

TITLE XV: LAND USAGE

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CHAPTER 150: BUILDING CODE AND PLUMBING CODE

Section

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GENERAL PROVISIONS

§ 150.01 MINNESOTA STATE BUILDING CODE ADOPTED.

(A) *Codes adopted by reference.* The Minnesota State Building Code, as adopted by the Commissioner of Administration pursuant to M.S. §§ 326B.101 to 326B.151, as they may be amended from time to time, including all of the amendments, rules, and regulations established, adopted, and published from time to time by the Minnesota Commissioner of Administration, through the Building Codes and Standards Division, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this section. The Minnesota State Building Code is hereby incorporated in this section as if fully set out herein.

(B) *Application, administration, and enforcement.* The application, administration, and enforcement of the code shall be in accordance with Minnesota State Building Code. The code shall be enforced within the extraterritorial limits permitted by M.S. § 326B.121, subd. 2, as it may be amended from time to time, when so established by this section. This code shall be enforced by the Minnesota Certified Building Official designated by this municipality to administer the code, as it may be amended from time to time.

(C) *Permits and fees.* The issuance of permits and the collection of fees shall be as authorized in M.S. § 326B.121, as it may be amended from time to time. Permit fees shall be assessed for work governed by this code in accordance with the fee schedule annually adopted by the municipality. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with M.S. § 326B.148, as it may be amended from time to time.

(D) *Violations.* A violation of the building code is a misdemeanor.

(E) *Building Code optional chapters.* The Minnesota State Building Code, as it may be amended from time to time, allows the municipality to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code. The following optional provisions identified in the most current edition of the State Building Code are hereby adopted and incorporated as part of the building code for this municipality:

- (1) 2003 International Residential Building Code (for 1- and 2-family dwellings);
- (2) International Building Code, 2003 Edition;
- (3) International Fire Code, 2003 Edition;
- (4) International Mechanical Code, 2003 Edition; and
- (5) International Fuel Gas Code 2003 Edition.

(F) *Effective date.* This section shall become effective after passage and publication.
(Ord. 274, passed 5-22-2003) Penalty, see § 10.99

§ 150.03 PERMITS AND SPECIAL REQUIREMENTS FOR MOVING BUILDINGS.

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

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

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

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

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

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

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

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

(C) Permit and fee. The moving permit shall state date or dates of moving, hours, routing, movement and parking. Permits shall be issued only for moving buildings by building movers licensed by the state, except that a permit may be issued to a person moving his or her own building, or a person moving a building which does not exceed 12 feet in width, 25 feet in length or 16 feet in loaded height. Fees to be charged shall be separate for each of the following: a moving permit fee to cover use of streets and route approval; and a fee equal to the anticipated amount required to compensate the city for any municipal utility and public property (other than streets) repairs or alterations occasioned by the movement. All permit fees shall be paid in advance of issuance.

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

(E) Unlawful acts.

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

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

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

Penalty, see § 10.99

§ 150.09 COMPLETION OF WORK.

(A) Any person or entity constructing, altering, repairing, remodeling or adding to any structure, including single-family, multiple-family dwellings or other structures located within the city limits and areas subject to the provisions of this Code, including an attached or detached garage or accessory structure, shall complete all work with respect to the same within 180 days after the date required for completion of the work as authorized by the terms of the original building permit, in accordance with Minnesota State Building Code, Rule 1300.0120 subp. 9-12, as it may be amended from time to time.

(1) Completion of work includes completing the structure and all interior and exterior finishes, including, but not limited to, siding, windows, roofing, driveways, retaining walls, decks, patios, interior finishes, to include plumbing, wiring and all related matters.

(2) The City Building Official may extend the time for completion upon written request by the permittee establishing that circumstances beyond the control of the permittee prevented the completion of the work for which the building permit was initially authorized, in accordance with Minnesota State Building Code, Rule 1300.0120 subp. 9.

(3) In the event a building permit has initially been issued and expires or is revoked and the structure remains in the same condition for a period beyond 90 days after the expiration or revocation of the permit and the failure to obtain an extension, then in the event a complaint is filed, the structure may be declared by the City Building Inspector to be a public nuisance and in addition to any and all other remedies as may be provided by law, the structure may then be ordered removed or other actions taken.

(B) The continued violation of this provision shall constitute a separate offense for each and every day that the violation shall continue. In addition to other remedies as may be provided by this Code and the State Building Code for violation, the city shall not be precluded from other criminal, civil or injunctive relief, to include enforcement of each and every day that a violation continues as a misdemeanor pursuant to the terms of this Code.

Penalty, see § 10.99

§ 150.10 RENTAL DWELLING LICENSING CODE.

(A) Inspection and licensing of rental dwellings.

(1) Rental dwellings license. No person may operate, let or cause to be let, a rental dwelling unit without first having obtained an operating license or temporary permit to do so from the city as hereinafter provided.

(a) The owner of a rental dwelling unit must obtain a temporary permit if he, she or they have not received an operating license. There is no fee necessary for a temporary permit. The City Building Official may waive the need for an inspection at his or her discretion. A temporary permit is valid until an operating license is obtained or for a period of time after its issuance as authorized in its issuance by the City Building Official, whichever is earlier. In no case shall a temporary permit be issued for a period longer than 24 months, subject, however, to the enforcement officer's authority to extend the permit expiration date in those cases as the enforcement officer/Building Official deems appropriate in his or her sole discretion.

(b) Each operating license shall be valid for a period of five years (60 months) and shall expire at the end of the five years (60 months).

(c) A license renewal application shall be filed at least 60 days prior to license expiration date, unless the city has already renewed that license based upon a scheduled inspection conducted pursuant to division (A)(3)(a) below.

(2) Permit and license exemption.

(a) The owner of a rental dwelling unit is exempted from the permitting and licensing requirements of this section if the renter of the dwelling unit is related to the owner as a parent, child, sibling, grandparent, grandchild, stepparent, stepchild, step-grandparent or step-grandchild and the owner files an affidavit with the city, stating that the renter is one of these relations. The affidavit required in this division (A)(2)(a) must also state the address of the dwelling and must be renewed at least every five years (60 months).

(b) The owner must notify the city in writing within 30 days of this exemption being lost because the renter is not related to the owner as one of the above referenced relations.

(3) Rental dwelling inspections. No operating license may be issued or renewed unless the city determines, following an inspection conducted pursuant to this section, unless otherwise waived by the city enforcement officer for good cause or as otherwise determined by the officer in his or her discretion, that the rental dwelling unit and its premises conform to the Housing Maintenance Code, §§ 150.35-150.43 ("HMC"). As more specifically provided below, the enforcement officer and his or her agents may cause inspections, follow up inspections and re-inspections on rental dwelling units on all classes of property within the city on a scheduled basis, and on rental dwelling units or owner occupied residential units on all classes of property when reason exists to believe that a violation of an applicable subdivision of the HMC exists, has been or is being committed.

(a) The city enforcement officer and his or her agents are authorized to contact owners, tenants and managers of rental dwellings to schedule inspections of rental dwellings at reasonable times. They are also authorized to conduct those inspections once scheduled. These scheduled inspections will be conducted to determine whether the unit and its premises conform to the HMC so as to inform the city's decision of whether to issue an operating license. The authority to schedule and to conduct these inspections is available even if the owner or owner's agent holds a temporary permit, and without regard to whether the owner or owner's agent has filed an application for an operating license.

(b) In addition, except as herein provided above, upon receipt of a properly executed application for

an operating license, the enforcement officer shall cause an inspection to be made of the premises to determine whether the structure is in compliance with the HMC. Inspections performed pursuant to the authority in divisions (A)(3)(a) above or (A)(3)(c) below are hereinafter described as “Licensing Inspections”.

(c) In addition, the city enforcement officer and his or her agents are authorized to conduct inspections on rental dwelling units or owner-occupied residential units on all classes of property when reason exists to believe that a violation of an applicable subdivision of the HMC exists, has been or is being committed. A complaint or complaints from a tenant of a rental dwelling unit shall be an adequate basis for a reinspection of a rental dwelling unit.

(d) To increase the awareness by owners of the likely timing of requested inspections and to conserve public resources, the city enforcement officer may schedule and conduct inspections pursuant to division (A)(3)(a) above according to the area of the city in which the unit is located, dividing the city into zones and endeavoring to perform inspections pursuant to division (A)(3)(a) above in one zone before beginning them in a different zone.

(e) If a structure or rental dwelling unit is not in compliance, one or more follow up inspections or re-inspections may be conducted to verify that conditions and any corrections conform to the provisions of the HMC.

(f) When the basis for the inspection pursuant to this section is information observed or obtained during a licensing inspection, the reinspection or follow up inspection shall be conducted on a scheduled basis.

(g) Owners of rental dwelling units shall report to the city the full names, telephone numbers and addresses of the principal tenant of all rental dwelling units under their ownership or control, and update information as needed to ensure that it is accurate and current.

(h) When scheduling licensing inspections pursuant to this section, the city enforcement officer or his or her agents will seek the consent of the owner of the property (if not already received) to inspect those areas outside of rental dwelling units that are not accessible to the general public (including any internal rooms that are inaccessible to the public, such as storage or mechanical rooms) and to unrented dwelling units, and the consent of the primary tenant of the rental dwelling unit (if not already received) to inspect that unit. If the property owner demonstrates to the satisfaction of the city enforcement officer or his or her agents that one or more tenants have consented in writing to the inspection of their units, individual contacts by the city with those tenants may be deemed unnecessary.

(i) If the city is unsuccessful in securing consent for an inspection pursuant to this section, the city shall seek permission from a judicial officer through an administrative warrant, for its enforcement officer or his or her agents to conduct an inspection. Nothing in this Code shall limit or constrain the authority of the judicial officer to condition or limit the scope of the administrative warrant.

(j) The scope of a licensing inspection shall be limited to what is necessary to determine in accordance with this division (A)(3)(j), whether the unit and its premises conform to the HMC. This shall not preclude the enforcement officer from relying upon observations from a licensing inspection in seeking one or more of the remedies provided in division (B) below.

(k) A licensing inspection must be scheduled during ordinary business hours (or as otherwise arranged with the owner or tenant). Owners and their agents and tenants may, at their option, request that licensing inspections above take place only when they are present, so long as the request identifies at least one date or time within the two weeks following the date of the request when the requesting party agrees to be present.

(l) During inspections conducted pursuant to an administrative warrant, photographs and video

recordings may not be taken of areas inside the building, absent further court permission or consent of the tenant (for areas inside the unit) or the landlord (for areas inside the building but outside a tenant's unit, and areas inside an unoccupied unit).

(m) Inspectors are not authorized to open containers, drawers or medicine cabinets, unless the containers, drawers or medicine cabinets are opened with the consent of the tenant (for areas inside the unit) or the landlord (for areas inside the building but outside a tenant's unit, and areas inside an unoccupied unit). For purposes of this division (A)(3)(m), a medicine cabinet is a covered cabinet located in a dwelling unit's bathroom.

(n) Inspectors are authorized to open cabinets (other than medicine cabinets) or closets only when it is reasonably necessary in order to inspect for the existence of one or more conditions that violates the HMC, or when the cabinets or closets are opened with the consent of the tenant (for areas inside the unit) or the landlord (for areas inside the building but outside a tenant's unit, and areas inside an unoccupied unit).

(o) The information regarding the condition of the unit or its occupants that inspectors retain after recording it in any inspection logs or forms shall be limited to descriptions of conditions constituting a violation of the HMC. Inspectors may record a list of conditions that the landlord or tenant is encouraged to repair or change but which do not constitute a violation of the HMC, if that list is not retained by the inspector or city but is instead simply given to the landlord or tenant.

(p) The city may not upload to a GIS system any data regarding the results of inspections conducted pursuant to this section.

(q) The city will not share information regarding the condition of the unit or its occupants obtained through inspections conducted pursuant to this section with any current member of the City Police Department or any law enforcement agency of another jurisdiction, or enable their discovery by the person or agency, unless:

1. The disclosure is required by law;
2. The disclosure to the person or agency is needed to abate an active or inactive methamphetamine lab, mistreatment of one or more minors in violation of M.S. §§ 609.377 or 609.378, as they may be amended from time to time, mistreatment of one or more vulnerable adults in violation of M.S. §§ 609.23 through 609.233, as they may be amended from time to time, or mistreatment of one or more animals in violation of M.S. § 343.21, as it may be amended from time to time; or
3. If an owner or occupant of a unit has made an express or implied threat of bodily harm, causing the inspector to be concerned for his or her welfare, and the disclosure is made for the purpose of enabling one or more law enforcement officers to accompany the inspector in the completion of the inspection or the full performance of his or her duties.

(4) Inspection not required. Inspection for the issuance or renewal of a license may be waived by the city if the owner of a dwelling unit proves that within the previous 12 months the dwelling unit passed an inspection required by the city, state or federal regulations that is at least as stringent as the inspection required under this section. The city has sole discretion to determine when an inspection program is at least as stringent as the inspection required under this section. Inspections conducted as the result of a complaint made to the city may not be waived under this provision.

(5) Application contents. Owners of one or more rental dwelling units who have not yet received a temporary permit or operating license are responsible for applying with the city for either a temporary permit or an operating license. Before any portion of a property is used as a rental dwelling unit, the owner must first secure either a temporary permit or an operating license. With either application, the owner must supply:

- (a) Name, address and telephone number of dwelling owner, owning partners if a partnership,

corporate officers if a corporation;

(b) Name, address and telephone number of designated resident agent, if any;

(c) Name, address and telephone number of vendor, if the dwelling is being sold through a contract for deed;

(d) Legal address of the dwelling;

(e) Number of dwelling units within the dwelling;

(f) At least one emergency telephone number; and

(g) The names, telephone numbers and addresses of principal tenants, if any, are required in division (A)(3) above.

(6) Following acquisition. A new owner must register a newly acquired rental residential property within ten days after acquiring it, by applying for either a temporary license or an operating license. The enforcement officer must be notified of any address change within ten days.

(7) Administrative charge. Failure to obtain either a temporary permit as required by this section, or an operating license, will subject the owner of a dwelling unit to an administrative service charge up to \$250.

(8) License and inspection fees. The license and inspection fees are charged at the time of the issuance of the respective license and are due within 30 days of the date of the invoice; in the cases of newly constructed residential unlicensed rental dwelling units, license fees are due upon issuance of the certificate of occupancy; in the cases of licensing periods of less than two years, license fees will be pro rated monthly. A license fee paid later than ten working days after the prescribed date is subject to an additional administrative service charge double the amount of the license. Once issued, a license is nontransferable and the licensee is not entitled to a refund of any license fee upon revocation or suspension, or transfer of ownership. License and inspection fees shall be as established by the City Council by resolution as adopted and/or modified from time to time.

(9) Resident agent required. An operating license may not be issued or renewed for a nonresident owner of rental dwelling units (one who does not reside within the city limits) unless the owner designates in writing to the enforcement officer the name, address and telephone number of his or her resident agent (one who does reside within a 50-mile radius of the city limits) who is responsible for maintenance and upkeep and who is legally constituted and empowered to receive service of notice of violation of the provisions of the city code and to receive orders or process pursuant to law. The enforcement officer must be notified in writing of any change of resident agent or agent address or telephone number change within ten days. This requirement may be waived if, in the enforcement officer's determination, the owner not living within the city limits is nonetheless sufficiently accessible for the purposes of the HMC.

(10) Posting of permit or license. The current temporary permit or operating license of a multiple dwelling unit, or a legible copy thereof, must be conspicuously posted in the main entry way or a conspicuous exterior location of the respective multiple dwelling unit. In the case of one-family and two-family dwelling units, a legible copy of the current temporary permit or operating license must be given to the renter of each unit.

(11) License not transferable. A temporary permit or operating license is not transferable to another person or to another rental dwelling. Every person holding a temporary permit or operating license must give notice in writing to the enforcement officer within 72 hours after having legally transferred or otherwise disposed of the legal control of any permitted or licensed rental dwelling. The notice must include the name and address of the person succeeding to the ownership or control of the rental dwelling or dwellings. The person succeeding to the ownership or control of the rental dwelling or dwellings must obtain a temporary permit or operating license in order to continue operating the rental dwelling or dwellings. An inspection is not required to obtain this temporary permit or operating license unless the

rental dwelling or dwellings have not been inspected within five years (60 months) of the transfer of ownership or control.

(12) Violation. Any person that maintains a rental dwelling unit without having either a valid temporary permit or a valid operating license, or permits new occupancy in violation of this subdivision, is guilty of a misdemeanor, and upon conviction is subject to a fine and imprisonment as prescribed by state law. In addition to, or in lieu of, charging a misdemeanor, the city may impose an administrative fee in an amount set in the city fee schedule. An administrative fee may be appealed pursuant to division (C) below. Upon the failure to appeal an administrative fee within the period established in division (C) below, the city may post the dwelling unit as illegal for habitation. Thereafter, the dwelling unit may not be occupied by anyone other than the primary homestead owner and that person's immediate family until: the administrative fee has been paid; and a rental license is obtained or the city is satisfied that the dwelling unit will not be used as a rental dwelling unit. Each day of each violation constitutes a separate offense.

(B) Administration and enforcement.

(1) Administration and enforcement. The enforcement officer and his or her agents administer and enforce the provisions of the HMC. They may enforce the standards of the HMC through the licensing and inspection programs set forth in division (A) above and, where appropriate, through the powers set forth below.

(2) Authority. In the absence of a timely appeal under the HMC or any other applicable provision of law, the enforcement officer is the final authority in the determination of a violation under the HMC.

(3) License suspension and revocation. A temporary permit or operating license is subject to suspension or revocation by the City Council if the holder fails to operate or maintain permitted or licensed rental dwellings and units therein consistent with the provisions of the city code and the laws of the state. In the event that a permit or license is suspended or revoked by the City Council, or expires without renewal, it is unlawful for the owner or his or her duly authorized agent to thereafter permit any new occupancy of vacant or thereafter vacated rental dwelling units until a time as a valid license may be obtained or restored by the City Council.

(4) Compliance order. Whenever an enforcement officer determines that any rental dwelling unit, or the premises surrounding any of these, fails to meet the provisions of the HMC, the officer may issue a compliance order setting forth the violations of the code and ordering the owner, occupant, operator or agent to correct the violations. The compliance order must:

- (a) Be in writing;
- (b) Describe the location and nature of the violations of the HMC;
- (c) Establish a reasonable time, not to exceed 90 days, for the correction of the violations.

1. When a violation of the HMC constitutes an imminent peril to life, health or property, an immediate and exact time for the correction of the violation constitutes a "reasonable time" for correction for purposes of this subchapter. When this is the case, no stay of proceedings in furtherance of action will be granted on appeal.

2. A reasonable time may be longer than 90 days if correction is not possible because of prevailing weather conditions or other mitigating circumstances as determined by the enforcement officer;

(d) Include information regarding the owner's right to appeal the order and the procedure to be followed in filing such an appeal pursuant to division (C) below;

(e) State that in the event the violations are not corrected within the time set in the compliance order, the license may be suspended or that the necessary work may be performed by the city at the expense of the owner and that if the owner does not pay for the expense, the cost of the work will be assessed against the

property; and

(f) Be served upon the owner or his or her agent or the occupant, as the case may require. The notice shall be deemed to be properly served upon the owner or agent, or upon any such occupant, if a copy thereof is:

1. Served personally;
2. Deposited in the U.S. Post Office addressed to the owner at his or her last known address with postage prepaid; or
3. Upon failure to affect notice by personal service or by mail, posted at a conspicuous place in or about the dwelling which is affected by the notice.

