailable for use. This shall not apply where parking stalls are lost due to establishment of a City utility easement. Any reimbursement received by the City shall be held for those uses allowed pursuant to M.S. § 459.14.

*SIGNS***§ 152.085 PURPOSE.****(A) Purpose.**

(1) The sign regulations contained herein are intended to control the use of publicly-visible displays or graphics in order to:

(a) Equitably distribute the privilege of using the public environs to communicate information;

(b) Safeguard the public use and nature of the streets and sidewalks; and

(c) Enhance the visual environment of the City.

(2) As these or any regulations can only establish the mechanical limits of signage and not enforce a level of visual quality in sign design, anyone planning a sign is strongly encouraged to consider:

(a) The character of the proposed sign, not only in and of itself but also in terms of the effects such a sign will have upon the character of the surrounding area;

(b) The way in which the sign will be read and whether its character, configuration, location, and size are appropriate to its intended audience or whether a more appropriate sign could better serve its intended purpose and, at the same time, be less visually disruptive; and

(c) The character of the sign structure and whether that structure could be made an integral part of the sign rather than a separate and frequently distracting element.

§ 152.086 PERMITTED SIGNS; GENERALLY.

Signs are a permitted accessory use where allowed and where in compliance with:

(A) The general provisions of this Chapter and all amendments thereto;

(B) The performance standards of this Subchapter for the zoning districts in which the signs are located; and

(C) All applicable provisions of the Building Code of the City, as adopted, and all amendments thereto.

§ 152.087 EXCLUDED SIGNS.

The following shall be deemed to be excluded from the definition of "sign" as it applies to this Subchapter:

- (A) Signs on the inside of windows and doors, provided they are not flashing signs;
- (B) Signs of a duly constituted governmental body, including traffic signs or similar regulatory devices, legal devices, or warnings at railroad crossings;
- (C) Publicly-owned memorial tablets or signs;
- (D) Signs required to be maintained by law or governmental order rule or regulation, provided that they do not exceed 48 square feet in sign surface area;
- (E) Signs displayed for the direction or convenience of the public, including signs which identify restrooms, location of public telephones, or public pedestrian entrances. The total sign surface area shall not exceed six square feet per sign on any premises and shall not contain any advertising or the name of the occupant or use;
- (F) Signs, provided that they do not exceed 48 square feet in sign surface area, relating to active construction projects;
- (G) Rummage or yard sale signs, provided that no person shall attach the signs to street name posts, traffic control signs posts, trees, or utility poles in or along any street right-of-way within the City and that no person shall attach the sign to any building, fence or wall, or other property of another person without having first obtained the consent of the owner of the property. The maximum time limit for display of the signs is five days in any 30 day period. The signs shall not exceed three square feet in sign surface area;
- (H) Gasoline price signs, provided they are attached to sign structure for other permitted signs or to pump island canopies and provided the total sign surface area of all such signs is equal to or less than the following for the applicable zoning district.

<i>Zoning District</i>	<i>Total Maximum Sign Surface Area in Square Feet</i>
C-1 Neighborhood Business District	6
C-2 General Business District	40
C-3 Central Business District	20
C-4 Downtown Fringe District	12

(I) Message board signs, provided they are attached to sign structure for other permitted freestanding signs and provided the total sign surface area of such a sign is equal to or less than the following for the applicable zoning district.

<u>Zoning District</u>	<u>Total Maximum Sign Surface Area in Square Feet</u>
PR Park and Recreation District	40
C-2 General Business District	40
C-3 Central Business District	30
C-4 Downtown Fringe District	24
I-1 Light Industrial District	40
I-2 General Industrial District	40

(1) Message board signs may not be erected to circumvent the intent of this Subchapter or the maximum sizes permitted for business and identification signs and may be used to advertise or direct attention only to:

(a) A commodity, entertainment, product, or service sold or offered upon the premises where the sign is located or to which it is attached; or

(b) Any bona fide bazaar, carnival, fair, festival, horse show, or similar event when conducted by a public agency or for the benefit of any civic or charitable cause;

(2) Only one message board sign shall be permitted in accordance with this Division (I) for a business, lot, or shopping center; or

(3) Businesses which elect to erect a message board sign as an excluded sign, in accordance with this Division (I), shall be prohibited from displaying temporary mobile signs, in accordance with § 152.092.

(J) Political campaign signs of any size may be posted from August 1 in a state general election year until ten days following the state general election. In nonstate general election years, political campaign signs may be posted from August 1 in an election year until ten days following the election. Every campaign sign shall contain the name and address of persons responsible for the sign and those persons shall be responsible for its removal. If the signs are not removed within ten days following the election, the City shall have the right to remove and destroy the signs and assess a fee of \$1 per sign to the responsible persons.

(K) Static signs and banners adorning fences located in permitted outdoor recreational facilities, provided that they are placed with the intent to be primarily viewed internal to the play field area and are not placed so as to orient a direct commercial message toward an adjacent public road right-of-way.

(Ord. No.118, 3rd Series – adopted 01/02/2019)

§ 152.088 MEASUREMENT OF SIGN SURFACE AREA.

Sign surface area shall be measured as follows:

(A) *Attached, projecting, and suspended signs.*

(1) The area of an attached sign where the sign consists of letters, numerals, or symbols painted on or affixed to a wall shall be the entire area within a single continuous perimeter enclosing the extreme limits of the message delineated by the letters, numerals, or symbols.

(2) The area of an attached, projecting, or suspended sign where the letters, numerals, or symbols are on a sign surface which is affixed or hung to a structure shall be the total area of the affixed or hung surfaces.

(B) *Freestanding signs.* The area of a freestanding sign shall be the sum total of the areas of all surfaces, excluding sign structures, unless the structures bear sign copy or are internally illuminated, visible from the public right-of-way or other area from which the sign is intended to be viewed. Only one display face, the largest, shall be measured in computing total sign area where the sign faces are arranged to be viewed one at a time.

§ 152.089 CALCULATION OF ALLOWABLE SIGN SURFACE AREA.

(A) Calculation to determine the allowable sign surface area for buildings on interior lots shall be based on the gross silhouette area of the front building wall as viewed from the front lot line.

(B) Calculation to determine the allowable sign surface area for buildings on corner lots or on interior lots with a sidewall abutting a parking lot, which parking lot has a minimum frontage of 50 feet, shall be based on the gross silhouette area of the front building wall as viewed from the front lot line. On corner lots, the front building wall shall be either:

- (1) The building wall fronting on the street providing major access;
- (2) The building wall on which the main structure entrance is located; or,

(3) In cases where the front building wall cannot be determined by either method, the Zoning Administrator shall designate the front building wall.

(C) Calculation to determine the allowable sign surface area for buildings which provide a secondary public entrance into the rear of the building and which rear entrance provides access to a public alley, parking lot, or street on the rear of the building shall be based on the gross silhouette area of the rear building wall as viewed from the rear lot line.

(D) A building which has more than two separately owned and operated businesses conducted within its perimeter shall be allowed one sign for each such business. The total permitted sign surface area for the building shall be increased by 20 square feet for each separately owned and operated business in excess of two. The total permitted sign surface area for buildings with more than one separately owned and operated business shall be calculated in accordance with Divisions (A) through (C) of this Section and in accordance with § 152.095.

§ 152.090 SIGN PERMITS.

(A) *Permit required.* A Sign Permit shall be obtained prior to altering, erecting, or placing or relocating any sign within the City.

(B) *Application.* Application for a Sign Permit shall be made to the Building Official on an application provided by the Building Official. The permit may be issued by the Building Official upon payment of the required fee and completion of other requirements.

(C) *Permit fee.* The fee for a Sign Permit shall be established by the City Council by resolution and changed from time to time.

(D) *Exemptions.* A Sign Permit is not required for the following:

- (1) Excluded signs as specified in § 152.087;
- (2) Direction and real estate signs. Real estate signs must be removed within 14 days after sale or rental of real estate;
- (3) Home occupation signs or signs approved as part of a Building Permit or a Conditional Use Permit for which payment of other fees are required;
- (4) Identification and public service signs with a sign surface area of not more than 24 square feet;
- (5) Nonconforming signs in place prior to the effective date of this Subchapter which may be maintained or parts of the copy changed, provided that the maintenance or change of parts of the copy does not alter the sign surface area, height, or number of items of information displayed, subject to § 152.093; and
- (6) Every sign which requires a permit to be erected or placed after the effective date of this Subchapter shall have visibly displayed thereon an adhesive strip issued with the sign permit showing the sign permit number and the date of the issuance of the permit.

§ 152.091 PROHIBITED SIGNS.

The following signs shall not be allowed:

(A) A sign which copies or imitates or in anyway approximates an official highway or traffic control sign or carries the words "STOP" or "DANGER" or any sign which obscures a sign displayed by public authority for the purpose of giving traffic instruction or direction or other public information;

(C) A sign which obstructs any window or door opening used as a means of egress, free passage from one part of a roof to any other part thereof, or a sign which interferes with an opening required for legal ventilation;

(D) A sign in a public right-of-way;

(E) A sign or illumination that causes any direct glare into or upon any building other than the building to which the sign may be accessory;

(F) Motion signs, "A-frames," balloons, string lights, strip lighting outlining structures, and signs attached or mounted on abandoned, inoperative, or unlicensed vehicles;

(G) Suspended or projecting signs which swing or can be moved, rocked, or swayed by wind or other physical means;

(H) Projecting signs which extend more than 18 inches from the building structure to which it is mounted;

(I) Parasitic signs;

(J) Roof signs; and

(K) Pennants and streamers, except as provided in § 152.092(D).

§ 152.092 TEMPORARY SIGNS.

Regardless of the status or conformity of all other on-premise signs in zoning districts where permitted, one temporary sign shall be allowed, provided:

(A) The sign surface area is less than 33 square feet and the sign is in compliance with § 152.095;

(B) The sign is displayed no more than 20 consecutive days with a minimum interval of 20 days between displays;

(C) Businesses which elect to erect a message board sign as an excluded sign, in accordance with §152.087, shall be prohibited from displaying temporary mobile signs; and

(D) Pennants and streamers may be displayed no more than 60 consecutive days with a minimum interval of 20 days between displays.

§ 152.093 NONCONFORMING SIGNS.

(A) Except as specifically provided in this Chapter, any nonconforming sign lawfully existing on the effective date of this Subchapter may be continued at the size and in the manner existing upon such date. A nonconforming sign shall not be:

- (1) Changed to another nonconforming sign;
- (2) Structurally altered except to comply with the provisions of this Chapter;
- (3) Expanded;
- (4) Re-established after 60 days of non-use; and
- (5) Re-established after damage of more than 50% of the sign's replacement cost.

(B) Within 365 days of vacating the premises, the tenant or, in tenant's absence, the owner, shall remove all nonconforming signs and sign structure.

§ 152.094 CONFORMING SIGN REMOVAL.

All conforming signs and sign structures not used by a tenant or owner shall be removed by the owner of the premises after 365 days of nonuse.

§ 152.095 PERFORMANCE STANDARDS IN ZONING DISTRICTS.

(A) *Flood Plain (FP), Agriculture District (AG), and Park and Recreation District (PR)*. The following shall apply in Flood Plain, Agricultural, and Park and Recreation Districts:

<i>Permitted Signs</i>	<i>Permit Required</i>	<i>Maximum Sign Surface Area in Square Feet</i>
Agricultural product	Yes	20
Business	Yes	30
Directional	No	4
Home occupation	Yes	3
Identification	Yes	30
Public service	Yes	30
Real estate	No	20

(1) ***Yard requirements.*** All signs, except directional signs, shall be subject to the same setback and yard requirements as all other permitted accessory uses. All directional signs, except attached directional signs, shall be set back a minimum of two feet from the lot line.