(5) Emergency cases. For purposes of division (B)(4)(c) above, situations which constitute an imminent peril to life, health or property include, but are not limited to the following:

(a) Heating systems that are unsafe as defined in § 150.38, due to burned out or rusted out heat exchanges (fire box); burned out or plugged flues; not being vented; being connected with unsafe gas supplies; or being incapable of adequately heating the living space;

(b) Water heaters that are unsafe as defined in § 150.38, due to burned out or rusted out heat exchanges (fire box); burned out, rusted out or plugged flues; lack of proper venting; being connected with unsafe gas supplies; or lack of temperature and pressure relief valves;

(c) Electrical systems that are unsafe as defined in § 150.38, due to dangerous overloading; damaged or deteriorated equipment; improperly tapped or spliced wiring; improper or overloaded fuses; expose uninsulated wires; distribution systems of extension cords or other temporary methods; ungrounded appliances in a hazardous condition;

(d) Plumbing systems that are unsanitary as defined in § 150.38, due to:

1. Leaking waste systems fixtures and traps;
2. Lack of a water closet;
3. Lack of washing and bathing facilities; and/or
4. Cross-connection of pure water supply with fixtures or sewage lines.

(e) Structural systems, walls, chimneys, ceilings, roofs, foundations and floor systems that are unsafe as defined in § 150.38;

(f) Refuse, garbage, human waste, decaying vermin or other dead animals, animal waste, other materials rendering it that are unsanitary as defined in § 150.38; and

(g) Infestation of rodents, insects and other vermin.

(6) Follow-up inspection. At the end of the period allowed for the correction of a violation specified in the compliance order, the enforcement officer shall make, or attempt to make, a follow up inspection of the premises to determine whether corrective actions have been sufficient to bring the violation(s) into compliance.

(a) If the premises are in compliance with the requirements of this section at the time of the follow up inspection, a license may be issued in accordance with the requirements of this section.

(b) If the enforcement officer determines that the violation(s) has not been corrected and the rental unit(s) has not been vacated, the enforcement officer shall suspend any existing license. The enforcement officer also may issue a citation or may file a formal complaint summoning the responsible party into court. The citation shall reiterate the charge and the ordinance section(s) violated. The city may also take action to correct violations under the provisions of division (B)(9) below.

(c) After a suspension, the property owner may pay a re-inspection fee and request a re-inspection and reinstatement of the license. If the enforcement officer determines that the violation(s) has been corrected and the rental unit(s) and building comply with HMC, the license shall be reinstated. Fees for a

reinspection may apply as outlined in the city fee schedule.

(7) Execution of compliance orders by public authority. Upon the failure to comply with a compliance order within the time set therein, the rental unit(s) not being vacated, and no appeal having been taken, the criminal penalty established hereunder notwithstanding, the City Council may by resolution direct the enforcement officer to remedy the deficiency (deficiencies) cited in the compliance order. The cost of the remedy shall be a lien against the subject real estate and may be levied and collected as a special assessment in the manner provided by M.S. Chapter 429, as it may be amended from time to time. The action will not be taken, however, without a good faith effort on the part of the city to provide the property owner with advance notice of its intention to proceed with repairs and assessment of the costs of repairs to taxes.

(8) No warranty by city. By enacting and undertaking to enforce the HMC neither the city nor its Council, agents or employees warrant or guarantee the safety, fitness or suitability of any dwelling in the city. Owners or occupants should take whatever steps they deem appropriate to protect their interests, health, safety and welfare. A warning in substantially the foregoing language shall be printed on the face of the license.

(C) Appeals.

(1) Right of appeal. Any person aggrieved by a compliance order may appeal the compliance order to the City Council. The appeals must be in writing, must specify the grounds for the appeal, must be accompanied by a filing fee in cash or cashier's check and must be filed with the City Clerk within ten business days after service of the compliance order. If an appeal is not filed within the timelines and in the manner specified herein, the enforcement officer's decision shall be final. The filing fee is set by Council resolution. The filing of an appeal shall stay all proceedings in furtherance of the action appealed from, unless such a stay would cause imminent peril to life, health, property or public safety.

(2) City Council decision. Upon at least five business days' notice to the appellant of the time and place for hearing the appeal, and within 30 days after the appeal is filed, the City Council or the individual or committee designated by the Council as the appeal body, must hold a hearing thereon, at which the applicant may appear and present evidence as to why the compliance order, or any portion thereof, should not be issued. If an individual or committee other than the City Council hears the appeal, it shall make a recommendation to the City Council. The City Council may reverse, modify or affirm, in whole or in part, the compliance order and shall order return of all or part of the filing fee if the appeal is upheld. The City Council or appeal committee or officer may postpone a meeting and hold a hearing at a later date, not to exceed 60 days after the appeal is filed, when it is necessary to do so.

Penalty, see § 10.99

PLUMBING

§ 150.15 STATE PLUMBING CODE ADOPTED.

The Minnesota State Plumbing Code, as prescribed by the Plumbing Board of the Minnesota Department of Health, pursuant to Minn. Stat. § 326B.43, as it may be amended from time to time, including all of the amendments, rules, and regulations established, adopted, and published from time to time by the Minnesota Department of Health, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this section. The Minnesota State Plumbing Code is hereby incorporated in this section as if fully set out herein.

§ 150.16 PLUMBER'S BOND

Before a permit shall be granted to any person, he or she shall provide proof of a bond as required by Minn. Stat. section 326B.46.

§ 150.17 ENFORCEMENT.

It shall be the duty of the City Plumbing Inspector designated by the Council to enforce the provisions of §§ 150.15 *et seq.* All plumbing work hereafter constructed shall be inspected, and if found not to be in accordance with the code shall be corrected. If after written notice to the person installing work requiring correction thereof the person neglects or refuses to conform to the order, the city or any duly appointed inspector may remove the work and charge the cost thereof to the person installing the same. Any person covering work without its being duly inspected or refusing to correct work when so ordered by the city inspector shall be guilty of a misdemeanor.

(1957 Code, § 410:03) Penalty, see § 10.99

§ 150.18 SEWER AND WATER REGULATIONS.

(A) No part of any plumbing or drainage system shall be installed, constructed, altered, or repaired in any building or on any premises in the city except in conformity with the provisions of §§ 150.15 *et seq.* and every system shall be maintained in a sanitary condition.

(B) The installation of any plumbing or drainage system shall be in conformity also to the ordinance governing the use and connections to the city sewers and to the rules and regulations of the water commission.

(1957 Code, § 410:04) Penalty, see § 10.99

§ 150.19 PERMITS.

(A) No work on any plumbing or drainage system shall be commenced unless a permit be first obtained from the City Council.

(B) This provision shall not apply, however, to ordinary repairs to faucets and fixtures or to the removal of obstructions therein which are usually considered as maintenance work, but shall apply to all change in the location or renewal of fixtures.

(C) Nothing herein contained shall conflict with any city ordinance regarding house sewer connections or rules of the water commission with respect to water services.

(D) Permits for water services must also be obtained from the City.
(1957 Code, § 410:05) Penalty, see § 10.99

§ 150.20 SEPARATE DRAINAGE ON EVERY BUILDING.

Every building shall be separately connected with the sewer where there is any the sewer in the street adjoining the building. The plumbing and drainage system of any building shall be separate and independent from that of any other building, except where there are 2 buildings on 1 lot.

(1957 Code, § 410:07) Penalty, see § 10.99

§ 150.22 PLUMBING UNSANITARY.

The City Council may, upon good and sufficient proof thereof, condemn the plumbing in any building because of unsanitary conditions, in which case all the plumbing shall be removed or placed in proper condition.

(1957 Code, § 410:26) Penalty, see § 10.99

§ 150.23 INSPECTION OF PLUMBING.

The City Council shall have the right to appoint competent inspectors and to have all plumbing work inspected and tested by him or her before it may be put into service.

(1957 Code, § 410:27)

§ 150.24 STATE LAWS.

In all places of employment, theatres, assembly halls, school houses, and the like, the state laws or regulations governing the installation of plumbing fixtures or devices shall be followed and the plans and

specifications for same shall be approved by the various state department officers.
(1957 Code, § 410:28) Penalty, see § 10.99

§ 150.25 SPECIAL CASES.

Where existing conditions make the adherence to these regulations impracticable, the matter shall be brought before the City Council, who may allow the modifications thereof in any particular case as may be deemed necessary and proper.
(1957 Code, § 410:30)

HOUSING MAINTENANCE CODE

§ 150.35 TITLE.

This section may be known, cited and referred to as the “City of Olivia Housing Maintenance Code” or “HMC”.

§ 150.36 PURPOSE.

The purpose of the HMC is to protect, preserve and promote the public health, safety and the general welfare of the people of the city, to prevent housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health, including the physical, mental and social well being of persons occupying dwellings within the city, and to provide, to the extent permitted by state law, for the enforcement of minimum standards for components or systems of residential structures; to provide for the use and location and amount of space for human occupancy; and to preserve the value of land and buildings throughout the city.

§ 150.37 DISCRIMINATION AND PRIVACY.

The HMC is to be enforced in a nondiscriminatory manner and exclusively for the purpose of promoting public as opposed to private welfare. Except as may be specifically provided herein or incidental to the enforcement hereof, the HMC is not intended to interfere with personal privacy or with private legal rights and liabilities, including, without limitation, landlord/tenant and lessor/lessee relationships, and in enacting and enforcing the HMC, the city neither expressly nor by implication assumes any obligations or liabilities respecting the private rights or disputes, including those which involve or arise out of the nonconformity of any premises in the city to the provisions of the HMC.

§ 150.38 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. If a term used herein is not defined herein but is defined in an applicable State Building Code, that term shall have the meaning as defined in that Code. Terms that are not defined in this subchapter, or as otherwise referred to in other sections of this Code or not defined in an applicable State Building Code section, shall have their ordinary accepted meanings within the context in which they are used, with reference to the most recent unabridged Webster’s Dictionary of the English Language.

ABANDONMENT. Unless otherwise defined more strictly within city code, abandonment means the consequence of ceasing to assert or exercise an interest, right or title to that building or structure, with the intent of never again resuming or reasserting it.

ACCESSORY STRUCTURE. A structure not greater than 1,400 square feet in floor area and not over two stories in height, the use of which is customarily accessory to and incidental to that of the dwelling(s) and which is located on the same lot.

ADEQUATE. Sufficient.

BASEMENT. The portion of a building or structure located either totally or partially underground.

BUILDING. A constructed edifice designed to stand more or less permanently, covering a space of land, designed for occupancy and intended for use in one place.

COMMON AREAS. Halls, corridors, passageways, utility rooms, recreational rooms and extensively landscaped areas in or adjacent to a multiple dwelling, not under the exclusive control of one person or family.

COMPONENT. A constituent part.

CONDOMINIUM. A form of individual ownership within a multi-family building which entails joint responsibility for maintenance and repairs; in the CONDOMINIUM each apartment or townhouse is owned outright by its occupant.

CORRECTED. Brought into conformance with all applicable standards of the HMC and all other applicable standards of the city code.

COOPERATIVE HOUSING. A multi-family dwelling owned and maintained by the residents: the entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership.

DAMAGE. Injury or harm.

DEGRADATION. Impairment in respect to some physical property, including damage by weakening or loss of some property, quality or capability.

DILAPIDATION. A condition of decay or partial ruin.

DISASTER. A sudden or great misfortune.

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

EXCLUDE DAMPNESS. To shut out moisture.

EXIT. A continuous and unobstructed means of egress to the outdoors and includes intervening doors, doorways, corridors, ramps, stairways, smoke-proof enclosures, horizontal exits, exit passageways, exit courts and yards.

EXTERMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination methods approved by

the designated city official, and in the absence of a specifically designated health officer.

FIRE HAZARD. A thing or condition that might operate against safety from fire, including a possible source of peril, danger, duress or difficulty, or that tends to create or increase the possibility of loss due to fire.

GARBAGE. Putrescible animal and vegetable wastes, including those resulting from the handling, preparation, cooking and consumption of food, as well as otherwise defined within the city code.

HABITABLE ROOM. A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, but excluding bathrooms, water closet compartments, laundries, furnace rooms, pantries, utility rooms, foyers, corridors, stairways, closets, storage spaces, workshops, hobby and recreation areas, and basements lacking required ventilation, required electrical outlets or required exit facilities.

HAZARD. A thing or condition that might operate against safety, including a possible source of peril, danger, duress or difficulty, or that tends to create or increase the possibility of loss.

HEALTH OFFICER. The legally designated health officer of the city, or his or her authorized representative.

HOTEL or MOTEL. Except as otherwise defined within the city code, means a building or structure or enclosure, or any part thereof, kept, used as, maintained as or advertised as, or held out to the public to be an enclosure where sleeping accommodations are furnished to the public and furnishing accommodations for periods of less than one week.

INADEQUATE. Not adequate.

INFESTATION. The presence, within or around a dwelling, of any insects, rodents or pests.

KITCHEN. A space used or intended to be used for food preparation, which contains a sink, adequate space for installing cooking and refrigeration equipment, and space for the storage of cooking utensils.

MAINTAINED. Preserved from failure or decline.

MAINTENANCE. Preservation from failure or decline.

NUISANCE.

(1) A public nuisance which may prove detrimental to children, whether in a building, on the premises of a building or upon an unoccupied lot. This includes, but is not limited to, the abandonment of any well, cistern, shaft, basement or excavation; the abandonment of any refrigerator or freezer in a hazardous condition; an unlicensed or inoperable motor vehicle; or any lumber, garbage, rubbish or debris which may become a hazard for inquisitive minors; or

(2) Overcrowding a room or portion of a dwelling with long term storage so as to prevent upkeep, maintenance or regular housekeeping. A room may be considered “overcrowded” when storage covers an

excessive amount of the floor area of a room, constitutes a potential excessive fire load, prevents access to windows or doors, prevents access to or obstructs mechanical systems or air movement, effectively eliminates use and access to required electrical devices, impedes access and movement of emergency personnel, blocks hallways or limits the operation of doors or provides potential pest harborage.

OBSOLESCENCE. The process of becoming neglected or the condition of being nearly neglected or worn out.

OCCUPANT. Any person, over one year of age, (including owner or operator) living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

OPERATOR or RESIDENT AGENT. The owner or owner's agent who has charge, care, control or management of a building, or part thereof, in which dwelling units or rooming units are let or offered for occupancy.

OWNER. A person who alone, jointly or severally with others:

(1) Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

(2) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this subchapter, and of rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner.

OWNER OCCUPIED DWELLING. A dwelling unit occupied by the property owner, including for purposes of the HMC, a single-family dwelling or the discrete portion of a two-family or multi-family dwelling where the owner resides in one unit.

PREMISES. Platted lot(s) or unplatted parcel(s) of land, or any portion thereof, either occupied or unoccupied by any dwelling or non-dwelling structure, including the building, accessory structure or other structure thereon.

PUBLIC AREAS. Those areas which are normally open to the general public or the occupants of more than one dwelling unit of a multi-family dwelling.

RENTAL DWELLING or RENTAL DWELLING UNIT. Any dwelling unit not occupied by the primary homestead owner of record. Such a unit may be a single-family dwelling, a separate and independent housekeeping unit within a single-family dwelling, a group home, one unit of a two-family dwelling or a portion of a multi-family dwelling, any of which are provided or available for actual or potential occupancy whether occupied or vacant by lease, by use, by rent or for any other good and valuable consideration, excluding the portion of a homestead property occupied by a qualified relative, or residential property seasonally occupied by what is commonly referred to as a "house sitter" while the owner of the property is residing elsewhere for a period not to exceed six months. Manufactured homes that are occupied by the owner of the home do not constitute RENTAL DWELLING UNITS even though the underlying lot may be leased by the owner occupant.

RODENT HARBORAGE. A place where rodents are living, nesting or seeking shelter, or likely to live, nest or seek shelter.

RODENT-PROOF. A condition where a structure and all parts thereof are protected from rodent, insect and vermin Infestation by eliminating ingress and egress openings such as cracks in walls and holes in screens. For the purpose of the HMC, the term RODENT-PROOF shall be construed as though it included “insect-proof” and “vermin-proof”.

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

RUBBISH. Non putrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, grass and shrubbery clippings, wood, glass, brick, plaster, bedding, crockery and similar materials.

SAFE. Secure from threat of danger, harm or loss, including, but not limited to, the threat of unsafe conditions as defined below.

SAFETY. The condition of being safe.

SANITARY. Free from or effective in preventing or checking an agent (such as filth or infection) injurious to health.

SUPPLIED. Paid for, furnished or provided, by or under the control of, the owner or operator.

SYSTEM. A group of devices or artificial objects or an organization forming a network especially for distributing something or serving a common purpose.

UNSAFE. Not safe, and includes, but is not limited to, the following applications:

- (1) When referring to a building or structure, one that is structurally unsafe or not provided with adequate egress, that constitutes a fire hazard, or that is otherwise dangerous to human life;
- (2) When referring to a use of a building or a structure, a use that constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment; and
- (3) When referring to parapet walls, cornices, spires, towers, tanks, statuary or other appendages or structural members that are supported by, attached to or a part of a building, one that is in deteriorated condition or otherwise unable to sustain the design loads that are specified in the Guidelines for Rehabilitation of Existing Structures as modified by Minn. Rules Chapter 1300.

YARD. All ground, lawn, court, walk, driveway or other open space constituting part of the same premises.

§ 150.39 APPLICABILITY.

(A) A building and its premises used in whole or in part as a residence, or as an accessory structure thereof, except rest homes, convalescent homes, nursing homes, hotels and motels, must conform to the requirements of this subchapter and all other applicable provisions of the city code.

(B) Licensing and inspections of rental dwellings and their premises are governed by § 150.10.

(C) Enforcement action, under the HMC, against owner occupied dwellings is limited to violations of § 150.43(B) through (F).

(D) This limit does not apply to rental dwellings, rented portions of dwellings, common areas or areas that are under the exclusive control of a rental dwelling owner, such as mechanical rooms, storage rooms or vacant rental units.

(E) These rental dwellings, portions of dwellings, common areas, areas under the exclusive control of a rental dwelling owner and vacant rental dwelling units, shall comply with this section in its entirety.

(F) Condominium and cooperative housing public areas shall be subject to the requirements applicable to rental dwellings if one or more dwellings in such a building is a rental dwelling.

(G) Except as otherwise provided in this subdivision, the HMC establishes minimum standards for erected dwelling units, accessory structures and related premises, which may also be subject to other and additional provisions of city code.

§ 150.40 GENERAL RESPONSIBILITIES OF OWNERS.

The owner of a structure is responsible for ensuring that it meets the applicable provisions of the HMC. The duty to comply with the HMC cannot be transferred to another person. A contract purporting to transfer the duty of compliance with the HMC to another person does not relieve the owner, operator or occupant of any duty imposed by the HMC.

§ 150.41 SMOKE AND CARBON MONOXIDE DETECTION.

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

(1) Those terms defined in M.S. § 299F.362(1), as it may be amended from time to time, shall also carry those meanings when they appear below in smoke detector regulations.

(2) Those terms defined in M.S. § 299F.50, as it may be amended from time to time, shall also carry those meanings when they appear below in carbon monoxide detector regulations.

(3) For purposes of this section only, the phrases SINGLE-FAMILY HOME and SINGLE-FAMILY DWELLING UNIT mean a dwelling unit occupied by a person living alone, or any of the following groups living together as a single non-profit housekeeping unit and sharing common living, sleeping, cooking and eating facilities:

(a) Any number of people related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship;

(b) Three unrelated people; or

(c) Two unrelated people and any children related to either of them.