(2) ***Height limitation.*** No sign shall exceed eight feet in height, except as provided in Subsection (5)(b)1 in this Division, nor shall any attached sign extend higher than one foot below the roof line.

(3) ***Lighting.*** Illuminated signs shall be permitted only as a conditional use.

(4) ***Identification signs.***

(a) Identification signs shall be limited to one per principal entrance.

(b) Freestanding identification signs shall be landscaped around the base of the sign.

(5) ***Special sign regulations.***

(a) Business signs for surface water-oriented commercial uses placed in accordance with § 152.114(F)(1) shall be permitted in the Flood Plain and Park and Recreation Districts only.

(b) Freestanding identification signs whose sole purpose is to display the name of the City shall be permitted adjacent to arterial streets and highways within the Agricultural Districts under the following conditions:

1. Maximum height shall be 20 feet, and the sign surface area shall not exceed 200 square feet;

2. The signs shall not be located within 500 feet of Residential Districts;

- 3. No two such signs shall lie closer to one another than 1,500 feet, measured in all directions;
- 4. The signs shall meet the setback requirements of the zoning district in which they are located;
- 5. The signs shall be landscaped along the base; and
- 6. Up to 20% of the sign surface area may be used to display the insignia or name of any nonprofit organizations and educational institutions sponsoring the sign.

(c) Free standing identification signs whose purpose is to display the name of the City or a City Facility shall be permitted adjacent to arterial streets and highways within the Park and Recreation Districts (PR) under the following conditions:

- 1. Maximum sign height shall be 26 feet, and maximum sign surface area shall be 100 square feet;
- 2. The signs shall be set back not less than ten feet from the lot line or highway right-of-way line, whichever is the furthest from the traveled street;
- 3. The signs shall be landscaped along the base;
- 4. The sign surface may be used to display an event;
- 5. The sign surface area may be used to display the insignia or name of any nonprofit organizations and educational institutions sponsoring the sign; and
- 6. The signs may be illuminated if the illumination does not reflect into any homes located in the Residential Districts.

(B) *Residential Districts (R-1, R-2, R-3, and R-4)*. The following shall apply in Residential Districts:

<i>Permitted Signs</i>	<i>Permit Required</i>	<i>Maximum Sign Surface Area in Square Feet</i>
Directional	No	4
Home occupation	Yes	3
Identification	Yes	30
Public service	Yes	24
Real estate	No	6

(1) ***Yard requirements.*** All signs, except directional signs, shall be subject to the same setback and yard requirements as all other permitted accessory uses. All directional signs, except attached directional signs, shall be set back a minimum of two feet from the lot line.

(2) ***Height limitation.*** No sign shall exceed eight feet in height, nor shall any attached sign extend higher than one foot below the roof line.

(3) ***Lighting.*** Illuminated signs shall be permitted only as a conditional use.

(4) ***Identification signs.***

(a) Identification signs shall be limited to one per principal entrance.

(b) Freestanding identification signs shall be landscaped around the base of the sign.

(5) ***Special sign regulations.***

(a) Free standing identification signs whose sole purpose is to display the name of the City shall be permitted adjacent to arterial streets and highways within the Residential Districts under the following conditions:

1. Maximum sign height shall be six feet, and maximum sign surface area shall be 50 square feet;

2. The signs shall be set back not less than ten feet from the lot line or highway right-of-way line, whichever is the furthest from the traveled street;

3. The signs shall be landscaped along the base;

4. Up to 20% of the sign surface area may be used to display the insignia or name of any nonprofit organizations and educational institutions sponsoring the sign; and,

5. The signs may be illuminated if the illumination does not reflect into any homes located in Residential Districts.

(C) *Neighborhood Business District (C-1)*. The following shall apply in Neighborhood Business Districts.

<i>Permitted Signs</i>	<i>Permit Required</i>	<i>Maximum Sign Surface Area in Square Feet</i>
Business	Yes	50
Directional	No	4
Identification	Yes	30
Public service	Yes	24
Real estate	No	20
Temporary	Yes	32

(1) ***Business sign requirements.*** Except as provided below, within C-1 Districts only one attached wall sign, or two attached wall signs if on a corner lot, shall be permitted, and the sign(s) shall not project more than 18 inches from the face of the wall.

(2) ***Yard requirements.*** All signs, except directional and temporary signs, shall be subject to the same setback and yard requirements as all other permitted accessory uses. All directional and temporary signs shall be set back a minimum of four feet from the lot line.

(3) ***Height limitation.*** Except for freestanding business signs, no sign shall exceed eight feet in height nor shall any attached sign extend higher than one foot below the roof line.

(4) ***Identification signs.***

(a) Identification signs shall be limited to one per principal entrance.

(b) Freestanding identification signs shall be landscaped around the base of the sign.

(5) ***Freestanding business sign requirements.***

(a) Only one freestanding sign is permitted per business.

(b) A business must have a minimum frontage of 75 feet in order to have a freestanding business sign. More than one adjoining business may be combined to obtain the required frontage for a freestanding business sign, if the adjoining businesses jointly use the sign.

(c) The maximum sign surface area shall be 50 square feet.

(d) The maximum sign height shall be 16 feet.

(e) The vertical distance between the ground surface and the bottom of the sign surface area shall be not less than nine feet.

(f) The maximum distance the sign surface area may project over public rights-of-way shall be eight feet but may not extend over traveled streets.

(g) The sign post shall be set back not less than two feet from the lot line.

(D) General Business District (C-2). The following shall apply in General Business Districts.

<i>Permitted Signs</i>	<i>Permit Required</i>	<i>Maximum Sign Surface Area in Square Feet</i>
Business	Yes	See Subsections (1), (2) and (6)
Directional	No	24
Identification	Yes	See Subsections (1), (2) and (6)
Public service	Yes	24
Real estate	No	32
Temporary	Yes	32

(Ord. No. 99, 3rd Series – adopted 04/4/17)

(1) Business and identification sign requirements; general. Within the C-2 Districts there shall be two options for business and identification signs.

(a) Option A. Only attached wall signs shall be allowed. The maximum number of signs on any principal building shall be two, including existing signs. The maximum combined sign surface area of both signs shall be 300 square feet or 20% of the gross silhouette area of the front building wall, whichever is less. Where the principal building is on a corner lot facing two public streets, the maximum number of wall signs on the principal building shall be three, including existing signs. The sign surface area of the third sign shall not exceed 100 square feet, and the maximum combined sign surface area of all signs shall be 350 square feet or 25% of the gross silhouette area of the front building wall, whichever is less. No more than two attached signs shall be placed on any one front or side wall. For buildings with single walls exceeding 10,000 square feet, the sign surface area may be up to 2% of the single wall area, but shall not exceed 500 square feet.

(b) Option B. The following sign types may be utilized: attached, freestanding, projecting, and suspended. The maximum number of signs shall be two, including existing signs. Only one freestanding sign shall be permitted. The maximum sign surface area of any attached, projecting, or suspended sign shall be 200 square feet or 13% of the gross silhouette area of the front building wall, whichever is less. Where the principal building is on a corner lot facing two public streets, a third sign, which shall be a projecting sign attached to the side wall of the principal building, shall be permitted. The maximum sign surface area of this third sign shall be 100 square feet or ten percent of the gross

silhouette area of the front building wall, whichever is less. No more than two attached signs shall be placed on any one front or side wall. For buildings with single walls exceeding 10,000 square feet, the sign surface area may be up to 2% of the single wall area, but shall not exceed 500 square feet.

(c) Additional.

1. In addition to Options A and B, buildings which provide a secondary public entrance into the rear of the building and which rear entrance provides access to a public alley, parking lot, or street shall be permitted one additional projecting sign attached to the rear building wall. The maximum sign surface area of this sign shall be 100 square feet or seven and one-half percent of the gross silhouette area of the rear building wall, whichever is less.

2. In addition to Options A and B, buildings with an interior sidewall abutting a parking lot, which parking lot has a minimum frontage of 100 feet, shall be permitted one additional projecting sign attached to the wall facing the parking lot. The maximum sign surface area of this sign shall be 50 square feet or seven and one-half percent of the gross silhouette area of the front building wall, whichever is less.

(d) Combined sign area. If a front yard setback of the principal building is in excess of 149 feet or if the front principal building wall is in excess of 100 feet wide, the maximum combined sign surface area of both wall signs under Option A shall be up to 20% of the gross silhouette area of the front building wall, and the maximum sign surface area of the wall sign in Option B shall be up to 13.5% of the gross silhouette area of the front building wall. In neither case shall the maximum square footage apply, only percentage of gross silhouette area.

(2) Freestanding business and identification sign requirements. Only one freestanding sign is permitted per business, planned shopping center, or institution. Businesses are eligible for those freestanding signs listed in their street classification in the following table.

<i>Street Classification</i>	<i>Street Speed Limit</i>	<i>Minimum Frontage (ft.)</i>	<i>Maximum Sign Surface Area (sq. ft.)</i>	<i>Maximum Height (ft.)</i>
Local street	0-30	75	50	16
	30-45	75	50	16
Collector	0-30	75	50	16
	31-45	100	70	18
	46-55	150	85	20
Arterial	0-30	75	50	20
	31-45	150	100	26
	46-54	200	125	30
Highway	55+	300	200	32

(a) More than one adjoining business may be combined to obtain the required frontage for a freestanding sign, if the adjoining businesses jointly use the sign.

(b) The maximum distance the sign surface area may project over public rights-of-way shall be eight feet but may not extend over traveled streets.

(c) Freestanding signs located in a parking lot or adjacent to a driveway shall be surrounded by a landscaped or planted area five feet in all directions from the base of the sign.

(d) Where premises used for commercial or industrial use are within 100 feet of Residential or Agricultural Districts, freestanding signs located in that commercial or industrial use shall not exceed 25 feet in height. A freestanding sign must be set back from the lot line the same distance as structures in any Residential or Agricultural District facing the same public street and within 100 feet of the sign. This provision affects only freestanding signs on commercial and industrial premises on the same block and on the same street as a Residential or Agricultural District.

(3) ***Yard requirements.*** All signs, except directional and temporary signs, shall be subject to the same setback and yard requirements as all other permitted accessory uses. In the case of a corner lot, all signs, except directional and temporary signs, shall abide by the front yard setback for both sides abutting a public street. All directional, temporary, and freestanding signs shall be set back a minimum of six feet from the lot line or, where adjacent to a frontage street, six feet from the interior edge of the frontage street.

(4) ***Height limitations.*** No attached sign shall exceed eight feet in height nor shall any attached sign extend higher than the roof line. (*Ord. No. 104, 3rd Series – adopted 03/6/18*)

(5) ***Canopy, marquee, and suspended signs.*** Signs suspended from the bottom of a canopy or marquee shall not exceed 30 square feet of sign surface area. The bottom of the suspended signs shall be a minimum vertical distance of eight feet from the ground surface. Canopies and marquees, whether signed or not, and suspended signs shall be a minimum horizontal distance of two feet from the street pavement.

(6) ***Special sign regulations.***

(a) Freestanding identification signs whose sole purpose is to display the name of the City shall be permitted adjacent to arterial streets in accordance with this Chapter.

(b) Public service banners suspended over arterial streets may exceed the 24 square feet maximum sign surface area indicated in the table but shall not exceed 48 square feet.

(c) In addition to signage permitted in Subsections (a) and (b) above, gasoline service stations may place lettering and/or logos on pump island canopies. Regardless of the number of pump island canopies on the site, no more than three canopy faces may be signed. The maximum sign surface area of this signage shall not exceed 75 square feet for each canopy face. These signs shall not protrude above or below the canopy.

(E) *Central Business District (C-3)*. The following shall apply in the Central Business District.

<i>Permitted Signs</i>	<i>Permit Required</i>	<i>Maximum Sign Surface Area in Square Feet</i>
Business	Yes	See Subsections (1), (2) and (6)
Directional	No	4
Identification	Yes	See Subsections (1), (2) and (6)
Public service	Yes	24
Real estate	No	32
Temporary	Yes	32

(1) *Business and identification sign requirements; general*. Within the C-3 District there shall be two options for business and identification signs.

(a) *Option A*. Only attached wall signs shall be allowed. The maximum number of signs on any principal building shall be two, including existing signs. The maximum combined sign surface area of both signs shall be 200 square feet or 15% of the gross silhouette area of the front building wall, whichever is less. Where the principal building is on a corner lot facing two public streets, the maximum number of wall signs on the principal building shall be three, including existing signs. The sign surface area of the third sign shall not exceed 75 square feet and the maximum combined sign surface area of all signs shall be 240 square feet or 20% of the gross silhouette area of the front building wall, whichever is less. No more than two attached signs shall be placed on any one front or side wall.

(b) *Option B*. The following sign types may be utilized: attached, freestanding, projecting, and suspended. The maximum number of signs shall be two, including existing signs. Only one freestanding sign shall be permitted. The maximum sign surface area of any attached, projecting, or suspended sign shall be 130 square feet or ten percent of the gross silhouette area of the front building wall, whichever is less. Where the principal building is on a corner lot facing two public streets, a third sign, which shall be a projecting sign attached to the side wall of the principal building, shall be permitted. The maximum sign surface area of this third sign shall be 65 square feet or ten percent of the gross silhouette area of the front building wall, whichever is less. No more than two attached signs shall be placed on any one front or side wall.

(c) *Additional*.

1. In addition to options A and B, buildings which provide a secondary public entrance into the rear of the building and which rear entrance provides access to a public alley, parking lot, or street shall be permitted one additional projecting sign attached to the rear building wall. The

maximum sign surface area of this sign shall be 50 square feet or seven and one-half percent of the gross silhouette area of the rear building wall, whichever is less.

2. In addition to Options A and B, buildings with an interior sidewall abutting a parking lot, which parking lot has a minimum frontage of 50 feet, shall be permitted one additional projecting sign attached to the wall facing the parking lot. The maximum sign surface area of this sign shall be 50 square feet or seven and one-half percent of the gross silhouette area of the front building wall, whichever is less.

(2) ***Freestanding business and identification sign requirements.*** Only one freestanding sign is permitted per business, planned shopping center or institution. Businesses are eligible if the business has a minimum frontage of 75 feet and the sign surface area can be no larger than 50 square feet and the maximum height of the sign is 20 feet.

(a) More than one adjoining business may be combined to obtain the required frontage for a freestanding sign, if the adjoining businesses jointly use the sign.

(b) The vertical distance between the ground surface and the bottom of the sign surface area shall be either less than two feet or more than 12 feet.

(c) The maximum distance the sign surface area may project over public rights-of-way shall be eight feet but may not extend over traveled streets.

(d) Where premises used for commercial or industrial use are within 100 feet of residential or agricultural districts, freestanding signs located in that commercial or industrial use shall not exceed 25 feet in height. A freestanding sign must be set back from the lot line the same distance as structures in any residential or agricultural district facing the same public street and within 100 feet of the sign. This provision affects only freestanding signs on commercial and industrial premises on the same block and on the same street as a residential or agricultural district.

(3) ***Yard requirements.*** All signs shall abide by the setback requirements for the C-3 District, except for canopy, marquee, and suspended signs which shall be in accordance with Subsection (5) below, and:

(a) Attached projecting business and identification signs may project not more than 18 inches over public rights-of-way; and

(b) Directional signs in the rear yard shall be set back not less than four feet from the rear lot line.

(4) *Height limitations.* No attached sign shall exceed eight feet in height nor shall any attached sign extend higher than one foot below the roof line.

(5) *Canopy, marquee, and suspended signs.* Within the C-3 District, signs suspended from the bottom of a canopy or marquee shall not exceed 15 square feet of sign surface area. The bottom of the suspended signs shall be a minimum vertical distance of eight feet from the ground surface. Canopies and marquees, whether signed or not, and suspended signs shall be a minimum horizontal distance of two feet from the traveled street.

(6) *Special sign regulations.*

(a) Public service banners suspended over arterial streets may exceed the 24 square feet maximum sign surface area indicated in the table but shall not exceed 48 square feet.

(b) In addition to signage permitted in Subsection (a), gasoline service stations may place lettering and/or logos on pump island canopies. Regardless of the number of pump island canopies on the site, no more than three canopy faces may be signed. The maximum sign surface area of this signage shall not exceed 75 square feet for each canopy face. These signs shall not protrude above or below the canopy.

(F) *Downtown Fringe District (C-4).* The following shall apply in the Downtown Fringe District.

<i>Permitted Signs</i>	<i>Permit Required</i>	<i>Maximum Sign Surface Area in Square Feet</i>
Business	Yes	50
Directional	No	4
Identification	Yes	50
Public service	Yes	24
Real estate	No	20
Temporary	Yes	32

(1) ***Business sign requirements.*** Except as provided below, within the C-4 Districts, only one attached wall sign, or two wall signs if on a corner lot, shall be permitted, and the sign(s) shall not project more than 18 inches from the face of the wall.

(2) ***Yard requirements.*** All signs, except directional, temporary, and freestanding signs, shall be subject to the same setback and yard requirements as all other permitted accessory uses. All directional, temporary, freestanding, and identification signs shall be set back a minimum of four feet from the lot line.

(3) ***Height limitation.*** Except for freestanding business signs, no sign shall exceed eight feet in height nor shall any attached sign extend higher than one foot below the roofline.

(4) ***Special sign regulations.*** Public service banners suspended over arterial streets may exceed the 24 square feet maximum sign surface area indicated in the table but shall not exceed 48 square feet.

(5) ***Identification signs.***

(a) Identification signs shall be limited to one per principal entrance.

(b) Freestanding identification signs shall be landscaped around the base of the sign.

(6) ***Freestanding business sign requirements.***

(a) Only one freestanding sign is permitted per business.

(b) A business must have a minimum frontage of 75 feet in order to have a freestanding business sign. More than one adjoining business may be combined to obtain the required frontage for a freestanding business sign, if the adjoining businesses jointly use the sign.

(c) The maximum sign surface area shall be 50 square feet.

(d) The maximum sign height shall be 16 feet.

(e) The vertical distance between the ground surface and the bottom of the sign surface area shall be not less than nine feet.

(f) The maximum distance the sign surface area may project over public rights-of-way shall be eight feet but may not extend over traveled streets.

(g) The sign post shall be set back not less than two feet from the lot line.

(G) Light Industrial District (I-1) and General Industrial District (I-2). The following shall apply in both Industrial Districts.

<i>Permitted Signs</i>	<i>Permit Required</i>	<i>Maximum Sign Surface Area in Square Feet</i>
Advertising	Yes	300
Business	Yes	See Subsection (1)
Directional	No	32
Identification	Yes	See Subsection (1)
Public service	Yes	24
Real estate	No	32
Temporary	Yes	32

(Ord. No. 109, 3rd Series – adopted 05/1/18)

(1) Business and identification sign requirements; general. Within the Industrial Districts there shall be two options for business and identification signs which shall be in accordance with Section 152.095(D)(1).

(2) Freestanding business and identification sign requirements. Freestanding business and identification signs shall be permitted adjacent to all classifications of streets within the Industrial Districts under the following conditions:

(a) The premises on which such freestanding signs are located shall have a minimum width of 250 feet measured at the front building line. If the premises does not meet this frontage requirement, the provisions of Section 152.095(D)(2) shall apply;

(b) The signs shall be in accordance with Section 152.095(D)(2) when located within 150 feet of a Zoning District other than I-1 or I-2;

(c) The maximum sign surface area shall not exceed 200 square feet;

(d) The maximum height for a pylon-type business or identification sign shall be 25 feet. The maximum height for a ground-billboard-type business or identification sign shall be 15 feet;

(e) There shall be a minimum distance, measured in all directions, of 300 feet between freestanding business and identification signs;

(f) Ground-billboard-type freestanding business or identification signs shall be surrounded by a landscaped or planted area five feet in all directions from the base of the sign, and the landscaping and planting shall be maintained; and,

(g) Only one freestanding sign of any type, other than directional or public service signs, shall be permitted on any one premises.

(3) ***Yard requirements.*** All signs shall be subject to the same setback yard requirements as all other permitted accessory uses with the following exceptions:

(a) Freestanding business and identification signs shall be set back not less than 25 feet from the front lot line; and,

(b) Freestanding directional, public service, real estate, and temporary signs shall be set back not less than six feet from the front lot line.

(4) ***Height limitations.*** Except as provided in Subsection (G)(2) and in Subsection (6), no attached sign shall exceed eight feet in height nor shall any attached sign extend higher than one foot below the roof line.

(5) ***Canopy, marquees, and suspended signs.*** Within the Industrial Districts, signs suspended from the bottom of a canopy or marquee shall not exceed 30 square feet of sign surface area. The bottom of the suspended signs shall be a minimum vertical distance of eight feet from the ground surface. Canopies and marquees, whether signed or not, and suspended signs shall be a minimum horizontal distance of two feet from the traveled street.

(6) ***Freestanding advertising signs.*** Freestanding advertising signs shall be permitted adjacent to arterial streets and highways within the Industrial Districts under the following conditions:

(a) The maximum height for a pylon type advertising sign shall be 30 feet. The maximum height for a ground-billboard-type advertising sign shall be 20 feet;

(b) The signs shall not be located within 750 feet of Residential or Commercial Districts;

(c) There shall be a minimum distance, measured in all directions, of 1,500 feet between freestanding advertising signs;

(d) Freestanding advertising signs of a ground-billboard-type shall be landscaped along the base and the landscaping shall be maintained; and,

(e) Only one freestanding sign of any type shall be permitted on any one premises.

(7) *Special sign regulations.* Public service banners suspended over arterial streets may exceed the 24 square feet maximum sign surface area indicated in the table but shall not exceed 48 square feet.

§ 152.096 MAINTENANCE OF SIGNS.

All signs shall be maintained. The Building Official shall have the authority to order the painting, repair, or removal of signs which are not maintained, which are abandoned or which constitute physical hazard to the public safety. If the sign is nonconforming, restoration shall be in accordance with § 152.093.

§ 152.097 DYNAMIC DISPLAY SIGNS.

A. Dynamic Displays: Dynamic Display signs, where specifically allowed by this Ordinance, shall comply with the following requirements.