(4) When inspecting for compliance with this section, city inspectors shall presume that any dwelling with only one dwelling unit is a single-family home and a single-family dwelling unit for purposes of this subdivision and will not inquire regarding the relationships between occupants, but this presumption may be rebutted by information volunteered by an owner or occupant.

(B) In single-family homes or single-family dwellings.

(1) Single and multiple station smoke alarms shall be installed in the following locations:

(a) In each room used for sleeping purposes;

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

(c) In each story within a dwelling unit, including basements, but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

(2) Smoke detectors improperly located or mounted may be required to be relocated or remounted; and

(3) The dwelling must have an approved and operational carbon monoxide alarm installed within ten feet of each room lawfully used for sleeping purposes.

(C) In residential structures other than single-family homes:

(1) For every other dwelling unit within an apartment house or within a dwelling that is not a single-family home:

(a) Each dwelling unit must be provided with a smoke detector meeting the requirements of the State Fire Code, Minn. Rules Chapter 7511;

(b) Smoke detectors must be mounted in the location or locations set forth in division (B)(1) above;

(c) When actuated, the detector must provide an alarm in the dwelling unit; and

(d) Where the occupant is not the owner of the dwelling unit, the owner is responsible for maintenance of the smoke detectors. The occupant of a dwelling unit must inform the owner of the dwelling unit of a non-functioning smoke detector within 24 hours of discovering that the smoke detector in the dwelling unit is not functioning.

(2) The following regulations apply to multi-family dwellings:

(a) Subject to the exception in division (C)(2)(b) below, every dwelling unit in a multi-family dwelling must satisfy at least one of these two standards:

1. It must have an approved and operational carbon monoxide alarm installed within ten feet of each room lawfully used for sleeping purposes; or

2. It must have approved and operational carbon monoxide alarms installed between 15 and 25 feet of carbon monoxide producing central fixtures and equipment, provided there is a centralized alarm system or other mechanism for responsible parties to hear the alarm at all times.

(b) An owner of a multi-family dwelling that contains minimal or no sources of carbon monoxide may be exempted from the requirements of division (C)(2)(a) above, provided that the owner has certified to the Commissioner of Public Safety that the multi-family dwelling poses no foreseeable carbon monoxide risk to the health and safety of the dwelling units.

Penalty, see § 10.99

§ 150.42 CONDITIONS OF COMPONENTS OR SYSTEMS OF EXISTING RESIDENTIAL STRUCTURES.

(A) Scope. This section shall govern the conditions of components and systems of existing residential structures.

(B) Certified historic structures. In a certified historic structure as defined in Minn. Rules part 1311.0301, the requirements of this section are subject to modifications specifically set forth in Chapter 6 of the Guidelines for Rehabilitation of Existing Buildings, as modified by Minn. Rules Chapter 1311.

(C) Modifications. Where there are practical difficulties involved in carrying out the provisions of this section, the city may accept compliance alternatives or grant modifications for individual cases, provided the city shall first find that a special individual reason makes the strict compliance impractical and that the compliance alternative or modification is in conformance with the intent and purpose of this subchapter and any and all other applicable code provisions and that the compliance alternative or modification does not lessen health, life and the intent of any fire safety requirements or any degree of structural integrity of the property. The details of any action granting modification or the acceptance of a compliance alternative shall be recorded and entered in city files.

(D) Safe and sanitary condition required. All buildings and structures and all parts thereof shall be maintained in a safe and sanitary condition.

(E) Additional requirements applicable to electrical components or systems.

(1) The electrical service, lines, switches, outlets, fixtures and fixture coverings, and supports in every building or structure shall be in good repair.

(2) Broken, loose, frayed, inoperative, defective or missing portions of electrical components or systems shall be repaired or replaced.

(3) All unsafe conditions shall be corrected.

(F) Additional requirements applicable to plumbing components or systems.

(1) Leaking drain or supply lines shall be repaired or replaced.

(2) All unsafe conditions shall be corrected.

(3) Any cross connections or siphonage between fixtures shall be corrected.

(G) Additional requirement applicable to mechanical systems. Mechanical systems shall have any unsafe conditions corrected.

(H) Means of egress. The structure must meet those requirements of §§ 403.1 through 403.18 of GREB as modified by Minn. Rules Chapter 1311 that, by their wording or phrasing, apply to existing structures without regard to whether alteration, repair or other work is being performed on the structure.

(I) Boiler/central heating plant equipment rooms and storage rooms. In residential occupancies containing more than two dwelling units (including apartment buildings):

(1) Rooms containing boilers or central heating plants, and storage rooms with floor area exceeding 100 square feet in size, shall be separated from the rest of the building by not less than a one hour occupancy separation.

(a) When approved by a Building Official, existing wood lath and plaster in good condition or two-inch (12.7-mm) gypsum wallboard may be accepted where one hour occupancy separations are required.

(b) In a certified historic structure as defined in Minn. Rules part 1311.0301, where the existing wall and ceiling finish is wood lath and plaster, one hour fire resistant construction is not required and need not be provided.

(2) A separation need not be provided for the rooms with equipment serving only one dwelling unit.

(J) Structural safety.

(1) The minimum design loads for the structure shall be the loads applicable at the time the building was constructed, provided that no dangerous condition is created. Structural members that are found to be unsound or dangerous shall comply with the applicable requirements of the State Building Code for new construction.

(2) A building, structure or an individual structural member that has any of the conditions or defects described below, as determined by a licensed design professional, shall be replaced or strengthened when:

(a) The stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one half the working stress or stresses allowed in the State Building Code for new buildings of similar structure, purpose or location;

(b) Any portion of the building, structure or member has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that its structural strength or stability is materially less than it was before the catastrophe and is less than the minimum requirements of the State Building Code for new buildings of similar structure, purpose or location;

(c) Any portion of the building, structure or member has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;

(d) The building or structure, or any portion of it, is likely to partially or completely collapse because of: dilapidation, deterioration or decay; faulty construction; the removal, movement or instability of any portion of the ground necessary for the purpose of supporting the building; the deterioration, decay or inadequacy of its foundation; or any other cause;

(e) The exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base;

(f) The building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its non-supporting members, enclosing or outside walls, or coverings; or

(g) Any building or structure, which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50%, or in any supporting part, member or portion less than 66% of the strength; fire-resisting qualities or characteristics; or weather resisting qualities or characteristics required by law in the case of newly constructed building or like area, height and occupancy in the same location.

(K) Weather protection.

(1) Every building shall be weather protected to provide shelter for the occupants against the elements and to exclude dampness.

- (2) The roof of every building or structure shall provide weather protection for the building.
 - (3) All devices that were provided or are required to prevent ponding or flooding or to convey the roof water shall be capable of fulfilling that purpose.
 - (4) All weather exposed surfaces of every existing building or structure shall provide weather protection.
- (L) Maintenance and degradation.
- (1) All systems, devices or safeguards that were required by a State Building Code under which the building was constructed shall be maintained in conformance with the requirements of that Code.
 - (2) Failure to correct degradation of any system, device or equipment that a State Building Code required at the time of its construction is prohibited.

§ 150.43 CONDITIONS OF RESIDENTIAL HOUSING OTHER THAN COMPONENTS AND SYSTEMS.

(A) Scope. This section shall govern the conditions in residential housing other than components and systems of a structure.

(B) Accumulation of dirt, filth, rubbish or garbage. An owner, operator or occupant of a dwelling unit may not allow the accumulation of dirt, filth, rubbish or garbage on the premises occupied or controlled in a manner that could create a health hazard to the dwelling occupants or the general public.

(C) Rodent harborages in occupied areas.

(1) Joint responsibility. An owner, occupant or operator may not allow formation of rodent harborages in or about the premises he or she occupies or controls.

(2) Occupant responsibility for extermination. The occupant of a dwelling containing a single dwelling unit is responsible for the extermination of rodents, insects or vermin on the premises. Every occupant of a dwelling unit in a dwelling containing more than one dwelling unit is responsible for the extermination whenever the dwelling unit is the only one infested.

(3) Owner responsibility for extermination. Whenever infestation is caused by the failure of the owner to maintain a dwelling in a reasonable rodent-proof condition, extermination is also the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof is also the responsibility of the owner.

(4) Standard. Where divisions (C)(2) or (C)(3) above give rise to a duty to undertake extermination, it is a violation of this code if the inspection does not demonstrate that the extermination has been undertaken at least to a degree that is proportionate to the need for it.

(D) Nuisance. An owner, operator or occupant of any dwelling unit may not allow the formation or presence of any nuisance in or about the premises.

(E) Yard cover. Exposed areas surrounding (or within) a principal or accessory structure, including street boulevards which are not devoted to parking, drives, sidewalks, patios or other such uses, must be landscaped with grass, shrubs, trees or other ornamented landscape material. The landscaping shall be

maintained in good condition and free of noxious weeds.

(F) Snow, ice and storm water management.

(1) Property owners and occupants shall be responsible to abate the snow and ice from the public sidewalk located on the city boulevard that abuts or fronts their property within 12 hours after the snow or ice has ceased to be deposited.

(2) In no case may storm water be channeled into the sanitary sewer system. Storm water, ice or snow may not be directed onto, or channeled across walkways or streets where it is likely to be a safety hazard.

(G) Minimum temperature standards for rental properties. When the temperature outside the structure is below 60°F, it is the responsibility of the owner that a minimum temperature of 68°F be maintained in a dwelling unit at a point three feet above the floor and two feet from exterior walls in all habitable rooms, unless the occupant of that unit chooses to maintain a lower temperature. The installation of one or more portable space heaters shall not be used to achieve compliance with this section.

(H) Electrical cords in rental properties. Temporary wiring, extension cords or drop cords may not be used as permanent wiring.

(I) Discontinuance of basic services or utilities in rental properties. An owner, operator or occupant may not permit any service or utility needed for a furnace to provide heat to be shut off from or discontinued for any occupied dwelling or dwelling unit let or occupied, except for the temporary interruptions as may be necessary while actual repairs or alterations are in process, or during temporary emergencies.

(J) Occupancy standards. The maximum permissible occupancy of a rental dwelling unit is determined as follows.

(1) Minimum space. For the first two occupants, 220 square feet of habitable room floor space and for every additional occupant thereof, at least 100 square feet of habitable room floor space.

(2) Maximum occupancy. The total number of occupants may not exceed two times the number of habitable rooms, less kitchen, in the dwelling unit.

VIOLATIONS

§ 150.98 VIOLATIONS.

Any person who shall, without a proper permit or willfully in violation of §§ 150.15 *et seq.*, shall be guilty of a misdemeanor.

Penalty, see § 10.99

CHAPTER 151: SUBDIVISION REGULATIONS

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GENERAL PROVISIONS

§ 151.001 TITLE.

(A) This chapter shall be known as and may be cited as the Subdivision Ordinance for the City of Olivia, Renville County, Minnesota and its provisions shall apply to all lands to be subdivided within the municipal limits as they exist on the date the municipality adopts this chapter, or within the limits as they may be extended in the future.

(B) Hereafter, this chapter shall be referred to as the Subdivision Ordinance.
(Ord. 256, passed 9-8-1998)

§ 151.002 PURPOSE.

(A) (1) Any person platting, replatting, or dividing property for purposes of transfer of title or separate description shall do so under the provisions of this chapter.

(2) The Subdivision Ordinance sets forth the minimum requirements deemed necessary to protect the health, safety, and welfare of the public.

(B) More specifically, the provisions of this chapter are designed to:

(1) Assure that, to the maximum extent possible, all lands will be developed for the best possible use with adequate protection against becoming deteriorated or obsolete;

(2) Assure that effective protection is given to the natural resources of the community, especially ground water and surface waters;

(3) Encourage well-planned subdivision through the establishment of adequate design standards;

(4) Discourage inferior developments that might adversely affect the local tax base;

(5) Create neighborhoods that will be of lasting credit to the community;

(6) Facilitate adequate provisions for transportation and other public facilities;

(7) Secure the rights of the public with respect to public lands and waters;

(8) Improve land records by the establishment of standards for surveys and plats;

(9) Safeguard the interests of the public, the homeowner, the subdivider, and units of local government;

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(10) Provide a common ground for understanding between developers and local units of government;

(11) Prevent, where possible, excessive governmental operating and maintenance costs; and

(12) Assure the availability of utilities adjacent to planned development.

(Ord. 256, passed 9-8-1998)

§ 151.003 LEGAL AUTHORITY.

This chapter is enacted pursuant to § 462.358, Laws of Minnesota 1997, as it may be amended from time to time.

(Ord. 256, passed 9-8-1998)

§ 151.004 ADMINISTRATION.

The Subdivision Ordinance shall be administered by the City Council after review and recommendation by the Planning Commission.

(Ord. 256, passed 9-8-1998)

§ 151.005 DECISIONS.

Unless otherwise provided by statute or this chapter, all actions of the City Council and Planning Commission pertaining to this chapter shall require the vote of a majority of the members of the entire Council or Commission.

(Ord. 256, passed 9-8-1998)

§ 151.006 LAND SUITABILITY.

No land shall be subdivided which is held unsuitable by the city for the proposed use because of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, or any other feature likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision.

(Ord. 256, passed 9-8-1998)

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§ 151.007 DEFINITIONS.

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

APPLICANT. The owner of land proposed to be subdivided or its representative who shall have express written authority to act on behalf of the owner and has executed an application form and professional fee responsibility agreement with the city. Consent shall be required from the legal owner of the premises.

ATTORNEY. The attorney employed by the city, unless otherwise stated.

BLOCK. Any combination of land ownership bounded by streets, roads, or highways or a combination thereof or by a combination of streets, roads, or highways and public parks, cemeteries, railroad rights-of-way, streams, lakes, or similar manmade or natural physical barriers.

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

BUILDABLE AREA. The part of the lot not included within the open areas required by the Zoning Ordinance, or other official controls.

CAPITAL IMPROVEMENT. A public facility with a life expectancy of 3 or more years, to be owned and operated by or on behalf of the local government.

CAPITAL IMPROVEMENTS PROGRAM. A plan setting forth, by category of public facilities, those capital improvements, and that portion of their costs which are attributable to serving new development within designated service areas for the public facilities over a period of specified years (from 10 to 20 years). **CAPITAL IMPROVEMENTS PROGRAM** may refer either to the plan for a particular service area or to the aggregation of capital improvements and the associated costs programmed for all service areas for a particular category of public facilities.

CITY. The City of Olivia.

CITY ENGINEER. A professional engineer working for the city, unless otherwise stated.

COMPREHENSIVE PLAN. A comprehensive plan prepared by the city, including a compilation of policy statement goals, standards, and maps indicating the general locations recommended for the various functional classes of land use, places, and structures, and for the general physical development of the city, including any unit or part of the plan separately adopted and any amendment to the plan or parts thereof.

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CONSTRUCTION PLAN. The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the City Council as a condition of the approval of the plat.

CUL-DE-SAC (COURT). A short street having 1 end open to traffic and being permanently terminated by a circular turn-around for vehicles.

DESIGN STANDARD. The specifications for the preparation of preliminary plans indicating minimums and maximums in the dimensions, magnitude, and capacity in the features as the layout of streets, lots, blocks, drainage, and required improvements.

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

DEVELOPMENT AGREEMENT.

(1) Agreement between the City Council and developer through which the City Council may agree to vest development use or intensity or refrain from interfering with subsequent phases of development through new legislation, in exchange for agreement to construct any and all improvements to existing city standards, or a higher standard in some cases, abide by all conditions of the City Council, perform all required tasks within the established time frame, warranty all improvements, and provide security in an amount acceptable to the city to ensure performance of the agreement and all warranties.

(2) The agreement shall be recorded at the same time or prior to the final plat.

EASEMENT. A grant by a property owner for the use of a strip of land by the public or any person for any specific purpose or purposes.

ESCROW. A deposit of cash with the local government or escrow agent to secure the promise to perform some act.

GENERAL DEVELOPMENT PLAN. The general development plan shall mean a map showing property boundaries with a proposed street layout and desirable lot layouts.

GOVERNING BODY. A group of persons elected by voters of the municipality to govern the public affairs thereof, the Olivia City Council.

LOT. A portion of a subdivision or other parcel of land intended as a unit for transfer of ownership or for development.

LOT OF RECORD. Any lot which is 1 unit of a plat heretofore duly approved and filed, or 1 unit of an Auditor's Subdivision or a Registered Land Survey that has been recorded in the office of the County Recorder for Renville County, Minnesota, prior to the effective date of this chapter.

METES AND BOUNDS DESCRIPTION. A description of real property which is not described by

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reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineating a fractional portion of a section, lot, or area by described lines or portions thereof.

MONUMENT. Concrete and/or metal markers utilized to establish survey points and lot boundaries.

MUNICIPALITY. The governmental unit or area described in and governed by the provisions of this chapter, the City of Olivia.

OFFICIAL MAP. A map of the municipality and/or any portion thereof lying within the incorporated limits, which shows the exact alignment, gradients, dimensions, and other pertinent data for highways and major streets and including specific controls for setbacks from the right-of-way of buildings or other physical structures or facilities.

OPEN SPACE. An area of land preserved from building development and reserved for the use of general public or a homeowners association for the purpose of active and passive recreation and certain necessary community facilities.

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

PEDESTRIAN WAY. A right-of-way dedicated to public use, 10 feet or more in width, which cuts across or into a block to facilitate pedestrian access to adjacent streets and properties.

PLANNING COMMISSION. The Planning Commission is a governmental agency appointed by the City Council.

PLAT, FINAL. A drawing of map of a subdivision, meeting all the requirements of the city and in the form as required by the county for purposes of recording.

PLAT, PRELIMINARY. The preliminary drawings described in this regulation, indicating the proposed manner or layout of the subdivision to be submitted to the Planning Commission and City Council for approval.

PRELIMINARY APPROVAL. The official action taken by a municipality on an application to create a subdivision which established the rights and obligations set forth in M.S. Ch. 462, as it may be amended from time to time, and the applicable subdivision regulation. In accordance with M.S. Ch. 462, as it may be amended from time to time, and unless otherwise specified in the applicable

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subdivision, regulations, preliminary approval may be granted only following the review and approval of a preliminary plat of other map or drawing establishing without limitation the number, layout, and location of lots, tracts, blocks, and parcels to be created, location of streets, and lands to be dedicated for public use.

PUBLIC HEARING. An adjudicatory proceeding held by the City Council, generally attended by the Planning Commission, preceded by published notice and actual notice to certain persons and at which certain persons, including the applicant, may call witnesses and introduce evidence for the purpose of demonstrating that plat approval should or should not be granted. The hearing may be combined with other adjudicatory or legislative hearings to address related issues such as a comprehensive plan amendment, a zoning map or text amendment, or a variance.

PUBLIC IMPROVEMENT. Any drainage ditch, roadway, parkway, street, sanitary sewer, storm sewer, water system, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the city may ultimately assume ownership, responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

RESUBDIVISION. A change in a recorded subdivision if the change affects any street layout, affects any area reserved for public use, or diminishes the size of any lot.

SERVICE AREA.

(1) The area for a particular category of public facilities within the jurisdiction of the local government and within which fees for capital improvements may be collected for new development occurring within such an area and within which fees so collected will be expended for those types of improvements for that category of public facility identified in the public facility improvements program.

(2) ***SERVICE AREAS*** may be subdivided into subareas for purposes of assuring that fees collected and expended therein reasonably benefit new development within the areas.

SKETCH PLAN. A sketch preparatory to the preliminary plat (or final plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the Planning Commission as to the form of the plat and the objectives of these regulations.

STREETS AND ALLEYS.

(1) ***ALLEYS.*** Minor trafficways affording a secondary means of access to abutting properties that are not intended for general traffic circulation.

(2) ***COLLECTOR STREETS.*** Streets which carry traffic from local streets to major streets and highways, including the principal entrance streets of a residential subdivision and streets used for circulation within the developments.

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(3) **HIGHWAYS.** Routes carrying large volumes of relatively fast-moving traffic and are designated as either county, county state aid, federal, or state highways.

(4) **LOCAL STREETS.** Streets that are used principally for access to abutting properties, especially residential properties.

(5) **MAJOR STREETS.** Arterials carrying large volumes of local traffic between widely separated areas of the community; typically a heavy traffic carrying capacity and may be designated as a truck route by the city.

(6) **RIGHT-OF WAY (ROW).** A strip of land occupied or intended to be occupied by a street roadway, crosswalk, railroad, electric transmission line, gas pipeline, water main, sanitary or storm sewer main, shade trees, or some other public or utility use.

(7) **ROADWAY.** The portion of a street, cartway, or alley surfaced for vehicular travel.

(8) **SERVICE ACCESS STREETS (SERVICE ROADS).** Trafficways that are adjacent and parallel to highways or major streets and provide access to abutting properties.

SUBDIVIDER. A person, persons, or corporation responsible for initiating a subdivision proposal for themselves or others.

SUBDIVISION. The separation of an area, parcel, or tract of land under single ownership into 2 or more parcels, tracts, lots, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial, or the use of any combination thereof, except the following separations:

(1) Where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and 5 acres or larger in size for commercial and industrial uses;

(2) Creating cemetery lots; and

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

VARIANCE. Any departure from the requirements of these regulations that is granted by the appropriate governmental agency.

ZONING ORDINANCE. The Zoning Ordinance or resolution controlling the use of land as adopted by the city.
(Ord. 256, passed 9-8-1998)

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§ 151.008 FEES.

(A) A filing fee payable to the City Planning and Zoning Administrator shall accompany the application for final review by the City Council.

(B) The amounts of the filing fees shall be established by resolution of the City Council. Until all fees have been paid in full, no action shall be taken on any application or appeal.
(Ord. 256, passed 9-8-1998)

§ 151.009 ENFORCEMENT.

(A) *Misdemeanor.* Violation of the provisions of this chapter or deliberate failure to comply with any of its requirements shall constitute a misdemeanor. Each day that a violation exists or continues shall constitute a separate offense.

(B) *Compliance required.* It shall be the duty of all developers, subdividers, architects, contractors, subcontractors, and other persons responsible for constructing, altering, changing, or removing any street or alley, park, monument, utility improvement, sanitary sewer, storm sewers and drainage facilities, or any other improvement or alteration contemplated under this chapter, before beginning or undertaking any such work, to see that the work does not conflict with and is not in violation of the final subdivision plat and the terms of this chapter. Any developers, subdividers, architects, contractors, subcontractors, or other persons doing or performing the work of construction, altering, repairing, changing, or removing any street or alley, park, monument, utility improvement, sanitary sewer, storm sewers and drainage facilities, or any other improvement or alteration contemplated under this chapter, in violation of or in conflict with the terms of this chapter, shall be deemed guilty of a violation hereof and shall be held accountable for the violation.

(C) *Violations.* Any construction, improvement, alteration, repair, or removal of any street and alley, park, monument, utility improvement, sanitary sewer, storm sewers and drainage facility, or any other improvement or alteration made or permitted in violation of this chapter is hereby declared unlawful. In the event of violation or threatened violation of this chapter or other official control adopted pursuant to M.S. § 462.358, as it may be amended from time to time, Laws of Minnesota, 1997, in addition to other remedies, the City Council or any member thereof may institute appropriate actions or proceedings to prevent, restrain, correct, or abate the violation or threatened violations and it is the duty of the City Attorney to institute the actions.

(D) *Penalties.* Any person, firm, agent, or corporation found guilty of violating any of the provisions of this chapter upon conviction thereof shall be subject to a fine and/or imprisonment for a misdemeanor as currently set by state statute, plus the costs of prosecution for each violation. Each day that a violation exists or continues shall constitute a separate offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this chapter, and the city may pursue by appropriate actions or proceedings, any or all additional remedies.
(Ord. 256, passed 9-8-1998) Penalty, see § 10.99

§ 151.010 AMENDMENTS.

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(A) The Planning Commission may, of its own motion or upon petition, cause to be prepared amendments supplementing or changing the regulations herein established. All proposed amendments, together with the recommendation of the Planning Commission, shall be submitted to the City Council for adoption in accordance with established procedures.

(B) Procedures and rules for amending this chapter shall be the same as those outlined in the City Zoning Ordinance.

(Ord. 256, passed 9-8-1998)

§ 151.011 VALIDITY; EFFECTIVE DATE.

(A) *Validity.* Whenever any provision of this chapter imposes restrictions that are more restrictive than those imposed by provisions of existing laws or ordinances, the provisions of this chapter shall govern.

(B) *Effective date.* This chapter became effective on 9-21-1998.

(Ord. 256, passed 9-8-1998)

PROCEDURE FOR SUBMISSION OF PLATS

§ 151.025 OFFICIAL SUBMISSION DATE.

For the purpose of meeting the statutory timelines, the date on which the applicant has submitted a complete application containing all information requirements of this chapter, has properly executed all required application forms and a fee responsibility agreement, and any additional requests of the Planning and Zoning Administrator, in addition to all appropriate fees having been paid, shall constitute the official submission date of the plat on which the statutory period required for formal approval, conditional approval, or disapproval shall commence to run.

(Ord. 256, passed 9-8-1998)

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§ 151.026 CLASSIFICATION OF SUBDIVISION.

Before any land is subdivided, the owner of the property proposed to be subdivided, or his or her authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the following procedures, based upon whether the proposal is classified a minor subdivision or a major subdivision:

(A) Minor subdivision (see § 151.028):

- (1) Sketch plan; and
- (2) Final plat.

(B) Major subdivision (all subdivision proposals not classified as minor subdivisions):

- (1) Sketch plan;
- (2) Preliminary plat; and
- (3) Final plat.

(Ord. 256, passed 9-8-1998) Penalty, see § 10.99

§ 151.027 SKETCH PLAN.

(A) In order to insure that all applicants are informed of the procedural requirements and minimum standards of this chapter and the requirements or limitations imposed by other city code provisions or plans, and prior to the submission of a plat, all applicants shall submit a sketch plan to the Planning and Zoning Administrator for review.

(B) Applicants seeking review of a sketch plan shall submit the items stipulated in § 151.031. This submission requirement is needed for the developer, Planning and Zoning Administrator, and other participants, as needed, to review and discuss the development proposal in its formative stages. The Planning and Zoning Administrator shall determine whether the development proposal is a major or minor subdivision and shall provide the developer with a list of submission requirements for the appropriate development type as well as the expected process flow and timetable.

(C) The applicant shall not be bound by any sketch plan for which review is requested, nor shall any representatives of the city be bound by that review.

(Ord. 256, passed 9-8-1998) Penalty, see § 10.99

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§ 151.028 MINOR SUBDIVISIONS; APPLICATION.

(A) Minor subdivision defined:

(1) In the case of a request to divide a portion of a lot where the division is to permit the adding of a parcel of land to an abutting lot so that no additional lots are created and both new lots conform to zoning ordinance lot size standards;

(2) In the case of a request to combine 2 existing platted lots;

(3) In the case of a request to divide no more than 2 lots from a larger tract of land thereby creating no more than 3 lots. To qualify, the parcel of land should not have been a part of a minor subdivision within the last 5 years and all lots to be created have frontage on a public road; and

(4) In the case of a request to divide a base lot, which is a part of a recorded plat upon which has been constructed a 2-family dwelling, townhouse, or quadraminium, where the division is to permit individual private ownership of a single dwelling unit within the structure and the newly created property lines will not cause any of the unit lots or structure to be in violation of this chapter or the zoning ordinance.

(B) Content and data requirements for minor subdivisions:

(1) The requested minor division shall be prepared by a registered land surveyor in the form of a certificate of survey;

(2) The data and supportive information to be submitted for the proposed subdivision is specified in § 151.031. Exceptions, stipulated in writing, may be granted by the Planning and Zoning Administrator; and

(3) The minor subdivision shall conform to all design standards as stipulated in this chapter. Any proposed deviation from the standards requires the processing of a variance request.

(C) Processing:

(1) If the subdivision application involves property which meets the definition specified in division (A) above, the City Planning and Zoning Administrator shall have the authority to approve the subdivision, provided that it complies with applicable provisions of this chapter; and

(2) In the case of applications involving property not previously platted, applicable processing provisions of § 151.030 shall be followed.

(Ord. 256, passed 9-8-1998) Penalty, see § 10.99

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§ 151.029 PRELIMINARY PLAT.

(A) The application shall:

(1) Be filed with the Planning and Zoning Administrator at least 2 weeks prior to the next regularly scheduled meeting of the Planning Commission;

(2) Be made on forms available at the city offices, submission of an executed fee responsibility form, and accompanied by a fee, as established by the City Council. The City Treasurer shall deposit any money received as fees hereunder to the credit of the general fund of the City of Olivia. No money shall be refunded to the applicant. The fee is not intended to cover specialized engineering, planning, or site analysis reviews. Fees for additional technical services such as these will become the responsibility of the subdivider;

(3) An up-to-date certified abstract of title, a boundary survey and report showing title in the applicant's name, a copy of the most current recorded warranty deed for the parcel(s), or an option to buy the property by the applicant as shown on the preliminary plat;

(4) The application shall include the items specified in § 151.031 which constitutes a checklist of items to be submitted for subdivision review; and

(5) Be accompanied by a minimum of 9 copies of the preliminary plat and 1 reduced copy of the plat no larger than 11 inches by 17 inches.

(B) The Planning and Zoning Administrator shall submit copies of the preliminary plat to the Planning Commission, and may, at their discretion, submit 1 copy to the City Engineer, 1 copy to the City Attorney, and copies to major utilities, as needed. The remaining copies shall be placed in the city's files.

(C) The Planning and Zoning Administrator may instruct the appropriate staff to prepare technical reports and provide general assistance in preparing a recommendation on the action to the City Council. This may include the City Engineer, City Building Official, the City Attorney, or others as deemed needed.

(D) (1) Upon receipt of the completed application as outlined above, the City Planning and Zoning Administrator shall set a public hearing for public review of the preliminary plat. The hearing shall be held within 30 days of the official submission date of the application. The applicant and/or his or her representative shall appear at the public hearing before the City Council in order to answer questions concerning the proposal.

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(2) Notice of the public hearing may consist of a legal property description, shall contain a description of the request, and shall be advertised in the official newspaper at least 10 days before the day of the hearing. Property owners within 350 feet of the proposed subdivision shall also be notified through the mail of the hearing. Failure of any property owner to receive the notice shall not invalidate the public hearing.

(E) (1) No later than 15 days after the close of the public hearing described above, the Planning Commission shall submit the plat to the City Council with its own recommendations, including any conditions it recommends be placed upon the plat prior to approval. The City Council may approve, approve with conditions, or disapprove the plat by a majority vote of its members regardless of the recommendations made by the Planning Commission.

(2) If the Planning Commission has not acted upon the preliminary plat within 15 days following the close of the public hearing on such and in compliance with this chapter, the Council may act on the preliminary plat without the Planning Commission's recommendation, and may approve, approve with conditions, or disapprove the plat by a majority vote of its members after the required public hearing.

(F) The City Council shall take final action within 60 days of the application's official submission date. The subdivision application shall be preliminarily approved or denied by the City Council. If the City Council fails to approve or disapprove the preliminary plat in this review period, the application shall be deemed preliminarily approved.

(G) At any time during this process, either the applicant or the city may request an extension of the imposed time limits. Both the applicant and the city must agree to the time extension and must execute a time extension form that will become a part of the subdivision file.

(H) If the City Council requires changes to the preliminary plat, and if the changes are determined to be minor changes in the opinion of the City Council, then the changes may be noted on the plat and approved as such.

(I) If the changes to be made are major changes in the opinion of the City Council, then a new preliminary plat must be prepared and resubmitted, along with the payment of new fees, based upon the procedures and time lines established in this section.

(J) No preliminary plats shall be approved unless the applicant proves by clear and convincing evidence that:

(1) The application for a preliminary plat is not premature and conforms to the Olivia Comprehensive Plan;

(2) The uses in the subdivision will be connected to and served by public utilities for the provision of water supply and sewage collection and treatment facilities;

(3) The subdivider has the financial ability to complete the proposed subdivision in accordance with all applicable laws and regulations;

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(4) The proposed subdivision will not result in the scattered subdivision of land that leaves undeveloped parcels of land lacking urban services between developed parcels; and

(5) The subdivider has taken every effort to mitigate the impact of the proposed subdivision on public health, safety, and welfare.

(K) Requirements governing approval of preliminary plats:

(1) The Planning Commission may recommend and the City Council may require the changes or revisions as deemed necessary for the health, safety, general welfare, and convenience of the city;

(2) The approval of a preliminary plat by the Planning Commission and the City Council is tentative only, involving merely the general acceptability of the layout submitted; and

(3) Subsequent approval will be required of the proposals pertaining to water supply, storm drainage, sewage and sewage disposal, gas and electric service, grading, gradients and roadway widths, and the surfacing of streets.

(L) If the preliminary plat is approved, the approval shall not constitute final acceptance of the layout. Subsequent approval will be required of the engineering proposals and other features and requirements as specified by this chapter to be indicated on the final plat. The City Council may impose the conditions and restrictions as it deems appropriate or require the revisions or modifications in the preliminary plat or final plat as it deems necessary to protect the health, safety, comfort, general welfare, and convenience of the city.

(M) If the preliminary plat is not approved by the City Council the reasons for the action shall be recorded in the proceedings of the Council and shall be transmitted to the applicant.

(N) Any resubmission of a plat application that has been denied by the City Council shall be prohibited for 1 year following denial unless the City Council votes to allow the resubmission either unanimously or by super majority.

(Ord. 256, passed 9-8-1998) Penalty, see § 10.99

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§ 151.030 FINAL PLAT.

(A) After approval of the preliminary plat, the applicant shall prepare and submit a final plat to the city for study and recommendation. This plat must be submitted within 1 year from approval of the preliminary plat, or as specified in an approved development contract. If the final plat is not submitted within this time period and the applicant has not requested a time extension, the approved preliminary plat becomes null and void within 1 year of its approval date.

(B) In some development proposals the city may agree to review the preliminary and final plats simultaneously.

(C) (1) The procedure for filing the final plat is that which is established for submission of the preliminary plat under this section, except as specified below. Nine copies of the final plat shall be provided to the city by the applicant, and 1 reduced copy no larger than 11 inches by 17 inches.

(2) All final plats shall comply with the provisions of Minnesota Statutes and the requirements of this chapter. An applicant shall submit with the final plat a current abstract of title, along with any unrecorded documents and an opinion of title.

(D) Review of a final plat:

(1) Upon receipt of a final plat, the Planning and Zoning Administrator shall refer 1 copy each to the City Council, appropriate city staff, the County Surveyor, and to all applicable utility companies, and 1 copy with abstract of title and opinion title to the City Attorney;

(2) The City Council may refer the final plat to the Planning Commission for recommendation if they feel the proposed final plat is substantially different from the approved preliminary plat. The Planning Commission shall submit a report thereon to the City Council within 30 days;

(3) The city staff receiving a copy of the final plat shall submit reports through the Planning and Zoning Administrator to the City Council within 15 days of receiving the plat expressing their recommendation on the final plat;

(4) The County Surveyor shall review the final plat and notify the subdivider's surveyor or final plat preparer of corrections that are to be made to the final plat; and

(5) Prior to approval of a final plat, the applicant, shall have executed a development agreement with the city controlling the installation of all required improvements, when determined as needed by administration. The agreement will require all improvements to comply with approved engineering standards and applicable regulations, and may set forth an amount and form of security required by the city to insure proper installation and warranty of all improvements.

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(E) (1) The City Council, after receiving the final plat and any recommendations from the Planning Commission, shall either approve, approve with attached conditions, or disapprove the final plat within 60 days of its official submission date. This action taken by the City Council is dependent upon the final plat's conformance with the preliminary plat, as approved by the City Council.

(2) If the final plat is not approved, the reasons for the action shall be recorded in the official proceedings of the city and shall be transmitted to the applicant.

(F) At any time during this process, either the applicant or the city may request an extension of the imposed time limits. Both the applicant and the city must agree to the time extension and must execute a time extension form that will become a part of the subdivision file.

(G) The final plat, when approved, shall be submitted by the applicant to the Renville County Recorder for recording. The development agreement, when required by administration, must be recorded prior to or simultaneously with the plat. The final plat must be recorded within 180 days from the date of approval or it will become null and void. If recording is not accomplished according to these procedures, the city may require another review of the proposed subdivision according to these regulations and state law. Prior to recording, the final plat must be signed by representative of the city and the applicant must have paid all required fees. If a final plat is submitted for a portion of the area encompassed in the preliminary plat and it is recorded within 180 days from the date of approval, the remaining portion of the preliminary plat will remain valid for 2 years. That portion of a preliminary plat for which a final plat is not submitted and recorded or for which a time extension form has not been executed between the applicant and the city within this 2-year period shall become null and void.

(H) (1) Fees for final recording by the County shall be paid by the applicant.

(2) The applicant shall furnish the City Planning and Zoning Administrator with a reproducible copy of the recorded plat, either chronoflex or its equivalent and 2 prints.

(3) The city may also request an electronic version of the plat in a format the city specifies.

(4) Failure to furnish the copies shall be grounds for a refusal to issue building permits for the lots within a plat.

(I) Any resubmission of a plat application that has been denied by the City Council shall be prohibited for 1 year following denial unless the City Council votes to allow the resubmission either unanimously or by super majority.

(Ord. 256, passed 9-8-1998; Am. Ord. 261, passed 5-17-1999) Penalty, see § 10.99

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§ 151.031 DOCUMENTATION REQUIREMENTS.