(1) Brightness: LED dynamic displays shall be adjusted to a night time brightness setting of no more than 20 percent of their maximum brightness setting, but in no event shall they exceed 0.3 footcandles over ambient lighting conditions when measured with an illuminance meter when measured at the recommended distance, based upon the Dynamic Display illuminated sign size. LED dynamic displays may operate at up to 100 percent of their maximum brightness during the day time. Incandescent dynamic displays shall be adjusted to the night time brightness setting of no more than 60 percent of their maximum brightness setting, but in no event shall they exceed 0.3 footcandles over ambient lighting conditions when measured with an illuminance meter when measured at the recommended distance, based upon the Dynamic Display illuminated sign size. Incandescent dynamic displays may operate at up to 100 percent of their maximum brightness during the day time. Constant night time displays of bright or “hot colors” such as complete red or white display background shall be prohibited. All dynamic displays shall be equipped with a night time manufacturer auto dim feature and operated according to manufacturer night intensity specifications and as required herein. Legal non-conforming dynamic displays without a manufacturer auto dim feature shall comply with this requirement to the extent feasible within the limits of the dynamic display’s programming.

(2) Brightness measurement: No Dynamic Display shall exceed a brightness level at night of 0.3 foot candles above ambient light as measured using a footcandle illuminance meter at a preset distance depending on the sign area, measured as follows:

SIGN AREA VERSUS MEASUREMENT DISTANCE

AREA OF SIGN sq. ft.	MEASUREMENT Distance (ft.)
10	32
15	39
20	45
25	50
30	55
35	59
40	63
45	67
50	71
55	74
60	77
65	81
70	84
75	87
80	89
85	92
90	95
95	97
100	100
110	105
120	110
130	114
140	118
150	122
160	126
170	130
180	134
190	138
200	141
220	148
240	155
260	161
280	167
300	173

** For signs with an area in square feet other than those specifically listed on the table (i.e. 12 sq. ft., etc), the measurement distance may be calculated with the following formula:*

$$\text{Measurement Distance} = \sqrt{\text{Area of Sign Sq. Ft.} \times 100}$$

(3) Time/Duration: Minimum frame hold display time duration shall not be less than ten seconds. There shall be no animation, motion, blinking, scrolling, rotating, oscillating, or other apparent flashing or movement on any dynamic display during the night time. There shall be no scrolling or flashing during the daytime. Display change shall be instantaneous.

(4) Dynamic Displays shall be permitted in certain zoning districts on free standing and monument signs or as a wall sign, as specified by this Ordinance.

(5) Maximum number: There shall be no more than one Dynamic Display sign permitted per property.

(6) Spacing from residential uses: No Dynamic Display shall be located within 100 feet of a residential district. The distance shall be measured based upon a horizontal line beginning at the nearest residential property line and the leading edge of the Dynamic Display, or viewing radius of 45 degrees, whichever is closer. A church located in a residential zone may be allowed a Dynamic Display, subject to the spacing requirements, as applied to the nearest adjacent residential property line.

Amended Ordinance 112, 3rd Series (07/03/2018)

(7) The City shall have the right to place conditions on any Dynamic Display located within 50 feet of an official traffic control signal to prevent interference or confusion with the official traffic control signal. The distance shall be measured based upon a horizontal line beginning at the leading edge of the Dynamic Display and any portion of the official traffic control signal.

SHORELAND MANAGEMENT

§ 152.110 STATUTORY AUTHORIZATION AND POLICY.

(A) **Authorization.** This Subchapter is adopted pursuant to the authorization and policies contained in M.S. Chapter 103, Minn. Rules, Parts 6120.2500 through 6120.3900 and the planning and zoning enabling legislation in M.S. Chapter 462.

(B) **Policy.** The uncontrolled use of shorelands of the City affects the public health, safety, and general welfare not only by contributing to pollution of public waters but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety, and welfare to provide for the wise subdivision, use and development of the shorelands of public waters and, thus, preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is recognized by the City.

§ 152.111 JURISDICTION; COMPLIANCE.

(A) **Jurisdiction.** The provisions of this Section shall apply to the shorelands of the public water bodies as classified in § 152.113. Pursuant to Minn. Rules, Parts 6120.2500 through 6120.3900, no lake, pond, or flowage less than ten acres in size need be regulated in the City's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this Section.

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

Amended Ordinance 81, 3rd Series (10/6/2015)

§ 152.112 ADMINISTRATION.**(A) *Permits required.***

(1) A permit is required for the installation and/or alteration of sewage treatment systems and those grading and filling activities not exempted by § 152.114. Application for a permit shall be made to the Building Official on the forms provided. The application shall include the necessary information so that Building Official can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

(2) A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system shall be reconstructed or replaced in accordance with State regulations.

(B) *Certificate of zoning compliance.* The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Division (A) of this Section. This certificate will specify that the use of land conforms to the requirements of this Section. Any use, arrangement or construction at variance with that authorized by permit shall be deemed a violation of this Section and shall be punishable as provided in § 152.998.

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

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

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

(3) When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Subsection (C)(2), shall also include the Board of Adjustments and Appeals summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

§ 152.113 SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS.

(A) *Shoreland classification system.* The public waters of the City have been classified below consistent with the criteria found in Minn. Rules, Part 6120.3300 and the Protected Waters Inventory Map for Pennington County, Minnesota.

(1) *Shoreland area.* The shoreland area for the waterbodies listed in Subsection (A)(2) shall be as defined in this Code.

(2) *Rivers and streams.*

(a) *Urban rivers.* The Thief River and the Red Lake River within the following described limits are classified as urban rivers:

1. Legal description of the Red Lake River: beginning at the east line of Section 35, Township 154 North, Range 43 West and ending at the south line of Section 4, Township 153 North, Range 43 West; and,

2. Legal description of the Thief River: beginning at the north line of the southwest quarter of Section 27, Township 154 North, Range 43 West and ending at its intersection and confluence with the Red Lake River in the south one-half of Section 27.

(b) *Tributary streams.* All protected watercourses in the City shown on the Protected Waters Inventory Map for Pennington County, a copy of which is adopted by reference, not given a classification in Subsection (a), shall be considered “Tributary.”

(B) *Land Use District descriptions.* The Land Use Districts within shoreland and the delineation of a land use district’s boundaries on the Zoning Districts Map shall be consistent with the goals, policies, and objectives of the Comprehensive Plan and the following criteria, considerations, and objectives:

- (1) Preservation of natural areas;
- (2) Present ownership and development of shoreland areas;
- (3) Shoreland soil types and their engineering capabilities;
- (4) Topographic characteristics;
- (5) Vegetative cover;
- (6) In-water physical characteristics, values, and constraints;

- (7) Recreational use of the surface water;
- (8) Street and service center accessibility;
- (9) Socioeconomic development needs and plans as they involve water and related land resources;
- (10) The land requirements of industry which, by its nature, requires location in shoreland areas; and,
- (11) The necessity to preserve and restore certain areas having significant historical or ecological value.

§ 152.114 ZONING AND WATER SUPPLY/SANITARY PROVISIONS.

(A) *Lot area and width standards.* The lot area and lot width standards for residential, commercial, and industrial lots created after the date of enactment of this Subchapter for the rivers and tributary streams classifications are as indicated in the yard requirements for each zoning district.

(B) *Placement, design, and height of structures.*

(1) *Placement of structures on lots.* Where adjacent structures have shoreland setbacks different from those required, the minimum shoreland setback shall be the average of the adjacent structures. If there is one adjacent structure, the minimum shoreland setback shall be the average of the adjacent structure and the required setback. In no case shall the shoreland setback be less than 30 feet.

(a) *Accessory structure.* One water-oriented accessory structure designed in accordance with Subsection (B)(2)(a) may be set back a minimum distance of ten feet from the ordinary high water level.

(b) *Structure setback; bluff.* Structures shall be setback a minimum of 30 feet from the top of a bluff.

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

(d) *Uses without water-oriented needs.* Uses without water-oriented needs shall be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(2) *Design criteria for structures.*

(a) *Water-oriented accessory structures.* Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Subsection (B)(1), if this water-oriented accessory structure complies with the following provisions:

1. The structure shall not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks shall not exceed eight feet above grade at any point;
2. The setback of the structure from the ordinary high water level shall be at least ten feet;
3. The structure shall be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
4. The roof may be used as a deck with safety rails but shall not be enclosed or used as a storage area;
5. The structure shall not be designed or used for human habitation and shall not contain water supply or sewage treatment systems; and,
6. As an alternative for water-oriented accessory structures used solely for water craft storage and including storage of related boating and water-oriented sporting equipment may occupy an area up to 400 square feet, provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

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

1. Stairways and lifts shall not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties and public open space recreational properties;
2. Landings for stairways and lifts on residential lots shall not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties and public open-space recreational properties;
3. Canopies or roofs are not allowed on stairways, lifts, or landings;
4. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;

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

6. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of Subsections (b)1. through (b)5. are complied with in addition to the requirements of Minn. Rules, Chapter 1341.

(c) **Decks within shoreland.** Deck additions to a structure, which structure does not meet the required setback from the ordinary high water level, may be allowed without a Variance if all of the following standards are met:

1. The structure met the requirements of the official controls when established;
2. A thorough evaluation of the lot and structure reveals no reasonable location for a deck meeting or exceeding the existing shoreland setbacks for the structure;
3. The deck encroachment toward the ordinary high water level does not exceed 15% of the existing setback for the structure from the ordinary high water level or does not encroach closer than 30 feet to the ordinary high water level, whichever is more restrictive; and
4. The deck is constructed primarily of wood and is not roofed or screened.

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

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

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

(1) **Vegetation alterations.**

(a) Alteration of vegetation necessary for the construction of streets and parking areas regulated by Division (D) of this Section and for the construction of structures and sewage treatment systems are exempt from the vegetation alterations standards of Subsection (C)(1)(b).

(b) Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Subsections (F)(2) and (3), is allowed subject to the following standards:

1. Intensive clearing of vegetation within the shore and bluff impact zones and on steep slopes is not allowed. Intensive clearing of vegetation for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the Soil and Water Conservation District in which the property is located; and,

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

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

b. Existing shading of water surfaces is preserved along rivers; and,

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

(2) *Topographic alterations: grading and filling.*

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

(b) Public streets and parking areas are regulated by Division (D) of this Section.

(c) Notwithstanding Subsections (a) and (b) above, a grading and filling permit will be required for:

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

2. The movement of more than 50 cubic yards of material outside of steep slopes, shore impact zones, and bluff impact zones.

(d) The following considerations and conditions shall be adhered to during the issuance of Building Permits, Grading Permits, Filling Permits, Conditional Use Permits, Variances, and subdivision approvals:

1. Grading or filling in any wetland shall be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetlands:
 - a. Trapping and retention of sediment and pollutants;
 - b. Storage of surface runoff to prevent or reduce flood damage;
 - c. Fish and wildlife habitat;
 - d. Recreational use;
 - e. Shoreline and bank stabilization; and
 - f. Historic significance and critical habitat.
2. Alterations shall be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
3. Mulches or similar materials shall be used, where necessary, for temporary bare soil coverage and a permanent vegetative cover shall be established as soon as possible;
4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature shall be used;
5. Altered areas shall be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local Soil and Water Conservation District and the United States Soil Conservation Service;
6. Fill or excavated material shall not be placed in a manner that creates an unstable slope;
7. Plans to place fill or excavate material on steep slopes shall be reviewed at applicant's cost by qualified professionals for continued slope stability and shall not create finished slopes of 30% or greater;
8. Fill or excavated material shall not be placed in bluff impact zones;
9. Any alterations below the ordinary high water level of public waters shall first be authorized by the Commissioner under M.S. §§ 103G.245 and 103G.405;

10. Alterations of topography shall only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

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

(e) Permission for excavations, such as boat slips, canals, lagoons, and harbors, where the intended purpose is connection to a public water, may be given only after the Commissioner has approved the proposed connection to public waters.