(A) *Plat information.*

<i>Information Description</i>	<i>Sketch Plan</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
Name, address of owner and/or applicant (application page)	X	X	X
Name, signature, license number, seal, and address of land surveyor, engineer architect, or other person who is involved in preparing the plat (application page)		X	X
Name of subdivision - which shall not duplicate the name of any plat previously recorded in Renville County (on plat)	X	X	X
Title block, denoting type of application, county name, and name of city (on plat)	X	X	X
A key map at specified scale showing location of tract with reference to surrounding properties, streets, municipal boundaries, school district boundaries, other public uses, or other key geographic references within 500 feet of the development property and the date of the survey (on plat)	X	X	X
Location of boundary lines in relation to a known section, quarter section, or quarter-quarter section lines comprising a legal description of the property (on plat)	X	X	X
North arrow and a minimum scale of 1 inch = 100 feet or as agreed upon (on plat)	X	X	X
Proof of property title (attachment)	X	X	
Title opinion and abstract (attachment)			X
Signature blocks for Mayor, Planning and Zoning Administrator, and Municipal Engineer (on plat)			X
Certification blocks:			
For registered land surveyor indicating that all the monuments shown on the plat actually exist, and their location, size, and material are correctly shown (signature page on plat)			X
Notarized certification by owner, and by any mortgage holder by record, of the adoption of the plat and the			X

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<i>Information Description</i>	<i>Sketch Plan</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
dedication of streets, easements, other rights-of-way, and any lands for public use (signature page on plat)			
For the Renville County Treasurer indicating that all taxes and special assessments against the property have been paid in full prior to recording of the plat (signature page on plat)			X
Approval and review blocks to be signed by the Planning Commission Chairperson, the City Mayor, and the Planning and Zoning Administrator (signature page on plat)			X
A statement certifying the environmental condition of the site is suitable for the proposed use and that there are no hazardous substances located on the site. The statement may be required to be based upon an environmental assessment of the site by a qualified environmental engineering firm, which is acceptable to the city (attachment)		X	X
Space for a certificate of review and approval to be signed by the Planning Commission, such as: "This plat of _____ was approved and accepted by the Planning Commission of Olivia at a meeting held this day of _____, 20__." (on plat)			X
Space for a certificate or review and approval to be signed by the City Council, such as: "This plat of _____ was approved and accepted by the City Council of the City of Olivia at a regular meeting held this _____ day of _____, 20__." (on plat)			X
Boundary lines of adjoining unsubdivided or subdivided land within 100 feet, identified by name and ownership, including all continuous land owned or controlled by subdivider (attachment)	X	X	
Boundary line survey, including measured distance and angles, which shall close by latitude and departure with an error of closure not exceeding 1 foot in 7,500 feet (on plat)		X	X
Acreage of tract to the nearest tenth of an acre (on plat)		X	X
Existing zoning classification for land in and abutting the subdivision and a schedule of zoning district requirements including lot area, width, depth, yard setbacks, lot coverage regulations, open space and parking requirements, other information as needed (attachment)	X	X	

Subdivision Regulations

<i>Information Description</i>	<i>Sketch Plan</i>	<i>Preliminary Plat</i>	<i>Final Plat</i>
Monumentation (on plat)			X
Plat shall be on 20 inches by 30 inches sheets or larger (plat size)		X	X
Date of original and all revisions (on plat)		X	
Location and dimensions of any existing or proposed streets (on plat)	X	X	X
Dimensions, bearings, curve data, length of tangents, radii, arcs, central angles for all centerlines and/or rights-of-way (on plat)			X
Existing rail lines and/or rail rights-of-way (on plat)	X	X	X
Existing gas and oil pipelines (on plat)	X	X	
Existing buildings and structures, size, location, setbacks, and existing powerlines (on plat)	X	X	
Easements, existing and proposed (on plat)	X	X	X
All proposed lot lines (on plat) and area of lots (preliminary plat)		X	X
Development stages or staging plans (attachment)		X	
List of required regulatory approvals or permits (attachment)		X	X
Payment of application fees (attachment)	X	X	X
Copies of restrictive covenants (attachment)			X

(B) *Environmental information.*

<i>Information Description</i>	<i>Sketch Plan</i>	<i>Preliminary Plan</i>	<i>Final Plan</i>
All existing wetlands on and within 100 feet of the site (on plat)		X	
Two copies of a complete topographic map with contour intervals not greater than 2 feet, superimposed on at least 1 print of the preliminary plat that extends at least 100 feet beyond the subject property. United States Geologic Survey datum shall be used for all topographic mapping (on plat)		X	
Complete drainage concept including proposed grading and drainage of site (on plat)		X	

Subdivision Regulations

<i>Information Description</i>	<i>Sketch Plan</i>	<i>Preliminary Plan</i>	<i>Final Plan</i>
The following information may be required to be submitted by the Planning Commission: the boundary, limits, nature, and extent of wooded areas, specimen trees, other significant physical features, or other environmentally sensitive areas, on or within 100 feet of the site (attachment or on plat as requested by the PC)		X	

(C) *Improvements and construction information.*

<i>Information Description</i>	<i>Sketch Plan</i>	<i>Preliminary Plan</i>	<i>Final Plat</i>
Proposed street names (on plat)		X	X
New block and lot numbers (on plat)		X	X
Proposed utility infrastructure plans, including sanitary sewers, water supply, storm water management, fire hydrants, telephone, electric, natural gas, and cable TV (attachment)		X	X
Soil erosion and sediment control plan (attachment)		X	X
Road and paving cross-sections and profiles (attachment)		X	X
Sight triangles (attachment)		X	X
Site identification signs, traffic-control signs, and directional signs (attachment)		X	X
Vehicular and pedestrian circulation patterns (attachment)		X	X
Lighting plan (attachment)		X	X
Landscaping plan (attachment)		X	X
Parking plan (attachment)		X	X

(Ord. 256, passed 9-8-1998)

ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

§ 151.045 DEVELOPMENT AGREEMENT MAY BE REQUIRED.

Subdivision Regulations

(A) Prior to the submission of a preliminary plat, the administration shall inform the developer whether an executed development agreement with the city will be required. The determination of this requirement will be an administrative decision based upon the complexity of the development proposal and the extent of the needed public improvements. When required and before a final plat is approved by the Council, the owner and subdivider of the land covered by the plat shall execute and submit to the Council a written development agreement, which shall be binding on their heirs or personal representative of the property owners, that they will cause no private construction to be made on the plat or file or cause to be filed any application for building permits for the construction until all required improvements have been made or have been arranged for.

(B) The agreement shall provide that all of the required improvements will be made in accordance with standards established by the City Engineer. This shall include provision for supervision of details of construction by the City Engineer and shall grant to the City Engineer authority to coordinate the work and improvements to be done under the contract by any subcontractor authorized to proceed thereunder and with any other work being done or contracted by the city in the vicinity.
(Ord. 256, passed 9-8-1998; Am. Ord. 261, passed 5-17-1999)

Subdivision Regulations

§ 151.046 IMPROVEMENTS MAY BE PARTIAL.

It is not the intent of this chapter to require the subdivider to develop the entire plat and make all required improvements at 1 time, but no building permits shall be granted except on the lots having access to streets on which the required improvements have been made.

(Ord. 256, passed 9-8-1998)

§ 151.047 INSPECTION OF IMPROVEMENTS.

(A) The City Council shall provide for inspection of required improvements during construction and ensure their satisfactory completion.

(B) The applicant shall pay to the city an inspection fee based on the estimated cost of inspection. Where the improvements are completed, prior to final plat approval, the subdivision plat shall not be signed by the Mayor or City Planning and Zoning Administrator unless the inspection fee has been paid at the time of the application, the City Engineer certifies the existing improvements conform to applicable standards, and evidence of payment for the work that has been completed is presented in the form as the city reasonably requires. These fees shall be due and payable upon demand of the city and no building permits shall be issued until all fees are paid. If the City Engineer finds upon inspection that any 1 or more of the required improvements have not been constructed in accordance with the city's construction standards and specifications, the applicant shall be responsible for properly completing the improvements.

(Ord. 256, passed 9-8-1998)

§ 151.048 MAINTENANCE OF IMPROVEMENTS.

(A) The developer shall be required to maintain all public improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks until acceptance of the improvements by the City Council.

(B) Following the acceptance of the dedication of any public improvement by the local government, the city may, in its sole discretion, require the subdivider to maintain the improvement for a period of 1 year from the date of acceptance.

(Ord. 256, passed 9-8-1998)

§ 151.049 DEFERRAL OR WAIVER OF REQUIRED IMPROVEMENTS.

The City Council may defer or waive at the time of final approval, subject to appropriate conditions, the provision of any or all public improvements as, in its judgment, are not requisite in the interests of the public health, safety, and general welfare, or which are inappropriate because of the inadequacy of

Subdivision Regulations

or nonexistence of connecting facilities. Any determination to defer or waive the provision of any public improvement must be made on the record and the reasons for the deferral or waiver also shall be expressly made on the record.

(Ord. 256, passed 9-8-1998)

§ 151.050 OFF-TRACT IMPROVEMENTS.

A developer's responsibility for contributing to off-tract improvements may be required. Refer to §§ 151.100 *et seq.* for the standards related to this requirement.

(Ord. 256, passed 9-8-1998)

SUBDIVISION DESIGN STANDARDS

§ 151.065 GENERALLY.

(A) The subdivision design standards contained in this chapter are to assure that the style, character, and form of new developments will conform to minimum requirements promoting the health, safety, and general welfare of the public.

(B) In addition to these regulations and to insure that future developments are consistent with the growth objectives and goals of the community, subdivisions shall conform to the comprehensive development plan of the municipality, or any part thereof, the zoning ordinance, and any other applicable ordinances of the municipality.

(Ord. 256, passed 9-8-1998)

§ 151.066 STREET DESIGN.

(A) The street system of a proposed subdivision shall be designed to facilitate adequate traffic circulation within the subdivision and from the subdivision to adjacent areas.

(B) Street arrangement, character, width, grade, location, sight distance, and surface material shall conform to the specified standards below, to existing city street development standards, be related to existing or planned streets, topography, convenience, and safety, their intended ultimate function, or as specified in the development agreement.

(1) The arrangement of major streets in a subdivision shall provide for the continuation of existing streets in adjacent areas; or conform to a plan approved by the Planning Commission where topographic or other conditions make continuance or conformance to existing streets impractical.

Subdivision Regulations

(2) Collector streets shall be properly related to major streets and designed in a manner so as to supplement the major street system, but not to serve in lieu thereof.

(3) Collector streets and local streets shall be required to provide either 70 feet or 80 feet of right-of-way, both options providing 44 feet of roadway and either 13 feet or 18 feet on both sides of the roadway for boulevard space, depending upon the right-of-way width selected.

(4) Local streets shall be designed to benefit from the topography, to discourage through traffic, and to provide the minimum amount of streets necessary for safe access to adjacent properties. The reasonable and intelligent use of curvilinear streets (street design in something other than a straight line) is allowed where necessary.

(5) Where a subdivision abuts upon or contains an existing or proposed highway, major thoroughfare, or railroad right-of-way, the Planning Commission may require reverse frontage lots with appropriate screen plantings on the nonaccess lot boundaries. Also, it may require the provision of suitable access roads parallel to and on either side of the highway, major thoroughfare or railroad right-of-way providing access to adjacent properties and affording separation of through and local traffic.

(6) Streets designed and laid out so as to have 1 end permanently closed shall not exceed 600 feet in length, except where the Planning Commission has approved additional length due to property limitations or large lot size.

(7) Turnarounds (cul-de-sacs) shall be provided at the permanently closed end of all streets and shall have a minimum right-of-way radius of 60 feet. The Planning Commission may approve a "T" type turn around when unusual circumstances make a cul-de-sac inappropriate.

(8) When service roads are required, they shall be provided with a minimum of 24 feet of roadway width.

(Ord. 256, passed 9-8-1998) Penalty, see § 10.99

§ 151.067 INTERSECTIONS.

(A) All streets shall intersect at right angles or as close thereto as possible. No street shall intersect another at an angle of less than 70 degrees. More than 2 streets intersecting at the same location shall be prohibited. Street jogs with centerline offsets of less than 150 feet shall be avoided.

(B) When the Planning Commission or City Council finds it necessary for reasons of safety and the protection of property, property lines at street intersections shall be rounded with a radius of from 10 to 15 feet, or as specified by the City Engineer.

(Ord. 256, passed 9-8-1998) Penalty, see § 10.99

Subdivision Regulations

§ 151.068 ALLEYS.

(A) Alleys may be required in commercial and industrial districts where the needs for loading and unloading space cannot be met any other way.

(B) The City Council may waive this requirement where the commercial or industrial district is designed as a comprehensive unit and adequate provisions for service access, off-street-loading and unloading areas, and parking space is a part of the overall development plan.

(1) (a) Dead-end alleys are prohibited except where natural or other features makes it impossible to continue them.

(b) Where dead-end alleys are unavoidable, they shall be provided with adequate turnaround facilities at the dead-end as determined by the City Council.

(2) Alleys shall be required to provide 20 feet of easement and/or roadway.

(3) Alleys shall not be required in 1- and 2-family residential areas unless a secondary means of access to certain property is necessary due to topography or other exceptional circumstances.
(Ord. 256, passed 9-8-1998) Penalty, see § 10.99

§ 151.069 EASEMENTS AND DEDICATIONS.

(A) Easements for public utilities shall be required.

(B) Except when topographic conditions or other exceptional circumstances make it impossible, the easements shall be provided along the rear and side lot lines and shall be 20 feet in width with 10 feet of the easement on each adjacent property being subdivided, or as determined by the City Engineer.

(1) (a) Where a water course, drainage way channel, or stream traverse a subdivision, there shall be provided a storm water easement for drainage right-of-way conforming substantially with the lines of the water course.

(b) If it is deemed advisable by the Planning Commission, such water course or drainage way may be re-established to conform with the proposed street pattern, in which case suitable storm drainage facilities shall be installed as directed by the city.

(2) Upon consideration of the particular type of development proposed in the subdivision, and especially in large scale neighborhood unit developments, the City Council may require the dedication or reservation of areas or sites suitable to the needs created by the development for schools, parks, and other neighborhood purposes.
(Ord. 256, passed 9-8-1998) Penalty, see § 10.99

Subdivision Regulations

§ 151.070 BLOCKS.

The length, width, and shape of blocks shall be determined with due regard to the following:

(A) The provision of adequate building sites available to the particular needs of the type of use contemplated;

(B) Zoning requirements as to lot size and dimensions;

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

(D) Limitations and opportunities afforded by topography and other natural features.
(Ord. 256, passed 9-8-1998)

§ 151.071 WALKWAYS.

Pedestrian walkways not less than 10 feet wide shall be required where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation, and other community facilities.

(Ord. 256, passed 9-8-1998) Penalty, see § 10.99

§ 151.072 LOTS.

The size, width, shape, and orientation of lots and the building setback line shall be appropriate for the type of development and use contemplated.

(A) Reserve strips controlling access to interior or adjacent property will not be allowed by private ownership.

(B) Parcel remnants smaller in area than allowed by zoning are not allowed and must be made part of another lot.

(C) Lot dimensions shall conform to the Zoning Ordinance.

(D) Side lot lines shall be as near to right angles or radial to street lines as possible.

(E) Every lot shall front on a public street, thus providing access for fire protection, utilities, and other necessary services.

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(F) (1) Lots shall not be so excessive in depth that they block desirable access to adjacent property.

(2) The City Council may require dedication of land for future streets in excessively deep lots.
(Ord. 256, passed 9-8-1998) Penalty, see § 10.99

§ 151.073 CONSERVATION.

Efforts shall be made to conserve natural resources and advantageously utilize all natural features and vegetation on the property to minimize soil erosion. Consideration will be given to eliminate any form of underground or surface water pollution.

(Ord. 256, passed 9-8-1998) Penalty, see § 10.99

REQUIRED IMPROVEMENTS

§ 151.085 MINIMUM IMPROVEMENTS.

As a minimum, the following improvements shall be provided for all new subdivisions in accordance with the current city design standards as determined by the City Engineer or as specified in the development agreement:

(A) Sanitary sewer and appurtenances including sewer service connections to the property line;

(B) Water mains and appurtenances, including hydrants and valves, and water service connections to the property line;

(C) Street grading the full width of the right-of-way, and the installation of a MnDOT Class 5 gravel driving surface to a thickness and width determined by the city; and

(D) A temporary turnaround where a street terminates at the edge of a plat and future extension is planned. The temporary turnaround must be constructed to the standard referred to in division (C) above, and easements shall be provided to meet the requirements of this chapter.

(Ord. 256, passed 9-8-1998) Penalty, see § 10.99

§ 151.086 FINANCING OF IMPROVEMENTS.

Unless otherwise stipulated in the development agreement, all required improvements shall be paid for on a cost share basis, 50% by the city and 50% to be assessed to the property owner(s).

(Ord. 256, passed 9-8-1998)

Subdivision Regulations

§ 151.087 MONUMENTS.

Durable iron monuments shall be placed at all block lot corners, all intermediate points on blocks where there is a change in the direction of the block line, at points of curves in streets, at each angle and curve point on the exterior boundary lines of the plat, and at the other points as may be required by the City Council. All monuments shall be an iron rod, a minimum of 1/2 inch in diameter and 15 inches in length, and set in concrete 6 inches to 8 inches in diameter.

(Ord. 256, passed 9-8-1998) Penalty, see § 10.99

§ 151.088 UTILITY IMPROVEMENTS.

All electric and gas distribution lines or piping, roadways, curbs, walks, and similar improvements shall be constructed only on a street, alley, or other public way or easement which is designated on an approved plat or which has otherwise been approved by the City Council.

(Ord. 256, passed 9-8-1998) Penalty, see § 10.99

OFF-TRACT IMPROVEMENTS

§ 151.100 PURPOSE.

Sections 151.100 *et seq.* are intended to ensure a pro rata share allocation of the costs for off-tract improvements necessitated by new development.

(Ord. 256, passed 9-8-1998)

§ 151.101 DEFINITION; PRINCIPLES.

(A) As a condition of final subdivision approval, the City Council may require an applicant to pay a pro rata share of the cost of providing reasonable and necessary circulation improvements, water, sewerage, or other improvements, including land and easements, located off-tract of the property limits of the subdivision or development, but necessitated or required by the development.

(B) For the purpose of §§ 151.100 *et seq.*, the following definition(s) shall apply unless the context clearly indicates or requires a different meaning.

NECESSARY. Necessary improvements are those clearly and substantially related to the development in question.

Subdivision Regulations

(C) (1) The City Council shall provide in its resolution of approval the basis of the required improvements.

(2) The proportionate or pro rata amount of the cost of the facilities within a related or common area shall be based on the criteria in the following section.

(Ord. 256, passed 9-8-1998)

§ 151.102 COST ALLOCATION.

(A) *Full allocation.* In cases where off-tract improvements are necessitated by the proposed development, and where no other property owner(s) receive(s) a special benefit thereby, the applicant may be required at his or her sole expense and as a condition of approval, to provide and install the improvements.

(B) *Proportionate allocation.* Where it is determined that properties outside the development will also be benefited by the off-tract improvement, the following criteria shall be utilized in determining the proportionate share of the cost of the improvements to the developer.

(1) *For sanitary sewers.* The applicant's proportionate share of distribution facilities including the installation, relocation, or replacement of collector, trunk, and interceptor sewers, and associated appurtenances, shall be computed as follows:

(a) The capacity and the design of the sanitary sewer system shall be based on the standards specified by the City Engineer;

(b) The City Engineer shall provide the applicant with the existing and reasonably anticipated peak hour flows as well as capacity limits of the affected sewer system; and

(c) If the existing system does not have adequate capacity to accommodate the applicant's flow given existing and reasonably anticipated peak-hour flows, the pro rata share shall be computed as follows:

$$\frac{\text{Developer's Cost}}{\text{Total cost of enl arg ement or improvement}} = \frac{\text{Development generated gallons per day to be accompanied by the enl arg ement or improvement}}{\text{Capacity of enl arg ement or improvement (gals. per day)}}$$

Subdivision Regulations

(2) *For water supplies.* The applicant's proportionate share of water distribution facilities including the installation, relocation, or replacement of water mains, hydrants, valves, and associated appurtenances shall be computed as follows:

(a) The capacity and the design of the water supply system shall be based on the standards specified by the City Engineer;

(b) The City Engineer shall provide the applicant with the existing and reasonably anticipated capacity limits of the affected water supply system in terms of average demand, peak demand, and fire demand; and

(c) If the existing system does not have adequate capacity as defined above to accommodate the applicant's needs, the pro rata share shall be computed as follows:

$$\frac{\text{Developer's Cost}}{\text{Total cost of enl arg ement or improvement}} = \frac{\text{Development generated gallons per day to be accompanied by the enl arg ement or improvement}}{\text{Capacity of enl arg ement or improvement (gals. per day)}}$$

(3) *For streets or roads.* The applicant's proportionate share of street improvements, alignment, channelization, barriers, new or improved traffic signalization, signs, curbs, sidewalks, trees, utility improvements not covered elsewhere, the construction or reconstruction of new or existing streets, and other associated street or traffic improvements shall be as follows:

(a) The City Engineer shall provide the applicant with the existing and reasonably anticipated future peak-flows for the off-tract improvement; and

(b) If the existing system does not have adequate capacity as defined above, the pro rata share shall be computed as follows:

$$\frac{\text{Developer's Cost}}{\text{Total cost of enl arg ement or improvement}} = \frac{\text{Development peak hour traffic to be accompanied by the enl arg ement or improvement}}{\text{Capacity of enl arg ement or improvement (peak hour traffic)}}$$

(Ord. 256, passed 9-8-1998)

Subdivision Regulations

DEDICATIONS AND RESERVATIONS

§ 151.115 DEDICATION REQUIREMENT.

Where deemed appropriate by the Planning Commission, open spaces suitably located and of adequate size for parks, playgrounds, or other recreational activities for local or neighborhood use, shall be provided for in the proposed subdivision. The city's dedication standard is hereby set as being 7% of the tract proposed for development to be set aside for use as developed and/or undeveloped open space. This amount of land is the city's best estimate of need for open space to accommodate the increased usage of the space by the population of the proposed development. If the parcels are not dedicated to the city, the Planning Commission may recommend they be reserved by covenant or deed restriction for the common use of all property owners in the subdivision. If a cash contribution is to be used in lieu of land dedication, the cash payment shall equal the value of the land dedication requirement as determined by a certified appraiser who shall determine the current market value of the property with development potential. The cost of the appraisal shall be borne by the developer. The cash contribution amount specified above is the city's best estimate for undertaking needed improvements to its open space facilities based upon the increased usage resulting from new development.

(Ord. 256, passed 9-8-1998)

§ 151.116 DEDICATION RESERVATION ALLOWANCE.

When a park, school, or other public use site shown in the Comprehensive Development Plan of the city lies wholly or partly within the boundaries of the proposed subdivision, and such a park, school, or other public use site is not dedicated for public use to the city, the Planning Commission may recommend that the area be reserved for acquisition by the city or school district for a period of 1 and 1/2 years from the date of recording of the subdivision.

(Ord. 256, passed 9-8-1998)

VARIANCES

§ 151.130 VARIANCE REQUEST.

Where the Board of Adjustment finds that unnecessary difficulty may result from strict compliance with the provisions of this chapter, it may vary the regulations to the extent that substantial justice may be done and the public interest secured, provided that the variation may be granted without detriment to the public interest and will not have the effect of nullifying the intent and purpose of this chapter. Variances cannot be granted which relate to other ordinances.

(Ord. 256, passed 9-8-1998)

§ 151.131 CONDITIONS.

In the granting of variances, the Board of Adjustment shall weigh the benefits or hardships against the general standards that will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

(Ord. 256, passed 9-8-1998)

§ 151.132 BOARD OF ADJUSTMENT.

The City Council shall serve as the Olivia Board of Adjustment and shall act upon all questions as they may arise in the administration of this chapter. The Board shall hear and decide appeals from and review any order, requirement, decision, or determination made in the enforcement of this chapter.

(Ord. 256, passed 9-8-1998)

CHAPTER 152: ZONING CODE

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152.523 Exhibit A
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152.640 Compliance required
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GENERAL PROVISIONS

§ 152.001 TITLE.

This chapter shall be known as the Olivia Zoning Ordinance except as referred to herein, where it shall be known as this chapter.

(Am. Ord. 144, passed 1-29-1972; Am. Ord. 153, passed 8-25-1975; Am. Ord. 175, passed 4-6-1981; Am. Ord. 177, passed 6-15-1981; Am. Ord. 185, passed 8-2-1982; Am. Ord. 187, passed 11-15-1982; Am. Ord. 189, passed 3-21-1983; Am. Ord. 191, passed 3-21-1983; Am. Ord. 194, passed 1-16-1984; Am. Ord. 199, passed 8-20-1984; Am. Ord. 203, passed 3-18-1985; Am. Ord. 208, passed 9-9-1985; Am. Ord. 213, passed 5-18-1987; Am. Ord. 225, passed 5-21-1990; Am. Ord. 226, passed 9-17-1990; Am. Ord. 227, passed 9-17-1990; Am. Ord. 232, passed 10-21-1991; Am. Ord. 233, passed 6-8-1992; Am. Ord. 260, passed 3-1-1999; Res. 99-62, passed 7-7-1999; Am. Ord. 277, passed 3-18-2004; Ord. 280, passed 7-21-2005; Ord. 2016-04, passed 09-19-2016; and re-incorporated into Code by Ord. 2018-04, passed 03-05-2018; Title 15 Amended by Ordinance 2018-03, passed 02-05-2018)

§ 152.002 INTENT AND PURPOSE.

(A) The intent of this chapter is to protect the public health, safety and general welfare of the community and its people through the establishment of minimum regulations in regard to location, erection, construction, alteration and use of structures and land.

(B) The regulations are established to assist the city in:

- (1) Implementing its Comprehensive Plan,
- (2) Protecting and enhancing the natural environment and resources that currently exist within the city,
- (3) Ensuring orderly and quality development and redevelopment,
- (4) Protecting the quality and diversity of the city's tax base,
- (5) Protecting the quality of residential neighborhoods,
- (6) Providing opportunities for an affordable and diverse housing supply,
- (7) Managing traffic,
- (8) Ensuring compatibility between different land uses, and
- (9) Regulating businesses that may have adverse secondary effects on the quality of life of Olivia residents.

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(C) These regulations are also established to provide for administration of this chapter, to provide for amendments; to prescribe penalties for violation of such regulations; and to define powers and duties of the city staff, the Zoning Board of Appeals, the Planning Commission and the City Council in relation to the Zoning Ordinance.

(Ord. 280, passed 7-21-2005)

§ 152.003 RELATION TO CITY'S COMPREHENSIVE PLAN.

It is the policy of the city that the enforcement, amendment, and administration of this chapter be accomplished consistent with the recommendations contained in the City Comprehensive Plan, as developed and amended from time to time by the Planning Commission and City Council. The Council recognizes the City Comprehensive Plan as the official policy for the regulation of land use and development in accordance with the policies and purpose herein set forth. In accordance with M.S. Ch. 473, as it may be amended from time to time, the city will not approve any rezoning or other changes in these regulations that are inconsistent with the City Comprehensive Plan.

(Ord. 280, passed 7-21-2005)

§ 152.004 STANDARD, REQUIREMENT.

Where the conditions imposed by any provisions of this chapter are either more or less restrictive than comparable conditions imposed by other law, ordinance, rule, or regulation of the city, state or federal government, the law, ordinance, rule or regulation which imposes the more restrictive condition, standard, or requirement shall prevail.

(Ord. 280, passed 7-21-2005)

§ 152.005 CONFORMITY WITH THIS CHAPTER.

No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose or in any manner which is not in conformity with the provisions of this chapter.

(Ord. 280, passed 7-21-2005)

§ 152.006 BUILDING COMPLIANCE.

Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this chapter.

(Ord. 280, passed 7-21-2005)

§ 152.007 REDUCTION OF YARDS OR LOTS NOT PERMITTED.

No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area

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below the minimum requirements set forth herein. Yards or lots created after the effective date of the ordinance creating this chapter shall meet at least the minimum requirements established by this chapter. (Ord. 280, passed 7-21-2005)

§ 152.008 AUTHORITY.

This chapter is enacted pursuant to the authority granted by the Municipal Planning Act, M.S. §§ 462.351 to 462.365, as they may be amended from time to time. (Ord. 280, passed 7-21-2005)

§ 152.009 ESTABLISHMENT OF DISTRICTS.

For the purpose of this chapter, the City of Olivia, Renville County, Minnesota, is divided into the following districts:

- (A) AG District - Agricultural District.
- (B) R-1 District - Low Density Residential District.
- (C) R-3 District - High Density Residential District.
- (D) B-1 District - Central Business District.
- (E) B-2 District - Highway Business District.
- (F) I-1 District - Light Manufacturing Industrial District.

(G) I-2 District - Heavy Manufacturing Industrial District.
(Ord. 280, passed 7-21-2005)

§ 152.010 ZONING MAP.

The location and boundaries of the districts established by this chapter are set forth on the map entitled Zoning District Map for the City of Olivia, Renville County, Minnesota, dated April, 2009. The original of this map shall be signed and dated by the Mayor and the City Clerk. The map and all the information and amendments shown on the map shall be incorporated by reference as if appearing in total and shall be a part of this chapter. (Ord. 280, passed 7-21-2005)

§ 152.011 DISTRICT BOUNDARIES.

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The following rules shall apply with respect to the boundaries of the various districts as shown on the zoning district map:

(A) District boundary lines are the center lines of highways, streets, alleys, streams and trails; or right-of-way lines of railroads; or U.S. Public Land Survey lines; or lot or property lines; or shorelines; or such lines extended, unless otherwise indicated.

(B) In areas not subdivided into lots and blocks, where a district is indicated as a strip adjacent to and paralleling a street or highway, the depth shall be in accordance with dimensions shown on the map measured at right angles from the center line of the street or highway.

(Ord. 280, passed 7-21-2005)

§ 152.012 BOUNDARY INTERPRETATION.

Questions concerning district boundary lines on the zoning map shall be decided by the Board of Appeals.

(Ord. 280, passed 7-21-2005)

§ 152.013 PROPERTY NOT INCLUDED, ANNEXATIONS.

When no decision has been reached as to what district the annexed territory should be placed, annexations or consolidations with the city shall be placed in the AG District. Within 1 year the Planning Commission shall evaluate and recommend a permanent district classification to the City Council.

(Ord. 280, passed 7-21-2005)

§ 152.014 DEFINITIONS.

(A) *Intent.* Captions, headings, titles and key words used in sections and articles are defined herein for convenience to facilitate the use of this chapter.

(B) *Word usage.*

(1) Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application.

(2) For the purpose of this chapter, the words **MUST** and **SHALL** are mandatory and not permissive.

(3) The word **MAY** is permissive.

(4) The masculine gender shall include the feminine and neuter.

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(5) All distances, unless otherwise specified, shall be measured horizontally over vertically as specified.

(6) Words used in the present tense include the future tense; the singular number includes the plural; the plural includes the singular.

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

ABANDONMENT. To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

ABATEMENT. Whenever the Building Official or Chief of Police are charged with enforcement and determine that a public nuisance is being maintained or exists on premises in the city, they shall notify in writing the owner and occupant of the premises of such fact and order that such nuisance be terminated and abated. The owner and occupant of the premises shall be served such notice in person or by U.S. mail. If the premises are not occupied and the owner is unknown, the notice may be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding 30 days shall elapse between the day of posting and the hearing.

ABUTTING. Having a common border with, adjacent to, or being separated from such a common border by a right-of-way, alley, or easement.

ACCESSORY BUILDING. A subordinate building or structure on the same lot or a part of the principal building, occupied by or devoted exclusively to an accessory use.

ACCESSORY USE. A structure or portion of a structure subordinate to serving the principal use of a structure on the same lot and devoted exclusively to a supplementary use.

AGRICULTURE. The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary uses for packing, treating, or storing the produce; provided however, that the operation of any such accessory uses shall be secondary to the normal agricultural activities.

AIRPORT. Any area of land or water designated and set aside for the landing and takeoff of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

ALLEY. A public or private right-of-way primarily designed to serve as secondary access to land or structures on a property whose principal frontage is on a street.

ALTERATION. Any change, addition or modification in construction or occupancy of an existing structure.

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APARTMENT. A single room or set of rooms occupied as a dwelling unit which is part of a multiple-family dwelling.

BASEMENT. That portion of a building which is 1/2 or more below grade. If the height of the ceiling is 5 feet or more above grade such basement shall be considered a story.

BED AND BREAKFAST INN. A house, or portion thereof, where short-term lodging rooms and meals are provided to transient guests. The owner or manager of the inn shall live on the premises.

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

BOARD, LODGING OR ROOMING HOUSE. Any residential building, or portion thereof, containing lodging rooms which accommodate 3 or more unrelated persons who are not members of the keeper's family. Lodging or meals or both are provided for compensation on a weekly or monthly basis. Motels, hotels, bed and breakfast inns or apartment hotels are not included in this category.

BUILDABLE AREA. The part of a lot remaining after required yards have been provided by this chapter.

BUILDING. Any structure, permanently affixed to a lot, used for the support, shelter, protection or enclosure of persons, animals, equipment, machinery, materials or property of any kind. When any portion of a building is completely separated from every other part by division walls from the ground up and is without openings, each portion of such building shall be deemed as a separate building. The connection of 2 buildings by means of an open porch, breezeway, passageway or other such open structure, with or without a roof, shall not be deemed to make them 1 building.

BUILDING, DETACHED. A building surrounded by an open space on the same lot as another building.

BUILDING HEIGHT. The vertical distance from the average elevation of the adjoining ground level to the top of the highest point of the structure.

BUILDING, PRINCIPAL. A building or structure in which is conducted the main or primary use of the lot on which said building or structure is situated.

BUILDING SETBACK LINE. The front line of the building or the legally established line that determines the location of the building with respect to the lot line. See setback, building.

BUILDING SITE. Any lot or portion thereof, or 2 or more contiguous lots or portions thereof, or a parcel of land upon which an industrial or commercial building(s) and incidental structures may be erected in conformance with the requirements of these protective covenants, the size and the dimensions of which are determined by the legal descriptions in the original conveyance from the city to the first fee owner of each parcel.

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BUSINESS. Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or which occupies time, attention, labor and materials, or where services are offered for compensation.

CELLAR. A portion of a building located partly underground and having more than 1/2 of the floor to ceiling height below the average grade of the adjoining ground.

CHILD DAY CARE. *CHILD DAY CARE* means the provision of supplemental parental care and supervision:

- (a) For a nonrelated child or children;
- (b) On a regular basis;
- (c) For less than 24 hours a day; and
- (d) Under license by the Minnesota State Department of Human Services.

As used in this chapter, the term is not intended to include babysitting services of a casual, nonrecurring nature or in the child's home. Likewise, the term is not intended to include cooperative, reciprocal child care by a group of parents in their respective domiciles.

CHILD DAY CARE FACILITY. A building or structure wherein an agency, person or persons regularly provides care for a group of children for periods of less than 24 hours a day. **CHILD DAY CARE FACILITIES** include family day care homes, group family day care homes and child day care centers. They do not include preschools or nursery schools.

(a) **FAMILY DAY CARE HOME** means a licensed family abode of a person or persons who regularly provides direct care of children during part of a 24-hour day. There may be no more than 10 children at 1 time, of which no more than 6 are under school age. The licensed capacity must include all children of any caregiver when the children are present in the residence.

(b) **GROUP FAMILY DAY CARE HOME** means a licensed facility for no more than 14 children at any 1 time, of which no more than 10 are under school age. The total number of children includes all children of any caregiver when the children are present in the residence. The direct care of the children is for part of a 24-hour day.

(c) **CHILD CARE CENTER** means a facility in which a child care program is operated when the facility is not excluded by M.S. § 245A.03, subd. 2, as it may be amended from time to time, and is not required to be licensed under parts 9502.0315 to 9502.0445 as a family or group family day care home.

CHURCH or PLACE OF RELIGIOUS WORSHIP. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together

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with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

CLINIC. A public or proprietary institution providing diagnostic or preventive treatment for ambulatory patients by a group of doctors or dentists, or both, who have their offices in the same building.

CLUB or LODGE. Structures and facilities owned and/or operated by an association of persons, for a social, educational or recreational purpose but not primarily for profit and not primarily to render a service which is customarily carried on as a business. Said persons shall be bona fide members paying annual dues and the use of such premises is restricted to members and their guests. It shall be permissible to serve food, meals and beverages on such premises provided it is secondary and incidental to some other common objective of the organization and all applicable local and state laws are complied with.

COLUMBARIUM. A structure of vaults lined with recesses for cinerary urns.

COMMERCIAL RECREATION. Bowling alley, golf, pool hall, vehicle racing or amusement, dance hall, skating, tavern, theater, firearms range, and similar uses.

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

COMPREHENSIVE PLAN. Unless otherwise stated, it is the general plan for land use, transportation, and community facilities prepared and maintained by the Planning Commission.

CONDITIONAL USE. A use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would not be detrimental to the public health, safety, or general welfare. If granted, a permit would be issued specially and individually for conditional uses permitted in any district. They may be of such variable nature allowed by conditions established to control or regulate the use.

COUNCIL (CITY). The duly elected and qualified governing body of the City of Olivia, Minnesota.

CREMATORY. A furnace for cremation.

DEVELOPMENT. The division of land into 2 or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill or land disturbances; and any use or extension of the use of land.

DISTRICT (ZONING). Any section of the incorporated area of the city within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this chapter.

DOG KENNEL. Any lot or parcel of land where small animals are boarded for compensation or where dogs are bred or raised on a commercial site.

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DRIVE-IN RESTAURANT. Any place or premises used for sale, dispensing or serving of food, refreshments, or beverages in automobiles including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises.

DWELLING. Any building or portion thereof designed or used exclusively for residential occupancy but not including a tent, cabin, trailer, hotel or motel.

DWELLING, MULTIPLE-FAMILY. A residence designed for or occupied by 3 or more families, in separate dwelling units.

DWELLING, SINGLE-FAMILY. A residential building containing not more than 1 dwelling unit entirely surrounded by open space on the same lot.

DWELLING, TWO-FAMILY. A residence designed for or occupied by 2 families only, having a common or party wall, in separate dwelling units.

DWELLING UNIT. One or more rooms which are arranged, designed or used as living quarters for 1 family only. Independent cooking facilities, permanently installed and individual sanitary facilities shall always be included for each ***DWELLING UNIT***.

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

ESSENTIAL SERVICES. The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of utilities such as underground or overhead gas, electrical or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories reasonably necessary for the furnishing of adequate service by public utilities or governmental agencies or for the public health or safety or general welfare, but not including buildings.

FAMILY. A family is any number of persons living together in a room or rooms comprising a single housekeeping unit and related by blood, marriage, adoption or any unrelated person who resides thereon as though a member of the family including the domestic employees thereof. Any group or persons not so related but inhabiting a single house shall, for the purpose of this chapter, be considered to constitute 1 family for each 5 persons, exclusive of domestic employees, contained in each such group.

FARMING. An area which is used for the growing of the usual farm products such as vegetables, fruits and grains and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for 1 or more of the above uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activity.

FENCE. Any artificially constructed barrier of any material or combination of materials erected

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to enclose or screen areas of land.

FLOOD. The temporary overflowing of water onto land which is usually devoid of surface water.

FLOODPLAIN. Flood plain or flood-prone area means any land area susceptible to being inundated by water from any source.

FLOODWAY. The channel of a river or other water course and the adjacent land areas that must be reserved in order to reasonably carry and discharge the 100-year flood.

FLOODWAY FRINGE. All that land in a floodplain not lying within the delineated floodway. Land within a **FLOODWAY FRINGE** is subject to inundation by relatively low velocity flows and shallow water depths.

FLOOR AREA, GROSS. The sum of the areas of the several floors of a building, measured from the exterior faces of exterior walls. The term gross floor area shall include basements; elevator shafts; stairwells at each story; floor space used for mechanical equipment with structural headroom of 7 feet, 6 inches or more; penthouses; attic space, whether or not a floor has actually been laid, providing structural headroom of 6 feet, 6 inches or more; interior balconies; and mezzanines.

FLOOR AREA, GROUND. The area within the exterior walls of the main building or structure as measured from the outside walls at the ground level, not including garages or enclosed or un-enclosed porches and not including attached utility or accessory rooms having 3 or more exterior sides.

FLOOR AREA RATIO. Determined by dividing the gross floor area of all buildings on a lot by the area of that lot.