(D) *Placement and design of streets, driveways, parking areas, and essential services.*

(1) Public and private streets, parking areas, and essential services shall be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation shall be provided by a qualified individual that all streets, parking areas, and essential services are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local Soil and Water Conservation District.

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

(3) Public and private watercraft access ramps, approach streets, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this Division (D) are met. For private facilities, the grading and filling provisions of Division (C) of this Section shall be met.

(E) *Stormwater management.* The following general and specific standards shall apply.

(1) *General standards.*

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

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

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

(2) *Specific standards.*

(a) Impervious surface coverage of lots may not exceed 75% of the lot area without a Conditional Use Permit. Criteria for granting impervious surface coverage Conditional Use Permits shall include consideration of the following:

1. No other reasonable alternatives exist;
2. Surface drainage can be reasonably filtered; and,
3. Rate of run off resulting from normal rainfall can be controlled to prevent erosion.

(b) When constructed facilities are used for stormwater management, they must be designed and installed consistent with the field office technical guide of the local Soil and Water Conservation District.

(c) New constructed stormwater outfalls to public waters shall provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(F) *Special provisions for Agricultural, Park and Recreation, Commercial, and Industrial Districts.*

(1) *Standards for Agricultural, Park and Recreation, Commercial, and Industrial Districts.*

(a) Agricultural, park and recreation, commercial, and industrial uses with needs to have access to and use of public waters shall meet the following standards:

1. The uses shall be designed to incorporate topographic and vegetative screening of parking areas and structures;
2. Uses that require short-term watercraft mooring for patrons shall centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and,
3. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
 - a. No business signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff;

b. Signs may be placed, when necessary, within the shore impact zone if they are in accordance with §§ 152.085 et seq. They shall only convey the location and name of the establishment and the general types of goods or services available. The signs shall not contain other detailed information such as product brands and prices, shall not be located higher than ten feet above the ground and shall not exceed 30 square feet in size. If illuminated by artificial lights, the lights shall be shielded or directed to prevent illumination out across public waters; and,

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

(b) Uses without water-oriented needs shall be set back in accordance with the applicable yard requirements for the zoning district in which the use is located. The uses shall be screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions, in a manner acceptable to the City Forester and Zoning Administrator.

(2) *Agriculture use standards.*

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

(b) Feedlots shall not be located in the shoreland, in watercourses, or in bluff impact zones and shall meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins.

(3) *Forest management standards.* The harvesting of timber and associated reforestation shall be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."

(4) *Extractive use standards.*

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

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

WETLAND CONSERVATION

§ 152.125 PURPOSE.

This Subchapter is adopted to implement the Wetland Conservation Act of 1991, (Minnesota Laws 1991 Chapter 354, as amended) and the accompanying rules of the Minnesota Board of Water and Soil Resources (Minn. Rules Ch. 8420, as amended).

§ 152.126 INCORPORATION BY REFERENCE.

This Subchapter incorporates by reference the Act and the Rules. Terms used in this Subchapter which are defined in the Act or the Rules have the meanings given there.

§ 152.127 SCOPE.

This Subchapter regulates the draining and filling of wetlands and parts of wetlands within the City.

§ 152.128 PROCEDURES.

(A) *Exemption and no-loss determinations.* Exemption and no-loss determinations under Minn. Rules, Parts 8420.0210 and 8420.0220 shall be made by the Zoning Administrator. The Administrator should seek the advice of the technical evaluation panel on questions of wetland delineation and type. The Zoning Administrator's decision is final unless appealed to the Board of Adjustments and Appeals within 30 days.

(B) *Sequencing and replacement plan decisions.* Sequencing and replacement plan decisions under Minn. Rules, Part 8420.0520 through .0550 shall be made following the same procedures as for conditional use permits, plus the additional notice and time requirements of Minn. Rules, Part 8420.0230. If the amount of wetland to be drained or filled is less than one-tenth of an acre, the sequencing determination under Minn. Rules, Part 8420.0520 shall be made by the Zoning Administrator.

(C) *Monitoring.* The Zoning Administrator shall assure that the replacement plan monitoring and enforcement requirements of Minn. Rules, Part 8420.0600 through .0630 are fulfilled.

(D) *Wetland banking.* Wetlands may be restored or created within the City for purposes of deposit in the wetland bank in accordance with Minn. Rules, Parts 8420.0700 through .0760. The Zoning Administrator is responsible for approving bank plans, certifying deposits, and monitoring of banked wetlands and enforcement under the rules.

(E) *Appeals.* Decisions made under this Subchapter may be appealed to the Board of Water and Soil Resources under Minn. Rules, Part 8420.0250 after administrative appeal rights under the official controls have been exhausted.

(F) *Variances.* The Board of Adjustments and Appeals may issue variances from the official controls of the City so long as the variances do not vary requirements of the Act or the Rules.

(G) *Technical evaluation panel.* The City Council shall appoint a person to serve on the technical evaluation panel. Decisions under this Subchapter must not be made until after receiving the determination of the technical evaluation panel regarding wetland public values, location, size, and/or type if the decision-maker, the landowner or a member of the technical panel asks for such determinations. This requirement does not apply to wetlands for which the data is included in an approved comprehensive wetland management plan per Minn. Rules, Part 8420.0240. The Planning Commission may seek and shall consider recommendations, if any, made by the technical evaluation panel in making replacement plan decisions.

§ 152.129 HIGH PRIORITY AREAS.

Decisions regarding sequencing, replacement plans, and banking shall particularly favor preservation, restoration and creation of wetlands in high priority areas as identified in water management plans pursuant to Minn. Rules, Part 8420.0350.

§ 152.130 DELEGATION.

The City may delegate to the Soil and Water Conservation District under M.S. §§ 471.59 and 103C.331, Subd. 19, the authority to administer all or any part of this Subchapter.

§ 152.134 WIND ENERGY CONVERSION SYSTEMS.

(A) *Purpose.* To regulate the installation of Wind Energy Conversion Systems (WECS) within the City, not otherwise subject to siting and oversight by the State of Minnesota.

(B) *Interpretation, Conflict, and Separability.*

(1) *Interpretation.* In interpreting these regulations and their application, the provisions of these regulations shall be held to be the minimum requirements for the protection of public health, safety, and general welfare.

(2) *Conflict.* These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except as provided in these

regulations. If any provision of these regulations that impose restrictions different from any other ordinance, rule or regulation, statute, or provision of law, the provision that is more restrictive or imposes higher standards shall control, except for tower height.

(3) *Separability*. If any part or provision of these regulations or the application of these regulations to any developer or circumstances is found invalid by any competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and shall not affect or impair the validity of the remainder of these regulations or the application of them to other developers or circumstances.

(C) *Definitions*. As used in this Chapter, the following terms shall have the meanings indicated:

(1) *Aggregated Project*. Aggregated projects are those which are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.

(2) *Commercial WECS*. A WECS of equal to or greater than 5 kW in total name plate generating capacity.

(3) *Decommissioning*. Decommissioning shall mean removal of wind turbines, buildings, cabling, electrical components, foundations, and any other associated facilities.

(4) *FAA*. The Federal Aviation Administration.

(5) *Fall Zone*. The area surrounding the base of the tower, defined as the area with a radius being the furthest distance from the natural grade in which a tower will collapse in the event of a structural failure. This area is not less than an area with the radius that is the total height of the structure.

(6) *Feeder Line*. Power lines that transport electrical power from one or more wind turbines to the point of interconnection with a high-voltage transmission line.

(7) *High-Voltage Distribution or Transmission Line*. A conductor of electric energy and associated facilities designed for and capable of operations at a nominal voltage of 2 kilovolts or more.

(8) *Hub Height*. Shall mean, when referring to a WECS, the distance measured from natural grade to the center of the turbine hub.

(9) *Meteorological Tower*. For the purposes of this Chapter, meteorological towers are those towers which are erected primarily to measure wind speed and directions plus other data relevant to siting WECS. Meteorological towers do not include towers and equipment used by airports, the Minnesota Department of Transportation, or other similar applications to monitor weather conditions.

(10) **Natural Grade.** The grade unaffected by construction techniques such as fill, landscaping, or berming.

(11) **Non-Commercial WECS.** A WECS of less than 5 kW in total name plate generating capacity.

(12) **Power Purchase Agreement.** A legally enforceable agreement between one or more persons and a utility where one or more of the signatories agrees to provide electric power and one or more of the signatories agrees to purchase the power.

(13) **Public Conservation Lands.** Land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, Federal Wildlife Refuges, and Waterfowl Production Areas. For the purpose of this Section, public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

(14) **Rotor.** That part of a wind turbine that rotates as a result of energy derived from the wind.

(15) **Rotor Blades.** That part of the wind turbine that moves in the air and transfers energy from the wind into mechanical movement.

(16) **Rotor Diameter.** The diameter of the circle described by the moving rotor blades.

(17) **Substations.** Any electrical facility designed to convert electricity produced by Wind turbines to a voltage for interconnection with transmission lines.

(18) **Total Height.** The highest point, above natural grade, of any structural or moving part of the WECS.

(19) **Tower.** Towers include vertical structures that support the electrical generator, rotor blades, or meteorological equipment.

(20) **WECS – Wind Energy Conservation System.** An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: towers, power lines, transformers, substations, and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

(21) **Wind Turbine.** A wind turbine is any piece of electrical generating equipment that converts the kinetic energy of wind into electrical energy with rotor blades.

(D) **Application Procedures.** Application for WECS shall be reviewed and processed in accordance with the Conditional Use Permit procedures established in Section 152.148 of this Chapter. The following information is required in addition to the information required for a Site Plan or Conditional Use Permit application:

- (1)** The application for all WECS shall include the following information:
 - (a)** The names and addresses of project applicants;
 - (b)** The name and address of the project owners;
 - (c)** The name and address of the owners of the real property upon which the WECS will be located.
 - (d)** The legal description and address of the project.
 - (e)** A description of the project including: number, type, name plate generating capacity, tower height, rotor diameter, tower construction, and total height of all wind turbines, and means of interconnection with the electrical grid.
 - (f)** Site layout, including the location of property lines, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale.
 - (g)** Evidence, being certificate of insurance, insurance policy, or other certification satisfactory to City, that the applicant can obtain and maintain liability insurance for the WECS and subject property.
 - (h)** Evidence of a power purchase agreement, except where all electrical load served by the WECS is isolated from the utility electric distribution system (Commercial WECS only).
 - (i)** Registered Engineer's certification (Commercial WECS only).
 - (j)** Documentation of property ownership or legal control of the property.
 - (k)** Decommissioning Plan as required in part (G)(2)(i) and (G)(2)(j) of this Section.
 - (l)** A noise study, prepared by a qualified professional or WECS provider that demonstrates that, except for intermittent episodes, the WECS shall not emit noise in excess of the limits established in Minnesota Rules 7030 governing noise. (Commercial WECS only). Non-commercial WECS shall comply with the noise limits established by Minnesota Rules 7030.
 - (m)** (Commercial WECS only) A shadow flicker model that demonstrates that shadow flicker shall not fall on, or in, any existing residential structure. Shadow flicker expected to fall on a roadway or a portion of a residentially zoned property may be acceptable if the flicker does not exceed 30 hours per year; and the flicker will fall more than 100 feet from an existing residence; or the traffic volumes are less than 500 vehicles (ADT). The shadow flicker model shall:
 - (i)** Map and describe with a 1,000 foot radius of the proposed WECS the topography, existing residences and location of their windows, location of other structures, wind speeds and directions, existing vegetation, and roadways. The model shall represent the most probable scenarios of wind constancy, sunshine constancy, and wind directions and speed.