GARAGE, COMMUNITY. An accessory building or series of structures for the storage of motor vehicles by 2 or more occupants of property or dwellings in the vicinity and having no public shop or service therein.

GARAGE, PRIVATE. An accessory building designed or used for the storage or shelter of vehicles by the occupants of the building to which it is accessory.

GARAGE, PUBLIC. A building, or portion thereof, other than a private customer and employee garage or private residential garage, used primarily for the parking and storage of vehicles and available to the general public.

GARAGE, REPAIR. A building or space for the repair or maintenance of motor vehicles but not including factory assembly of such vehicles, auto wrecking establishments or junkyards.

GASOLINE SERVICE STATIONS. A building or structure designed or used for the retail sale or supply of fuels, lubricants, air, water, and other operating commodities for motor vehicles, and including the customary space and facilities for the installation of such commodities on or in such vehicles, but not including special facilities for the painting, major repair or similar servicing thereof.

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GLARE. A sensation of brightness within the visual field that causes annoyance, discomfort or loss in visual performance and visibility.

GOVERNING BODY. See City Council.

GRADE. The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

GREENBELT. A planting strip of grass, trees or shrubs established and maintained for the purpose of screening or limiting the view of certain property uses from surrounding uses and the general public.

GROUP HOME. A state licensed group home or foster home serving 6 or fewer mentally or physically challenged persons.

HARDSHIP. Circumstances claimed to be unique and/or hard to bear to the individual property under consideration for application of a variance request. Applicants shall demonstrate an inability to put the land to any beneficial use unless a variance is granted.

HEDGE. A series of plants, shrubs or other landscape material, so placed as to form a physical barrier or enclosure.

HEIGHT OF BUILDING/STRUCTURE. The vertical distance between the highest adjoining ground level at the building and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

HOME OCCUPATION. An occupation which is customarily and traditionally conducted within a dwelling by its occupants and is clearly incidental and secondary to the principal use of the dwelling; and does not change the character thereof or exhibit any exterior evidence of such secondary use.

HOTEL. A building in which lodging or boarding and lodging are provided and offered to the public for compensation and which is open to transient guests. Customary hotel services such as maid service, furnishing and laundering of linen, telephone and desk service, and the use and upkeep of furniture shall be provided.

INCOMPATIBLE USE. A use or service which is unsuitable for direct association with other uses because it is contradictory, incongruous or discordant with respect to sight, sound, odor, vibration or any other injurious or offensive variable.

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

INSTITUTION. A building or premises occupied by a non-profit corporation or establishment for public use.

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JUNKYARD. Any open area of any lot or parcel where waste, discarded or scrap materials are bought, sold, exchanged, baled or packed, disassembled, kept, stored or handled, including scrap metals or scrap materials, or the abandonment or dismantling of machinery, motor vehicles or other vehicles, or parts thereof. A **JUNKYARD** does not include uses established entirely within enclosed buildings.

KENNEL. Any lot or parcel of land where 3 or more small animals over 4 months of age are boarded for compensation or where dogs are bred or raised on a commercial scale.

LAND USE. A description of how land is occupied or utilized.

LANDSCAPING. Plantings such as trees, grass, and shrubs.

LINEAR BLOCK. That property abutting 1 side of a street between the 2 nearest intersecting or intercepting streets, natural barrier, or between such cross-street and the end of a dead end or cul-de-sac. Where a street curves so that any adjacent 100-foot chords thereof form an angle of 120 degrees or less, measured on the lot side, such curve shall be construed as an intersecting street.

LIVESTOCK. Cattle, horses, sheep, goats, poultry, swine and large wild and/or exotic animals.

LOADING SPACE, OFF-STREET. Space logically and conveniently located for bulk pick-ups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when off-street parking spaces are filled.

LOT. A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yard and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street. In no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.

LOT AREA. The area of horizontal plane bounded by the front, side and rear lot lines, but not including any area occupied by the waters of a recorded lake or river.

LOT, CORNER. A lot situated at the intersection of 2 streets with 2 adjacent sides abutting a street for their full length.

LOT, COVERAGE. The part of percentage of the lot occupied by buildings or structures, including accessory buildings or structures.

LOT DEPTH. The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rear most points of the side lot lines in the rear. **LOT DEPTH** is also measured as the horizontal distance between the front line and rear lot line.

LOT, DOUBLE FRONTAGE. A lot having 2 opposite lot lines along 2 more or less parallel public streets, and which is not a corner lot. On a **DOUBLE FRONTAGE LOT** both lot lines abutting the

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street shall be deemed front lot lines. Also, known as a through lot.

LOT, INTERIOR. Any lot which is not a corner lot.

LOT LINE, FRONT. Any lot line which is along an existing or dedicated public street.

LOT LINE, REAR. A lot line which is most distant from, and is, or is most nearly, parallel to the front lot line. In the case of a lot pointed at the rear, the **REAR LOT LINE** shall be that assumed line parallel to the front lot line, not less than 10 feet long, lying most distantly from the front lot line and wholly within the lot. With the exception of a double frontage lot, every lot shall have a **REAR LOT LINE**.

LOT LINE, SIDE. Any lot line not a front or rear lot line.

LOT OF RECORD. A lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder or a lot described by metes and bounds, the deed to which has been recorded in the office of the County Recorder.

LOT SIZE. The total area within the lot lines of a lot, excluding any street right-of-way.

LOT, THROUGH. A lot that has a pair of opposite lot lines along 2 substantially parallel streets, and which is not a corner lot. On a **THROUGH LOT**, both street lot lines shall be deemed front lot lines.

LOT WIDTH. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line. (Note: See yard definitions also.)

MANUFACTURING - HEAVY. All manufacturing, compounding, processing, packaging, treatment or assembly of products and materials that may emit objectionable and offensive influences beyond the lot on which the use is located.

MANUFACTURING - LIGHT. All uses which include the compounding, processing, packaging, treatment or assembly of products and materials provided such use will not generate objectionable influences that extend beyond the lot on which the use is located.

MAUSOLEUM. A building with places for entombment of the dead above ground.

MAY. For purposes of this chapter, means permissive.

MINI-WAREHOUSE. A structure containing separate storage spaces of varying sizes leased or rented on an individual basis.

MOBILE HOME/MANUFACTURED HOME. A structure, transportable in 1 or more sections, which in the traveling mode is 8 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

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includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the state of Minnesota and complies with the standards established under M.S. Ch.327, as it may be amended from time to time.

MOBILE HOME PARK. A lot, parcel or tract of land upon which 2 or more occupied mobile homes are sited either free of charge or for revenue purposes, including any building, structure, or enclosure used or intended for use as a part of the equipment of such mobile home park.

MOTEL. Any building or group of buildings containing guest rooms primarily for the temporary occupancy for use by transient guests. Such building or group of buildings may include quarters for the use of the operating personnel.

MOTOR FREIGHT TERMINAL. A building or area in which freight brought by motor truck is transferred and/or stored for movement.

MOTOR FUEL STATION. See service station.

MOTOR FUEL STATION CONVENIENCE STORE. A store operated in conjunction with a motor fuel station for the purpose of offering for sale goods not essential to the motoring public.

MOTOR VEHICLE. Any passenger vehicle, truck, truck-trailer, trailer or semi-trailer propelled or drawn by mechanical power.

NON-CONFORMING BUILDING OR USE. Any building or use or building and use which does not comply with all of the regulations of this chapter or of any amendment hereto for the zoning district in which it is located.

NON-CONFORMING LOT OF RECORD. Means any legal lot of record that at the time it was recorded fully complied with all applicable laws and ordinances but which does not fully comply with the lot requirements of this chapter concerning minimum area or minimum lot width.

NOXIOUS MATTER OR MATERIALS. Material capable of causing injury to living organisms by chemical reaction, or capable of causing detrimental effects on the physical or economic well-being of individuals.

NURSING HOME. A building or structure having accommodations and where care is provided for invalid, infirmed, aged, convalescent or physically disabled or injured persons, in which 3 or more persons not of the immediate family are received, kept and provided with food and shelter for compensation.

OFF-STREET LOADING SPACE. A space accessible from a street, alley or driveway for the use of trucks while loading or unloading merchandise or materials. Such space shall be of such size as to accommodate 1 truck of the type typically used in the particular business.

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OPEN SALES LOT. Any land used or occupied for the purpose of buying and selling new or secondhand passenger cars and/or trucks, motor cycles, motor scooters, farm and lawn equipment, boats, trailers, ATV's, golf carts, aircraft construction equipment and monuments and for the storage of same prior to sale. **OPEN SALES LOTS** shall have a principal building.

OPEN SPACE. Land used for recreation, resource protection, amenity and/or buffers. In no event shall any area of a lot constituting the minimum lot area nor any part of an existing or future road or right-of-way be counted as constituting open space. An area undeveloped and left in a natural state.

OPEN STORAGE. Storage of materials and products outside of a building.

OVERLAY ZONING DISTRICT. An overlay district is a special zone that is drawn on a map outlining a significant resource, such as an airport, shoreline or historic district. These districts are used as tools for dealing with special situations or accomplishing special goals. **OVERLAY ZONING DISTRICTS** can be placed over the base zoning for an area to alter some of the regulations.

OWNER OR PROPERTY OWNER. The fee owner of land or the beneficial owner of land, whose interest is primarily one of ownership or possession and enjoyment in contemplation of ultimate ownership. The terms includes, but not limited to, mortgages and vendees under contract for deed.

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

PARKING LOT. A parcel of land devoted to unenclosed parking spaces.

PARKING SPACE. A graded and surfaced area of not less than 200 square feet plus necessary maneuvering space for the parking or storage of a motor vehicle, which affords satisfactory ingress and egress to a street or alley.

PARTY WALL. A common shared wall between 2 separate structures, buildings, or dwelling units.

PERMITTED USE. A use which may be lawfully established in a particular zoning district provided it conforms with all applicable requirements and regulations of such district and this chapter.

PERSON. Any individual, corporation, firm, partnership, association, organization or other group acting as a unit. It also includes any executor, administrator, trustee, receiver or other representative appointed by law.

PLANNED UNIT DEVELOPMENT (PUD). A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

PLANNING COMMISSION. A 6-member commission appointed by the City Council which

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reviews and initiates applications for amendments and changes to the Zoning Ordinance. They also, review applications i.e. appeals, conditional uses, and variances, and make recommendations to either the City Council or Board of Appeals and. All their actions and recommendations shall require a simple majority of its members attending official Commission meetings.

PREMISES. A tract of land together with all structures thereon.

PRINCIPAL USE. The main use of land or structures as distinguished from an accessory use.

PORCH, UNENCLOSED. An entrance to a building which may include steps, a landing, railings and a roof but not enclosed either partially or completely above the landing by windows, screens or siding.

PUBLIC USES. Municipal, county, school district, state, federal and other public uses.

PUBLIC UTILITY. Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing to the public under governmental regulation electricity, gas, steam, water, sewage disposal, communication or transportation facilities.

RECREATIONAL CAMPING VEHICLE. The words ***RECREATIONAL CAMPING VEHICLE*** shall mean any of the following:

(a) Travel trailer means a vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreational or vacation use.

(b) Pick-up coach means a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

(c) Motor home means a portable temporary dwelling to be used for travel, recreation and vacation and constructed as an integral part of a self-propelled vehicle.

(d) Camping trailer means a folding structure mounted on wheels and designed for travel, recreation and vacation use.

RETAIL SALES. Stores and shops selling personal services or goods.

RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or other special use.

ROAD. A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place, or however otherwise designated.

ROADSIDE STAND. A temporary and unenclosed structure for the display and sale of agricultural products, produced or grown on the premises.

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SCREENING. The use of plant material, fences, or earthen berms to partially conceal and separate a land use from the surrounding land uses.

SERVICE STATION. Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, and minor repairs are conducted. **SERVICE STATIONS** shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body work are conducted.

SETBACK, BUILDING. The minimum horizontal distance between the line of a building or structure and the nearest specified property line.

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

SHALL. For purposes of this chapter, means mandatory.

SIGN. See definitions of signs under §§ 152.150 *et seq.*

SITE PLAN. A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land.

SPECIAL USE PERMIT. A permit issued by the City Council in accordance with procedures in this chapter which would enable the City Council to attach appropriate restrictions to a proposed use or conditions surrounding it.

STORM SHELTER. A structure or portion of a structure intended to provide protection to human life during periods of danger from storms or other emergencies.

STORY. That portion of a building included between the surface of any floor and the surface of the floor next above it, or the space between such a floor and the ceiling next above it. A basement shall be considered a **STORY** if its ceiling is over 5 feet above the average established grade.

STREET. A public way which affords the principal access to abutting property excepting a public alley. The term **STREET** shall include road, avenue, highway, boulevard, drive, lane, circle, place, court, parkway or other similar designation.

STREET, DEAD-END or CUL-DE-SAC. A street or roadway with only 1 vehicular traffic control.

STREET, PRIVATE. A street or roadway which is not dedicated to the community for public use.

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STRUCTURAL ALTERATION. Any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or exterior walls, beyond ordinary repairs and maintenance.

STRUCTURE. Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things **STRUCTURES** include buildings, walks, fences, billboards and poster panels.

SUBDIVISION. Means land that is divided for the purpose of sale, rent, or lease.

SWIMMING POOL. A water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above-surface pool, having a depth of more than 24 inches, designed, used and maintained for swimming and bathing.

TOWER. Any structure designed and constructed primarily for the purpose of supporting 1 or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and similar structures.

TOWNHOUSE/ROWHOUSE. A building comprised of single-family dwelling units erected in a row as a single building on adjoining lots, each unit having its own front and rear access to the outside, separated from the adjoining unit or units by 1 or more common fire walls extending from the basement floor to the roof along the dividing lot line and having a yard space on the front, rear and both sides.

TRUCK STOP. A motor fuel station devoted principally to the needs of trucks and which shall include eating and/or sleeping facilities.

USE. The purpose for which land or buildings thereon are designed, arranged or intended to be occupied or used or for which they are occupied or maintained.

USE, PERMITTED. A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards of such district.

USE, PRINCIPAL. The primary use of the land or structures as distinguished from an accessory use.

USE, SPECIAL OR CONDITIONAL. See conditional use.

VARIANCE. A modification or variation of the strict provisions of this chapter, as applied to a specific piece of property in order to provide relief for a property owner because of undue hardship or particular difficulty imposed upon him by this chapter. Economic considerations alone shall not constitute a hardship. A **VARIANCE** shall normally be limited to height, bulk, density and yard requirements. A modification in the allowable uses within a district must be done as a zoning ordinance amendment and not through a **VARIANCE**. Use **VARIANCES** are prohibited.

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VETERINARY. Those uses concerned with the diagnosis, treatment, and medical care of animals, including animal or pet hospitals.

WAREHOUSE. A building used primarily for the storage of goods and materials. See mini-warehouse.

WAREHOUSING. Terminal facilities for handling freight with or without maintenance facilities.

WHOLESALE. The selling of goods, equipment and materials by bulk to another business that in turn sells to the final customer.

YARD. A required open space not occupied by a building or buildings, open to the sky and on the same lot as the principal building. A **YARD** extends along a lot line, and to a depth or width specified in the yard requirements for the applicable zoning district.

YARD, FRONT. A yard extending across the full width of the lot and lying between the front lot line and a line at a distance therefrom as specified by the regulations.

YARD, REAR. A yard extending across the full width of the lot and lying between the rear lot line and a line at a distance therefrom as specified by these regulations.

YARD, SIDE. A yard between the side lot line and a line at a distance therefrom as specified by the district regulations. Interior **SIDE YARD** is a **SIDE YARD** which is located adjacent to another lot. Street **SIDE YARD** is a **SIDE YARD** which adjoins a public street. (Note: See lot definitions also.)

ZONING ADMINISTRATOR. The individual appointed by the City Council to administer and enforce the provisions of this chapter.

ZONING DISTRICT. An area or areas within the limits of the city for which the regulations and requirements governing land use are uniform.

ZONING MAP. The areas comprising these zoning districts and boundaries of said districts as shown upon the map, which is incorporated by reference as if appearing in total and made a part of this chapter being designated as the Official Zoning map for the city with all proper notations, references and other information shown thereon.

ZONING ORDINANCE. Part of an adopted local government code which establishes the type and amount of development that is permissible within defined zoning districts.
(Ord. 280, passed 7-21-2005)

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NON-CONFORMITIES

§ 152.025 NONCONFORMING STRUCTURES.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful subject to the following provisions:

(A) No such structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(B) Should such structure be destroyed by any means to an extent of more than 50% of its current appraised value, exclusive of the foundation, it shall not be reconstructed except in conformity with the provisions of this chapter. If less than 50% is damaged, exclusive of the foundation, it may be restored, reconstructed or used as before, provided that it is done within 12 months of such happening and that it be built of like or similar materials, or the architectural design and building materials are approved by the City Building Official after recommendations from the Planning Commission and appropriate officials.

(C) If the nonconforming structure is moved to another lot, it shall thereafter conform to the regulations for the district to which it is moved.

(Ord. 280, passed 7-21-2005)

§ 152.026 REPAIRS AND MAINTENANCE.

Any nonconforming structure or portion of a structure containing a nonconforming use may be maintained and improved by ordinary repairs or by repair or replacement of non-bearing walls, fixtures, wiring or plumbing if the cubic area was existing when it became nonconforming is not increased. This chapter does not prevent the strengthening or restoring of any structure or part declared to be unsafe by order of an official charged with protecting the public safety.

(Ord. 280, passed 7-21-2005)

§ 152.027 NONCONFORMING USE, LAND.

A nonconforming lawful use existing at the time this chapter becomes effective, may be continued provided:

(A) The nonconforming use shall not be expanded or extended either on the same or adjoining property.

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(B) If the nonconforming use of land, existing at the time this chapter became effective, is thereafter discontinued or changed, the future use of such land shall be in conformity with the provisions of this chapter.

(Ord. 280, passed 7-21-2005)

§ 152.028 NONCONFORMING USE, CHANGE.

A nonconforming use can not be changed to a comparable nonconforming use. Once a use has been brought into conformity with regulations of the district, it must remain in conformity.

(Ord. 280, passed 7-21-2005)

§ 152.029 NONCONFORMING USE, DISCONTINUANCE.

In the event that a nonconforming use is discontinued for a period of 6 months, any future use shall conform to the provisions of this chapter.

(Ord. 280, passed 7-21-2005)

§ 152.030 NONCONFORMING USE, ZONE CHANGE.

The above provisions shall apply to buildings, land and uses which may become nonconforming due to classification or reclassification of districts under this chapter.

(Ord. 280, passed 7-21-2005)

GENERAL REGULATIONS AND PERFORMANCE STANDARDS

§ 152.045 GENERAL REGULATIONS AND PERFORMANCE STANDARDS.

(A) The following general regulations and performance standards of this subchapter shall apply equally to all districts within this chapter except where special provisions provide otherwise. It is not intended by this chapter to repeal, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

(B) The general regulations and performance standards established in this subchapter are designed to encourage high quality residential and business development by providing assurance that neighboring land uses will be compatible. The general regulations and performance standards are also designed to prevent and eliminate those conditions that cause blight.

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(C) All future development in the city shall be required to meet these standards. The standards shall also apply to existing development where so stated. The Zoning Administrator shall be responsible for enforcing these standards and may require the submission of information showing compliance or noncompliance with the standards.

(D) Before any building or land use permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to the general regulations and performance standards. The developer shall supply additional data about the proposed use (such as equipment to be used, hours of operation, method of refuse disposal, type and location of exterior storage, etc.), where required to do so by the Zoning Administrator. It may occasionally be necessary for a developer or business to employ specialized consultants to demonstrate that a given use will conform with any general regulation and/or performance standard.