(ii) Calculate the locations of shadow flicker caused by the proposed project and the expected durations of the flicker at these locations, and calculate the total number of hours per year of flicker at all locations.

(iii) Identify problem areas where shadow flicker will interfere with existing or future residences and roadways and describe proposed mitigation measures, including, but limited to, a change in siting of the WECS, a change in the operation of the WECS, or grading or landscaping mitigation measures.

(n) The latitude and longitude of individual wind turbines. A USGS topographical map, or map with similar data, of the project site including boundaries of the project area, surrounding property within one-quarter mile, and any other WECS within ten rotor diameters of the proposed project. (Commercial WECS only).

(o) Location of wetlands, scenic, and natural areas (including bluffs) within one mile of the proposed WECS. (Commercial WECS only).

(p) FAA Permit Application. (Commercial WECS only).

(q) Location of all known communications towers within two miles of the proposed project. Provide proof that the WECS will not interfere with emergency or other microwave communications. (Commercial WECS only).

(r) Description of potential impacts on nearby WECS and wind resources on adjacent properties. (Commercial WECS only).

(s) The process to resolve complaints from residents and owners of nearby properties as required by Section 152.134(G)(2)(m), which process shall be subject to City approval. (Commercial WECS only).

(t) Additional information as stated in Minnesota Rules, Part 7854.0500 (Subpart 1), as amended.

(2) Application Procedures for Aggregated Projects. Aggregated Projects may jointly submit a single application and be reviewed under joint proceedings, including notices, hearings, reviews, and as appropriate, approvals. Permits will be issued and recorded separately. All aggregated projects over the 5 MW threshold currently outlined in State Statute are subject to State regulation.

(E) District Regulations. WECS will be conditionally permitted or not permitted based on the generating capacity and land use district as established in the table below:

Zoning Meteorological District	Non-Commercial <u>WECS</u>	Commercial <u>WECS</u>	<u>Tower</u>
FP, PR	Not Permitted	Not Permitted	Not Permitted

AG	Conditionally Permitted	Conditionally Permitted	Conditionally Permitted
R-1, R-2, R-3, R-4	Conditionally Permitted	Not Permitted	Not Permitted
C-1, C-2, C-3, C-4	Conditionally Permitted	Conditionally Permitted	Conditionally Permitted
I-1, I-2,	Conditionally Permitted	Conditionally Permitted	Conditionally Permitted

(F) **Setbacks.** All towers shall adhere to the setbacks established in the following table:

	<u>Non-Commercial</u>	<u>Commercial WECS</u>	<u>Meteorological Tower</u>
Property Lines	1.25 times the total height	1.25 times the total height	1.25 times the total height
Other Existing WECS	N/A	600 feet	600 feet

(G) **Requirements and Standards.**

(1) **Safety Design Standards.**

(a) **Engineering Certification.** For all Commercial WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation, and tower design of the WECS is within acceptable professional standards, given local soil and climate conditions.

(b) **Clearance.** Rotor blades or airfoils must maintain at least 20 feet of clearance between their lowest point and the ground.

(c) **Warnings.** For all Commercial WECS, a sign or signs shall be posted on the tower, transformer, and substation warning of high voltage. Signs with emergency contact information shall also be posted on the turbine or at another suitable point. Painted aviation warnings are recommended on meteorological towers less than 200 feet.

(d) **Residentially Zoning Areas.** No towers shall be constructed on or attached to structures.

(e) **Automatic Shut Down.** All WECS shall have a mechanism supplied by the manufacturer that shuts down the WECS in high wind conditions. This information shall be provided with the permit application.

(2) *Standards.*

(a) *Total Height.* Non-Commercial WECS shall have a total height of less than 120 feet and Commercial WECS shall have a total height of less than 180 feet;

(b) *Tower Configuration.* All wind turbines shall be installed with a tubular, monopole type tower.

(c) *Color and Finish.* All wind turbines and towers shall be white, off-white, grey, or light blue in color. Blades may be black. Finishing shall be matte or non-reflective. Meteorological towers are exempt from this requirement.

(d) *Lighting.* Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by FAA permits and regulations. Red strobe lights are preferred for night-time illumination to reduce impact on migrating birds. Red pulsating incandescent lights shall be avoided.

(e) *Other Signage.* All signage on site shall comply with City ordinances. The manufacturer's or owner's company name and/or logo may be placed upon the nacelle, compartment containing the electrical generator of the WECS.

(f) *Feeder Lines.* All communications and feeder lines, equal to or less than 34.5k V in capacity, installed as part of a WECS shall be buried where reasonably feasible. Feeder lines installed as part of a WECS shall not be considered an essential service. This standard applies to all feeder lines subject to City authority. The owner must apply for a variance if the owner desires not to bury the feeder line.

(g) *Shadow Flicker.* Shadow flicker may not exceed 30 hours per year and shall not fall more than 100 feet from an existing residential property.

(h) *Waste Disposal.* Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state, or federal regulations.

(i) *Discontinuation and Decommissioning.* A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed, submitted to, and approved by the City zoning officer outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities, including the foundation, shall be completely decommissioned within one year of the discontinuation of use.

(j) Each WECS shall have a decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon becoming a discontinued use. The cost estimates shall be made by a competent party; such as a professional engineer, a contractor capable of decommissioning, or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning of the WECS and accessory facilities.

(k) *Orderly Development.* Upon issuance of a Conditional Use Permit, all Commercial WECS greater than 5 MW shall notify the Energy Facility Permitting staff or Department of Commerce of the project location and details on the form specified by the Department.

(l) *Noise.* All WECS shall comply with Minnesota Rules 7030, governing noise.

(m) *Complaint Resolution.* The owner/operator of all Commercial WECS shall develop a process to resolve complaints from residents and owners of nearby properties, which complaints cannot be resolved pursuant to the City Code. The process shall use an independent mediator or arbitrator and include a time frame for acting on a complaint. The applicant shall make every reasonable effort to resolve any complaint.

(n) *Electrical Codes and Standards.* All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.

(o) *FAA.* All WECS shall comply with FAA standards and permits.

(p) *Minnesota State Building Code.* All WECS shall comply with the Minnesota State Building Code adopted by the State of Minnesota, as amended from time to time.

(q) *Interference.* The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within two miles of the proposed WECS location upon application to the City for permits. No WECS shall be constructed so as to interfere with any microwave transmissions.

(r) *Right of Entrance.* By the acceptance of the Conditional Use Permit, the owner/operator grants permission to the City to enter the property to remove the WECS pursuant to the terms of the Conditional Use Permit and to assure compliance with other conditions set forth in the permit.

(s) *Compliance.* All WECS shall comply with any applicable local, state, or federal laws, rules, standards, or regulations impacting their location, construction, operation, or decommissioning.

(t) *Signage.* No advertising signs or banners of any nature shall be allowed on the WECS, except as set forth herein.

(u) *Ladders.* Any access ladder existing on the outside of the tower shall start a minimum of 15 feet above ground level.

(v) Such other conditions can be attached to the Conditional Use Permit as the City deems reasonable.

(w) Meteorological towers shall not exist in one location for more than 18 months. The location of a meteorological tower shall not be considered to have moved unless the meteorological tower shall have moved at least 1,000 feet from its prior location.

(x) Should a WECS not be decommissioned as required herein, the City shall have the right to enter upon the land where the WECS is located for the purpose of decommissioning the WECS. The cost of decommissioning shall be the responsibility of the owner of the land where the WECS is located and the owner of the WECS, jointly and severally. Should either or both fail to pay the City the cost the City incurred in decommissioning the WECS, the City may then spread the charges against the real property benefited as a special assessment under the authority of Minnesota Statute 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor for collection along with current taxes the following year or in annual installments, not exceeding 10, as the City may determine in each case.

(3) *Avoidance and Mitigation of Damages to Infrastructure and Utilities.*

(a) *Roads.* Applicants shall:

(i) Identify all county, city, or township roads to be used for the purpose of transporting Commercial WECS, substation parts, concrete, and/or equipment for construction, operation, or maintenance of the WECS and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.

(ii) Be responsible for restoring or paying damages as agreed to by the applicable road authority(ies) sufficient to restore the road(s) and bridges to preconstruction conditions.

(b) *Drainage System.* The applicant and owner of the WECS shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation, maintenance, or decommissioning of the WECS.

(c) The applicant and owner of the WECS shall be responsible for any damage to any below grade public or private utilities, due to construction, operation, maintenance, decommissioning, or action otherwise resulting for any WECS.

Amended by Ordinance No. 46, 3rd Series, adopted April 20, 2010

ADMINISTRATION AND ENFORCEMENT

§ 152.145 ENFORCING OFFICER.

(A) The Council shall appoint a Zoning Administrator.

(B) The Zoning Administrator shall enforce this Chapter and perform the following duties:

(1) Issue Building Permits in conjunction with the Building Official;

(2) Conduct inspections of buildings and land use;

- (3) Maintain permanent records;
- (4) Receive, file, and forward all applications for appeals, variances, conditional uses, amendments, or other matters to the designated official bodies;
- (5) Institute in the name of the City any appropriate actions or procedures against a violator of this Chapter;
- (6) Serve as an ex-officio, nonvoting member of the Planning Commission and represent the Planning Commission at Council meetings; and,
- (7) Perform such other duties as determined by the Council.

§ 152.146 ZONING OF ANNEXED LAND.

The property owner whose land is annexed into the corporate limits shall immediately request a public hearing to determine the proper zoning district. The request shall be treated as a zoning amendment.

§ 152.147 ZONING AMENDMENTS.

(A) *Criteria for granting zoning amendments.* In granting a request for a rezoning, the Council shall consider the effect of the proposed zoning amendment upon the health, safety, morals and general welfare of the occupants of surrounding lands. Among other things, the Council shall make the following findings where applicable:

- (1) That the rezoning conforms to the Comprehensive Plan for the City, as well as present land uses;
- (2) That the rezoning will not impede the normal and orderly development and improvement of surrounding property for uses predominant in the area;
- (3) That the rezoning will not adversely affect property values of adjacent landowners;
- (4) That the rezoning will not impose other undue hardship on adjacent landowners such as noise, electrical display signs, odors, or other nuisances;
- (5) That necessary utilities be available to serve the use intended;
- (6) That additional public services needed by the rezoning be considered;
- (7) That alternate areas previously zoned for the intended use be considered; and,
- (8) That there is a public need for the proposed land use.

(B) Procedure.

- (1) Application for amendments to this Chapter may be initiated by the Council, by the Planning Commission or by the property owner or agent of the property owner.
- (2) Persons wishing to initiate an application for amendment to this Chapter shall fill out a zoning application prepared by the Zoning Administrator and submit it to the Zoning Administrator, together with a fee of \$150.00. The person shall also submit exhibits deemed necessary by the Zoning Administrator to evaluate the application.
- (3) The Zoning Administrator shall transmit the application for a zoning amendment and exhibits to the Planning Commission for public hearing.
- (4) A notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the City at least ten days prior to the day of hearing.

(5) A notice of the time, place, and purpose of the hearing shall be mailed at least ten days before the day of the hearing to property owners within 350 feet of the property to which the amendment relates when an amendment involves changes in district boundaries affecting an area of five acres or less. Notice shall be in writing, mailed by first class mail, to be effective on date of mailing. Failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this provision has been made.

(6) The Planning Commission shall hold a public hearing on the proposed zoning amendment.

(7) Persons requesting a zoning amendment shall appear at the public hearing in order to answer questions.

(8) The Planning Commission shall report its recommendation of approval, disapproval, or conditional approval of the proposed zoning amendment to the Council.

(9) The Council shall take action on the application within 60 days after receipt of the application. The Council may extend the time limit before the end of the initial 60 day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant. The Council may approve, disapprove, or conditionally approve a proposed zoning amendment. A two-thirds vote of all its members is necessary for an approval or conditional approval.

(10) Once denied by the Council, an application for a zoning amendment shall not be reconsidered by the Planning Commission for six months.

Amended: Ordinance No. 27, 3rd Series

§ 152.148 CONDITIONAL USE PERMITS.

(A) Criteria for Granting Conditional Use Permits.

(1) The establishment, maintenance, or operation of a conditional use will not be detrimental to or endanger the public health, safety, morals, or general welfare.

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

(3) The conditional use will be sufficiently compatible with or separated by distance or screening from adjacent Agricultural or Residential zoned or used land.

(4) The structure and site shall have an appearance that will not have an adverse effect upon adjacent agricultural or residential zoned or used land.

(5) The conditional use is related to the overall needs of the City and to existing land use.

(6) The conditional use is consistent with the purposes of this Chapter and requirements of the Zoning District.

(7) The conditional use is not in conflict with the Comprehensive Plan.

(8) Adjacent businesses will not be adversely affected because of curtailment of customer trade brought by the intrusion of noise, glare, or general unsightliness.

(B) *Supplemental Criteria for granting Conditional Use Permits in Shoreland.*

(1) The ability to prevent soil erosion or other possible pollution of public waters, both during and after construction.

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

(3) The site is adequate for water supply and on-site sewage treatment.

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

(C) *Conditions.* Conditions maybe imposed to protect the health, safety, morals, and general welfare of the City to any new or amended Conditional Use Permit. The conditions shall be in addition to the requirements specified in this Chapter. The conditions may include, but are not limited to, the following:

(1) Increasing the required lot size or yard dimensions;

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

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

(4) Increasing the street width;

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

(6) Limiting the number, size, location, or lighting of signs;

(7) Requiring buffers, diking, drainage, fencing, landscaping, or other facilities to protect adjacent or nearby property;

- (8) Designating sites for open space; or,
- (9) Time limits and review dates.

(D) *Supplemental conditions for shoreland.* Additional conditions within shoreland may include, but are not limited to, the following:

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

(E) *Procedure.*

(1) Persons applying for a Conditional Use Permit shall fill out a Conditional Use Permit application prepared by the Zoning Administrator and submit it to the Zoning Administrator together with a fee of \$150.00. The person shall also submit exhibits deemed necessary by the Zoning Administrator to evaluate the application.

(2) The Zoning Administrator shall transmit the application for a Conditional Use Permit and exhibits to the Planning Commission for public hearing.

(3) A notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the City at least ten days prior to the day of hearing.

(4) A notice of the time, place, and purpose of the hearing shall be mailed at least ten days before the day of the hearing to property owners within 350 feet of the property to which the proposed conditional use relates. Notice shall be in writing, mailed by first class mail, to be effective on date of mailing. Failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this Provision has been made.

(5) The Planning Commission shall hold a public hearing on the proposed Conditional Use Permit.

(6) Persons requesting a Conditional Use Permit shall appear at the public hearing in order to answer questions.

(7) The Planning Commission shall report its recommendation of approval, disapproval, or conditional approval of the Conditional Use Permit to the Council.

(8) The Council shall take action on the application within 60 days after receipt of the application. The Council may extend the time limit before the end of the initial 60 day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant. The Council may approve, disapprove, or conditionally approve a proposed Conditional Use Permit.

(9) Once denied by the Council, an application for a Conditional Use Permit shall not be reconsidered by the Planning Commission for six months.

(F) **Review.** If a time limit or periodic review is included as a condition by which a Conditional Use Permit is granted, the Conditional Use Permit may be reviewed at a public hearing with notice of the time, place and purpose of the hearing published at least ten days prior to the review. The holder of the Conditional Use Permit shall receive ten days mailed notice of the time, place, and purpose of the hearing, notice to be effective on date of mailing. It shall be the responsibility of the Zoning Administrator to schedule the public hearings, and the owner of land having a Conditional Use Permit shall not be required to pay a fee for the review. A public hearing for annual review of a Conditional Use Permit may be granted at the discretion of the Council.

(G) **Time limits.** Once issued, a Conditional Use Permit shall be null and void if construction on the proposed project has not been 20% completed within one year of the date that the Conditional Use Permit was granted or the project has not been completed within three years of the date the Conditional Use Permit was granted. The conditional use shall expire if that use shall cease for more than 12 consecutive months.

(H) **Modification.** Any modification involving structural alterations, enlargement, intensification of use, or similar modification not specifically permitted by the Conditional Use Permit shall require a new Conditional Use Permit.

Amended: Ordinance No. 27, 3rd Series

§ 152.149 VARIANCES.**(A) *Criteria for granting variances.***

(1) Variances shall only be permitted:

(a) When they are in harmony with the general purposes and intent of this Chapter; and

(b) When the variances are consistent with the Comprehensive Plan of the City.

(2) Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with this Chapter.

(3) Practical difficulties as used in connection with the granting of a variance means that:

(a) The property owner proposes to use the property in a reasonable manner not permitted by this Chapter;

(b) The plight of the property owner is due to circumstances unique to the property not created by the property owner; and

(c) The variance, if granted, will not alter the essential character of the locality.

Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

(B) *Conditions.* Conditions may be imposed to protect the health, safety, morals, and general welfare of the City to any new or amended Variance. The conditions shall be in addition to the requirements specified in this Chapter. The conditions may include, but are not limited to, the following:

(1) Increasing the required lot size or yard dimensions;

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

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

(4) Increasing the street width;

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

(6) Limiting the number, size, location, or lighting of signs;

(7) Requiring buffers, diking, drainage, fencing, landscaping, or other facilities to protect adjacent or nearby property;

(8) Designating sites for open space; or,

(9) Time limits and review dates.

(C) Procedure.

(1) Persons applying for a variance shall fill out a variance application prepared by the Zoning Administrator and submit it to the Zoning Administrator together with a fee of \$150.00. The person shall also submit exhibits deemed necessary by the Zoning Administrator to evaluate the application.

(2) The Zoning Administrator shall transmit the application for Variance and exhibits to the Board of Adjustments and Appeals for public hearing.

(3) A notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the City at least ten days prior to the day of hearing.

(4) A notice of the time, place, and purpose of the hearing shall be mailed at least ten days before the day of the hearing to property owners within 350 feet of the property to which the Variance relates. Notice shall be in writing, mailed by first class mail to be effective on date of mailing. Failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this provision has been made.

(5) The Board of Adjustments and Appeals shall hold a public hearing on the proposed variance.

(6) Persons requesting a Variance shall appear at the public hearing in order to answer questions.

(7) The Board of Adjustments and Appeals shall report its recommendation of approval, disapproval, or conditional approval of the proposed Variance to the Council.

(8) The Council shall take action on the application within 60 days after receipt of the application by the Zoning Administrator. The Council may extend the time limit before the end of the initial 60 day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant. The Council may approve, disapprove, or conditionally approve a proposed Variance.

(9) Once denied by the Council, an application for Variance shall not be reconsidered by the Board of Adjustments and Appeals for six months.

Amended: Ordinance No. 27, 3rd Series

Amended: Ordinance No. 56, 3rd Series (4/17/2012)

§ 152.150 APPEALS.

(A) *Appeals of administrative decisions.* A person having interest in land may appeal an administrative decision in the carrying out of the provisions of this Chapter. The appeals may include, but are not limited to, the interpretation of the zoning map or any order, requirement, decision, or determination made by the Zoning Administrator or any other administrative official charged with enforcing this Chapter.

(B) Procedure.

(1) Any person wishing to appeal an administrative decision in the enforcement of this Chapter shall fill out an appeal application on a form prepared by the Zoning Administrator and submit it to the Zoning Administrator, together with a fee of \$50. The person shall also submit exhibits deemed necessary by the Zoning Administrator to evaluate the appeal.

(2) The Zoning Administrator shall transmit the application for appeal and exhibits to the Board of Adjustments and Appeals.

(3) A notice of the time and place of the time that the Board of Adjustments and Appeals will meet to hear the appeal shall be mailed at least ten days before the day of the hearing to the appellant.

(4) The appellant shall appear before the Board of Adjustments and Appeals in order to answer questions.

(5) The Board of Adjustments and Appeals shall review the application, exhibits and statements and make a recommendation to the Council.

(6) The Council shall take action on the application within 60 days after receipt of the application by the Zoning Administrator. The Council may extend the time limit before the end of the initial 60 day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant. The Council may affirm, reverse or modify the order, interpretation, requirement, decision, or determination of the Zoning Administrator.

152.151 SITE PLAN.

(A) An individual applying for a Zoning Amendment, Conditional Use Permit, or Variance shall submit a site plan at the time of application.

(B) The applicant shall be bound by the site plan after the granting of a Zoning Amendment, Conditional Use Permit or Variance. No Building Permit shall be issued unless it is in conformance with the approved site plan. Any changes shall be approved by the Council.

(C) The site plan shall include those requirements deemed necessary by the Zoning Administrator and may include, but are not limited to, the following:

- (1) The name and address of all owners and developers of the proposed development;
- (2) The legal description and lot size, in feet, of the proposed development;
- (3) The location and size of buffers, parking lots, recreation areas and facilities, streets, sidewalks, signs, storage areas, and water areas;
- (4) Detailed grading plans and specifications, landscaping, and topography diagrams;
- (5) Plans for sanitary sewage disposal, surface drainage, fire hydrants, water systems, electrical services, gas services, cable television, and street lighting;
- (6) Preliminary floor plans and elevations for all permanent structures; or,
- (7) Staging and timing of construction program regardless of whether the entire area will be developed at one time or in stages.

§ 152.152 NONCONFORMING LOTS, STRUCTURES, AND USES.

(A) *Nonconforming lots.*

(1) Lots of record in the office of the County Recorder on the effective date of this Chapter that do not meet the minimum lot area requirements of this Chapter may be allowed as building sites without variances from minimum lot area requirements, provided it meets the requirements of § 152.028(E), the use is permitted in the zoning district, that the lot has been in separate ownership from abutting lands at all times since it became substandard, the lot was created compliant with official controls in effect at the time and sewage treatment requirements are met. If there were no official controls in effect at the time a lot was established, the lot must meet the requirements of the official controls that were first adopted.

(2) If in a group of two or more contiguous lots under the same ownership any individual lot does not meet the minimum lot area requirements of this Chapter, the lot must not be considered as a separate parcel of land for the purposes of development. The lot must be combined with one or more contiguous lots, each group of combined lots meeting the minimum lot area requirements of this Chapter where possible.

(B) *Nonconforming structures.* Any structure existing upon the effective date of this Chapter that does not conform to the provisions of this Chapter may be continued subject to the following conditions, unless otherwise specified herein:

- (1) Nonconforming structures shall not be physically expanded or enlarged; and,

(2) If a nonconforming structure is damaged or destroyed, the structure may be repaired or rebuilt to the original outside dimensions. Any rebuilt structure shall be repositioned on the lot to minimize as many violations of the setback requirements of this Chapter as possible as determined by the Board of Adjustments and Appeals.

(C) *Nonconforming use.* Any use existing upon the effective date of this Chapter that does not conform to the provisions of this Chapter may be continued subject to the following conditions, unless otherwise specified herein:

(1) A nonconforming use shall not be intensified;

(2) If a nonconforming use is discontinued for a period of 12 consecutive months, any further use must conform to the provisions of this Chapter; and,

(3) Normal maintenance of a structure containing or related to a lawful nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not extend, enlarge, or intensify the nonconforming use.

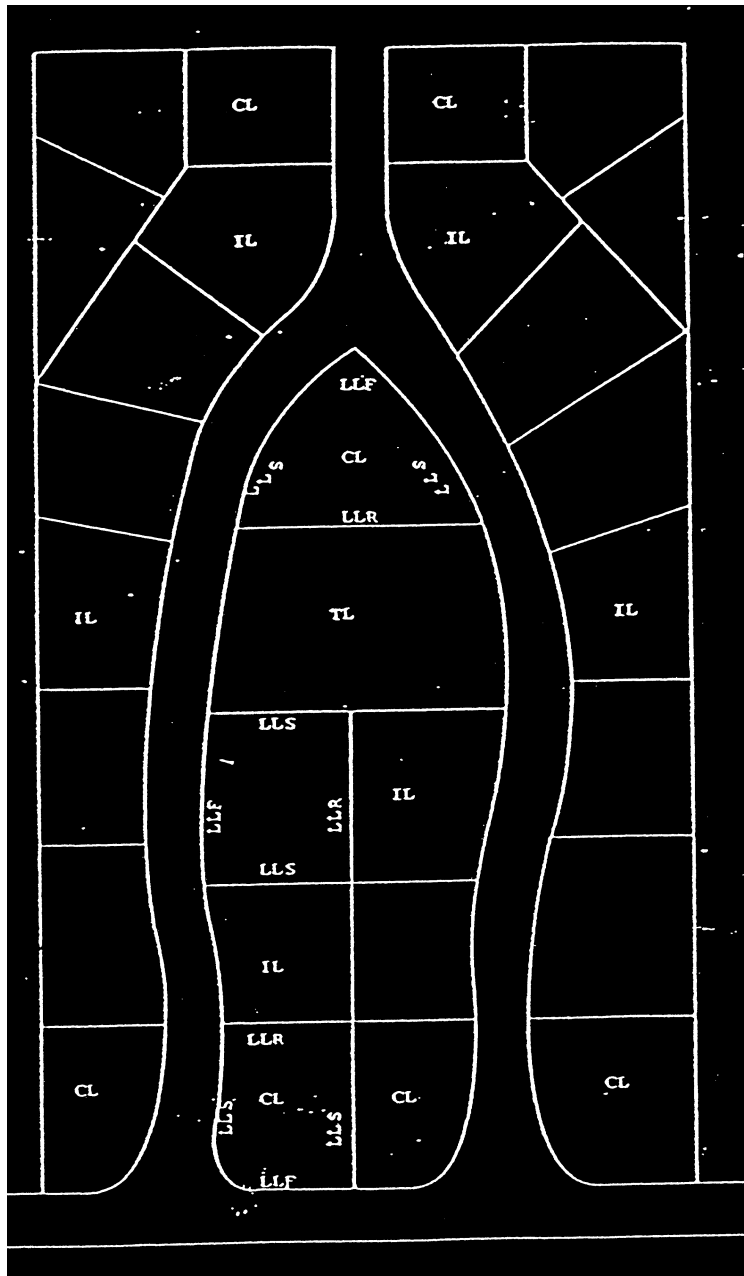
§ 152.153 SALES, GARAGE, RUMMAGE, OR YARD

An activity conducted on a residential lot where an owner or rent of the property sells personally used clothing, equipment, furnishings, machines, or tools. Sales of this nature shall be conducted no more than four times per year on a residential lot and each sale shall have duration of not more than three days.

§ 152.998 VIOLATION.

Every person violates a Section, Division, Subsection or Provision of this Chapter when they perform an act thereby prohibited or declared unlawful or fail to act when the failure is thereby prohibited or declared unlawful and, upon conviction thereof, shall be punished as for a misdemeanor, except as otherwise stated in specific provisions hereof.

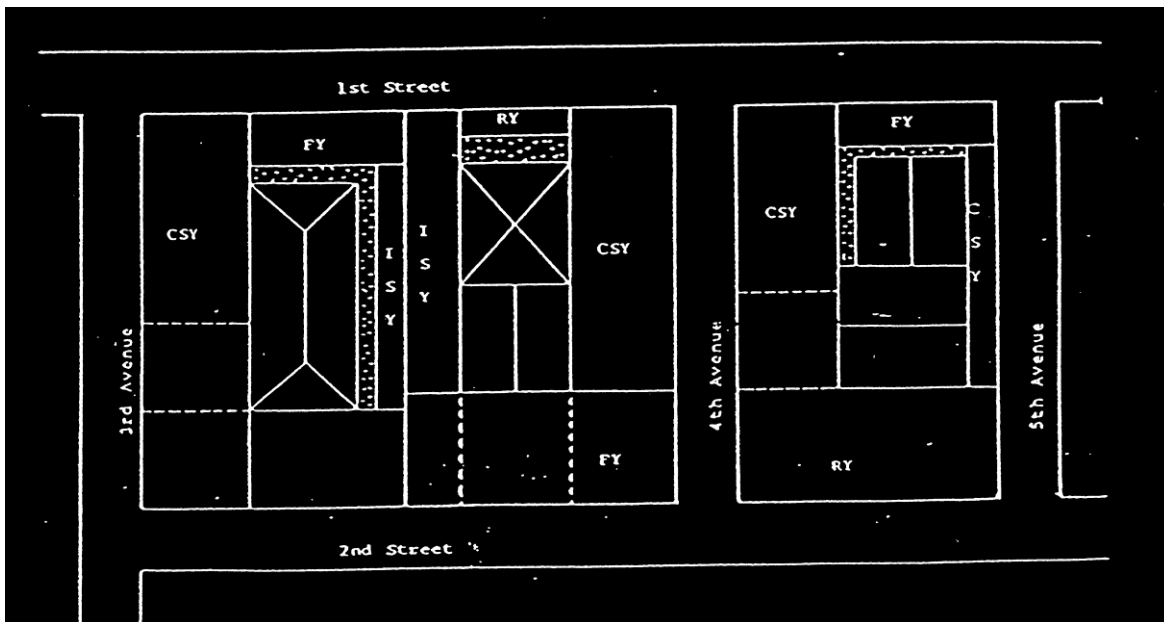
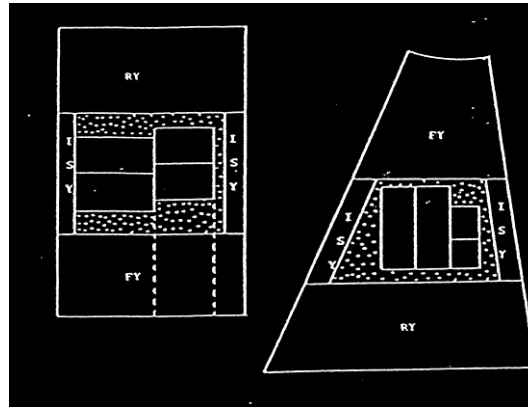
APPENDIX A: LOTS



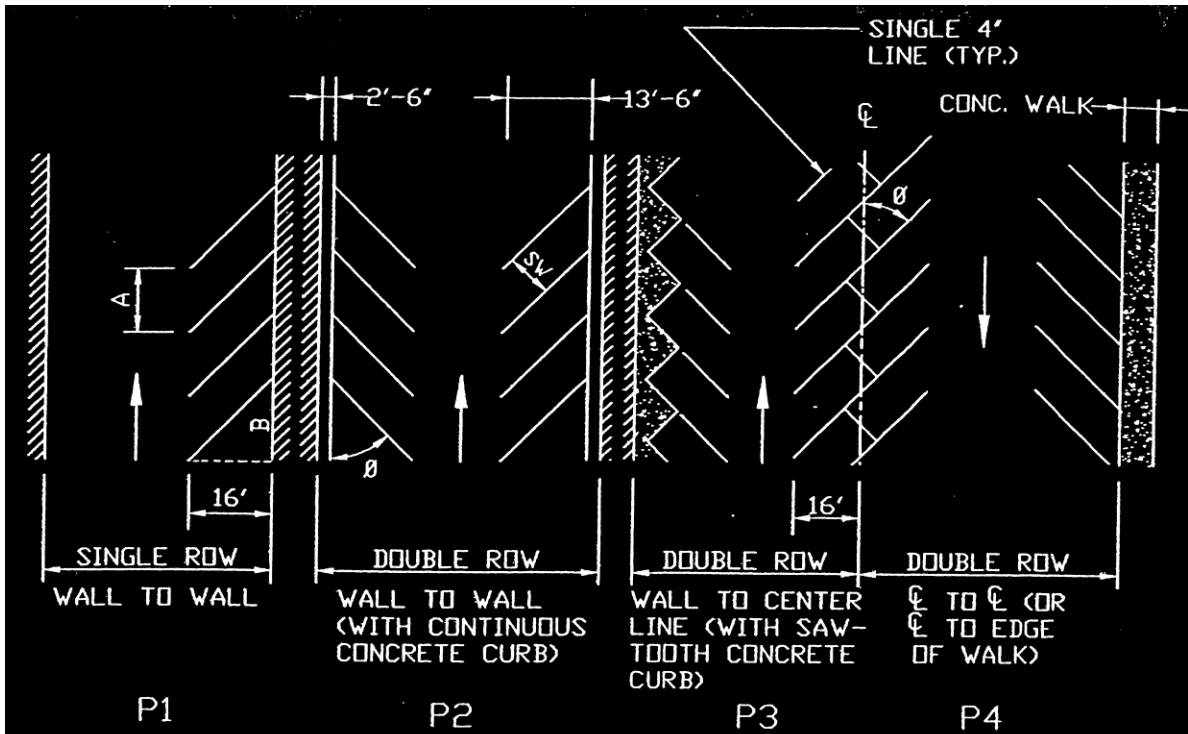
APPENDIX B: YARDS

LEGEND

- LLF- Lot Line Front
- LLR- Lot Line Rear
- LLS- Lot Line Side
- CL- Corner Lot
- TL- Through Lot
- IL- Interior Lot



APPENDIX C: PARKING DIMENSIONS



STALL WIDTH (SW)	P	PARKING ANGLE			
		45°	60°	75°	90°
9'-0" MIN.	1	32'-0"	35'-4"	42'-0"	44'-0"
	2	49'-4"	55'-6"	61'-10"	62'-0"
	3	46'-4"	53'-10"	61'-0"	62'-0"
	4	44'-8"	51'-6"	59'-8"	62'-0"
	A	12'-9"	10'-5"	9'-4"	9'-0"
	B	16'-0"	9'-3"	4'-3"	-0-
10'-0" DESIR.	1	32'-4"	34'-11"	42'-5"	48'-0"
	2	49'-11"	54'-0"	61'-9"	66'-0"
	3	47'-7"	52'-4"	60'-11"	66'-0"
	4	45'-3"	50'-8"	59'-10"	66'-0"
	A	14'-2"	11'-7"	10'-4"	10'-0"
	B	16'-0"	9'-3"	4'-3"	-0-

NOTES: 1.) DIMENSIONS SHOWN FOR DOUBLE ROW 90° PARKING ALLOW FOR TWO-WAY TRAFFIC.

2.) 90° PARKING STALLS TO BE NOT LESS THAN 18' IN LENGTH.