(Ord. 280, passed 7-21-2005)

§ 152.046 ACCESSORY BUILDINGS AND USES.

Accessory Buildings and Uses are allowed in the Ag, Agricultural District, R-1, Low Density Residential District, R-2, High Density Residential District, B-1, Highway Business, B-3, Central Business, I-1, Light Manufacturing / Industrial District, and I-2, Heavy Manufacturing / Industrial Districts with a land use permit and must comply with the following requirements:

(A) Requirements for all accessory buildings and uses are as follows:

(1) Accessory buildings and uses must be incidental and customary to the permitted uses allowed, or by conditional use permit in the same zoning district as the principal use. Examples of accessory buildings include, but are not limited to: landscaping and decorative features, swimming pools, fallout shelters, tennis courts, home occupations, home offices, provided that the standards of section 152.085 -152.088 are met, and additional private and private-club recreational use, all non-commercial, play and recreational facilities which are operated for the enjoyment and convenience of the residents and their occasional guests, personal satellite dishes / antennas, signs as provided under section 152.150 – 152.158, tool houses, private garages, and off-street parking per section 152.120 -0152.123.

(2) Accessory buildings shall not be constructed prior to the time of construction of the principal building to which it is accessory.

(3) All accessory buildings and uses shall be located a minimum of 10 feet to the rear of the principal use, 10 feet from a side property line and 10 feet from a rear property line or alley right-of-way.

(4) On a through lot, no accessory building shall be located closer to the rear property line than the distance required for front yard setbacks.

(B) Requirements for all accessory buildings in Residential Districts:

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(1) No accessory building shall be used for dwelling purposes.

(2) All accessory buildings and uses shall be situated on the same lot.

(3) Accessory buildings are permitted only for the purpose of personal use and the storage of personal belongings.

(4) No accessory building shall contain more than 30 feet of vehicle door openings as measured horizontally.

(5) Accessory building and uses shall not exceed 1,400 square feet of floor area except by conditional use permit. In no case shall the accessory building be larger than the principal building.

(6) Accessory buildings and uses in Residential Districts shall not exceed 1 story or 20 feet in height, and in no case will the accessory building exceed the height of the principal building.

(7) A garage attached to the principle building is considered an accessory building. No attached garage shall exceed 1,000 square feet in size.

(8) There shall be a maximum of two accessory buildings per residential lot.

(9) Accessory buildings shall be of the same or similar aesthetics of the principle building in order to preserve the general appearance and be in keeping with the neighborhood area.

(10) No building of any kind shall be erected until the structure complies with the zoning and other codes of the City.

(C) Additional requirements for detached accessory buildings and uses in Residential Districts.

(1) No detached accessory buildings or uses are permitted to be located within the limits of a front yard.

(2) No detached accessory building or uses on a corner lot shall project beyond the front yard setback requirement of the principal building.

(D) Requirements for accessory buildings and uses in Business and Manufacturing Districts.

(1) In Business and Manufacturing Districts, accessory buildings and uses maybe placed in rear and side yards, but must not project beyond the principal building in the front yard. Exceptions to this requirement are shown below in subdivision (D)(2). Accessory buildings are subject to the building code, and the fire zone regulations.

(2) Accessory buildings such as buildings for parking attendants, guard shelters, gate houses and transformer buildings may be located in front of the principal building in Manufacturing Districts.

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(3) Accessory buildings that exceed the height of the principal building are allowed only through a conditional use permit. Except for structures not included in height of building, all accessory buildings must meet the height requirements of the district in which they are located.

(Ord. 280, passed 7-21-2005, amended by Ord. 2020-04 passed 5-4-2020)

§ 152.047 ADJACENT LOTS AND LOTS OF CONTINUOUS FRONTAGE IN SINGLE OWNERSHIP.

(A) If 2 or more lots or combination of lots and portions of lots with continuous frontage or common property line are in single ownership, the following provisions shall apply. No building, structure or use shall be constructed, altered, expanded or developed except in conformity with these provisions and such other applicable provisions of this chapter.

(B) Each individual lot of record shall be dealt with as an individual lot in all cases, even though in common ownership with adjacent lots of record. Nothing shall prohibit the legal joining together of separately described lots or parcels.

(C) No new or existing structure or use on a lot of record shall be constructed, altered or expanded in any manner which would be at variance with the provisions of this chapter. Common ownership with adjacent parcels shall not be considered grounds for a variance.

(Ord. 280, passed 7-21-2005)

§ 152.048 LOT AREA REQUIREMENTS.

No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed herein, nor shall the number of dwelling units be increased in any manner except in conformity with the area regulations herein prescribed, nor shall the area of any lot be reduced below the minimum requirements herein established.

(Ord. 280, passed 7-21-2005)

§ 152.049 USE REGULATIONS.

Only the following uses and their essential services shall be allowed in any district:

(A) Principal uses - specified for a district.

(B) Accessory uses - and structures are permitted in any district but not until their principal structure is present or under construction. Uses accessory to Residential District developments shall not involve the conduct of any business trade, or industry except for home and professional occupations as defined herein. An accessory structure cannot be occupied as a separate dwelling unit.

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(C) Conditional uses - and their accessory uses shall be permitted in specified districts after review, public hearing, recommendation by the Planning Commission, and approval by the City Council in accordance with procedures and standards established in this chapter.

(D) Uses not specified - in this chapter may be permitted by the City Council after the Planning Commission has made a review and written recommendation and provided that such uses are similar in character to the permitted uses in the district.

(Ord. 280, passed 7-21-2005)

§ 152.050 BUILDING ACCESS.

Every building erected, moved or structurally altered, shall be on a lot or parcel having a frontage on a public street or road. All structures shall be located on lots so as to provide required off-street parking and the safe and convenient access for fire protection.

(Ord. 280, passed 7-21-2005)

§ 152.0501 ACCESS DRIVEWAYS.

(A) The distance from a driveway to the intersection of two streets shall not be less than 20 feet measured along the street curb line from the point of intersection of the property line extended and the curb line to the point of tangency of the curb return of the driveway with the street curb line, provided, however, that if, in the opinion of the City Engineer, present or future traffic conditions warrant greater distances, such greater distances shall be required, subject to approval by the City Council. The distance from a driveway to the intersection of 2 thoroughfares shall be no less than 100 feet as measured in the same manner.

(B) The minimum distance between driveways shall be 25 feet measured from the point of tangency of the street curb line with the curb return of the driveway; provided however, that if, in the opinion of the City Engineer, present or future traffic conditions warrant greater distances, such greater distances shall be required, subject to approval by the City Council.

(C) The driveway angle to the street shall be 90 degrees unless otherwise recommended by the City Engineer and approved by the City Council.

(D) The distance from a driveway to the property line of an adjacent property shall not be less than 5 feet measured along the street curb line between the point of intersection of the street curb line with the property line extended and the point of tangency of the street curb line with the curb return of the driveway unless otherwise recommended by the City Engineer and approved by the City Council.

(E) Access driveways for other than single family dwellings, shall be 30 feet wide measured along the property line between the curb faces of the driveway unless otherwise recommended by the City Engineer and approved by the City Council.

(F) Access driveways for single family dwellings shall be not less than 12 feet, nor more than 24 feet

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wide measured along the property line between curb fences of the driveway unless otherwise recommended by the City Engineer and approved by the City Council.

§ 152.051 BUILDING AREA.

(A) Outside stairways, fire escapes, fire towers, porches, platforms, balconies, boiler flues and other similar projections shall be considered as part of the building and not allowed as part of the required space for yards, courts or unoccupied space.

(B) This provision shall allow 1 fireplace or 1 chimney projecting not more than 30 inches into the allowable side yard space. This provision shall allow roof overhangs not exceeding 24 inches in width. (Ord. 280, passed 7-21-2005)

§ 152.052 BUILDINGS UNDER CONSTRUCTION.

(Repealed and replaced with §150.09)

§ 152.053 DRAINAGE.

No land shall be developed and no use shall be permitted that results in water run-off, flooding, or erosion on adjacent properties. Such run-off shall be properly channeled into a storm drain, water course, ponding area or other public facility. (Ord. 280, passed 7-21-2005)

§ 152.054 DWELLING UNIT RESTRICTION.

Excluding the city's camping facility that has its own rules and regulations for short term camping, the following dwelling unit restrictions shall apply:

(A) No model home, garage, tent, accessory building, or recreational camping vehicle shall at any time be used as living quarters, temporarily or permanently, except as may be approved in emergency cases by the Zoning Administrator.

(B) Tents, play houses or similar structures may be used for play or recreational purposes. When adult supervision is present on the property, children are allowed to camp over night.

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(C) Basements may be used as living quarters or rooms as a portion of the principal residential dwelling. Living quarters and bedrooms in basements must follow the regulations of the Minnesota State Building Code for adequate sized windows for emergency egress.

(D) Energy conservation designs in housing, including earth sheltered residential dwellings, are not prohibited by this provision of the chapter, provided that a conditional use permit is approved by the City Council and the structure complies with standards imposed by the State and the Minnesota State Building Code.

(Ord. 280, passed 7-21-2005)

§ 152.055 FRONT YARD EXCEPTIONS.

(A) When the majority of residential or commercial buildings have been built in a block at the time of adoption of the ordinance creating this chapter, no building or structure hereafter erected or altered, shall project beyond the average setback line established by existing structures, provided no building will be required to set back more than 25 feet from the property line.

(B) In the following circumstances, a new residential structure may not be required to conform to the minimum setback requirements of the zoning district:

(1) Where adjacent structures within 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 only 1 adjacent structure, the front yard minimum setback shall be the average of the required setback and the setback of the adjacent structure. In no case shall the minimum front yard setback exceed the minimum requirement.

(2) Where the lot on which the new residential structure is proposed is between 2 adjacent existing developed residential lots with less than the required setback front yard setback, the average setback of both adjacent residential lots shall be observed as the minimum front yard setback.

(Ord. 280, passed 7-21-2005)

§ 152.056 GREENBELTS.

(A) In all Commercial and Industrial Districts adjacent to Residential Districts and not divided by streets there shall be provided along the property line an 8-foot wide planting strip composed of grass, trees and shrubs. Trees at least 1½ inches in diameter, shall be planted not more than 30 feet apart. Shrubs shall be planted not more than 5 feet apart and be at least 5 feet in height after 5 full growing seasons, and attain a height of 8 feet at maturity.

(B) A decorative masonry wall not less than 5 feet in height and not less than 8 inches in thickness may be substituted for the above greenbelt upon approval of the Planning Commission.

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(C) The greenbelt or wall area shall be maintained in an attractive condition at all times.
(Ord. 280, passed 7-21-2005)

§ 152.057 STRUCTURES, NOT INCLUDED IN HEIGHT OF BUILDING.

Chimneys, cooling towers, elevator bulk head, fire towers, drive-in movie theater screens, grain elevators, silos, stacks, tanks, water towers, water slides, pumping towers, radio or television towers, monuments, cupolas, and mechanical accessories pertaining to and necessary to the permitted use of the district in which they are located, shall not be included in calculating the height of principal structure.
(Ord. 280, passed 7-21-2005)

§ 152.058 LOT, DOUBLE FRONTAGE.

Double frontage lots shall maintain a yard on both streets conforming to the requirements for front yards on those streets.
(Ord. 280, passed 7-21-2005)

§ 152.059 LOT, CORNER.

Corner lots shall maintain a yard on both streets conforming to the requirements for front yards on those streets.
(Ord. 280, passed 7-21-2005)

§ 152.060 LOT OF RECORD.

A parcel legally created and existing at the time of passage of the ordinance creating this chapter need not conform to the lot width or lot area of the district in which it is located. If 2 or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter. No portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this chapter, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this chapter.
(Ord. 280, passed 7-21-2005)

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§ 152.061 MAINTENANCE.

In all districts, all structures, signs, required landscaping and fences shall be maintained so as not to be unsightly to the adjoining areas or created hazards to public health or safety.
(Ord. 280, passed 7-21-2005)

§ 152.062 SETBACK MEASUREMENTS.

All setbacks shall be measured from property lines.
(Ord. 280, passed 7-21-2005)

§152.0621 PROPERTY LINE LOCATION.

Prior to issuance of any building permit, the applicant or property owner shall locate and make visible for the Building Official, the property corner survey pins and identify the property lines around the proposed improvement area. If the Building Official has any reasonable doubt as to the location of the property survey pins or the property lines, then the City may require the owner to cause the property to be surveyed before a permit is issued.

§ 152.063 FENCES, HEDGES, SHRUBBERY, WALLS, AND OBSTRUCTIONS IN ALL DISTRICTS.

This section is intended to provide for the regulation of the height and location of fences, walls, hedges, shrubbery and similar obstructions, for the purpose of providing for light, air, and privacy and safeguarding the public welfare by preventing visual obstructions at street and highway intersections.

(A) *Permits required.* All fence and wall construction shall require a permit from the Zoning Administrator.

(B) *Height.* For the purpose of this section, **HEIGHT** shall mean the vertical distance from existing grade to the top of the fence, hedge, shrubbery, or wall, except in the front and side yard setback where the finished grade is lower than the existing grade, height shall be measured from the finished grade.

(1) *All Residential Districts; front and corner yard setbacks.* No fence, hedge, shrubbery, or wall over 42 inches in height shall be permitted within any required front and corner setback.

(2) *Rear and side setbacks.* No fence, hedge, shrubbery, or wall greater than 6 feet in height shall be permitted within any required rear setback or side setback. Should the rear lot line be common with the side lot line of an abutting lot, that portion of the rear lot line equal to the required front yard of the abutting lot shall not be fenced to a height of more than 42 inches.

(3) *Corner lots in all districts.* No fence, hedge, shrubbery, wall, or other obstruction to vision

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over 42 inches in height shall be permitted within the clear view triangle of an intersection as is described below in this section in division (C).

(4) *Business and Industrial Districts.* Fences and walls located in Business and Industrial Districts that exceed the height of 8 feet, measured from its top edge to the ground at any point, shall require a conditional use permit.

(5) *Tennis court fences.* Fences up to 10 feet in height may be permitted to enclosed tennis courts provided all other requirements of this chapter are met, and shall not require a conditional use permit where a tennis court is permitted as an accessory use or when the court is given a conditional use permit.

(6) *Swimming pool fences.* See division (G) below for height requirements.

(C) *Clear view triangle.* On a property located at a street intersection, it shall be unlawful for the owner or occupant to install, set out, maintain or to permit the installation or maintenance of any sign, fence, hedge, tree, shrubbery, natural growth, construction, or other obstructions between a height of 3 feet and 10 feet above the existing ground elevation; and within the triangle formed by measuring 30 feet of any street corner measured from the point of the nearest intersecting curbs or curblines. (If there are no curbs, the edge of the traveled portion of the street or road shall be used instead of the curb line.) On any property which is located at an intersection of an alley with a street, the triangular area is formed by connecting points 20 feet from such point of intersection. It is hereby declared that any such installation or obstruction within the clear view triangle as herein defined is a public nuisance, encumbrance, and/or obstruction to the public streets.

(D) *Fences and walls placed on property lines.*

(1) Fences and walls may be placed along property lines provided no damage of any kind results to abutting property.

(2) Prior to issuance of a building permit for any fence, abutting property owners shall be notified.

(3) That side of the fence considered to be the face (facing as applied to fence posts) shall face abutting property.

(E) *Fences within 3 feet of property lines.*

(1) Any fence/wall may be placed 3 feet from the property line without notifying adjoining property owners.

(2) Fences, hedges or walls can be placed no closer than 3 feet to any public right-of-way.

(F) *Construction.* All fences hereafter erected shall have the structural components thereof facing the side of the property for and on which the same are erected.

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(G) *Swimming pools and hot tubs.* All swimming pools and hot tubs shall be provided with safeguards to prevent children from gaining uncontrolled access. Every owner of an outdoor swimming pool or hot tub located in the city shall erect and maintain a fence or barrier of not less than 4 feet in height nor more than 8 feet in height around such swimming pool of such construction as to safeguard the area. The structural sides of an above-ground swimming pool may be used to satisfy a portion of the fence height requirement. The fence should have a maximum clearance from the ground of 3 inches; and shall be equipped with self-closing door and latches not less than 4 feet above the ground. Fences shall be of a non-corrosive material and shall be constructed as to be not easily climbable. All fencing shall be in place and approved by the City's Building Inspector before water is run into the pool. Spas and hot tubs with a locking safety cover which complies with ASTM F 1346-91 shall be exempt from these barrier requirements.

(H) *Easements.* No fence shall be erected upon or within any platted or otherwise designated easement without the prior written approval of the Zoning Administrator.

(I) *Snow fences.* Utility snow fences may be used only during the winter months and shall be removed at the end of each winter season.

(J) *Maintenance.* Every fence shall be maintained in a good and safe condition at all times. Every damaged or missing element of any fence shall be repaired or replaced immediately. Fences must be maintained so as not to endanger life or property.

(K) *Approved material.* A fence shall be constructed of stone, brick, finished wood, durable vinyl or other durable plastic materials, ornamental non-corrosive aluminum or iron, or chain link.

(L) *Prohibited fences.* The following fences are prohibited:

(1) No fence constructed wholly or in part of barbed wire shall be located in the city, except in any industrial, utility areas and AG Districts. Within these industrial and utility areas, the barbed wire fence may be placed above the top of other fencing not less than 6 feet, 6 inches high and none of which may be within 5 feet of any public street, alley or sidewalk. Within AG Districts, barbed wire fences may be used to fence in livestock. Barbed wire fences shall require a conditional use permit.

(2) Chicken wire, welded mesh wire and electrically charged wire fences.

(3) Fences made of solid plywood, scrap lumber, temporary fencing and similar non-customary materials.

(4) Fences made of common concrete or cinder block.

(5) Fences on any portion of any public right-of-way, except fences erected by a governmental entity.

(6) Fences so constructed as to prevent natural water drainage and/or water runoff.
(Ord. 280, passed 7-21-2005)

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§ 152.064 RETAINING WALLS.

(A) *Purpose.* The purpose of this section is to protect public and private property from the effects of poorly designed and constructed retaining walls.

(B) *Permit required.* A permit shall be required for all retaining walls constructed that exceed 42 inches in height, including terraced retaining wall projects where the total height of all walls exceeds 42 inches and are closer than 15 feet to a property line. The height requirements shall meet the requirements of § 152.063(C), clear view triangle.

(C) *Application.* Application shall be made to the Zoning Administrator on forms provided and shall include a site plan and a set of construction plans. Plans signed by a professional engineer registered in the state and/or other information necessary to adequately review the proposed retaining wall may also be required by the Zoning Administrator.

(D) *Setbacks.* Setbacks for retaining walls shall be the same as for fences.

(E) *Maintenance.* Every wall shall be maintained in a good and safe condition at all times. Every damaged or missing element of any wall shall be repaired or replaced immediately. Walls must be maintained so as not to endanger life or property and any wall which through lack of repair, type of construction or otherwise that imperils health, life or property, or the well-being of a neighborhood shall be deemed a nuisance.

(Ord. 280, passed 7-21-2005)

§ 152.065 SEWER AND WATER PROVISIONS.

(A) All sewage facilities shall be directly connected to community sewer facilities when available and separately metered. Where sewers are not constructed or in operation, all sewage facilities shall be connected to individual sewage disposal systems approved by the City Engineer and in accordance with any applicable regulations of state agencies. This provision shall not apply to temporary construction sites, or portable units used in farming operations.

(B) All water shall be procured from the public water system when available. Where it is not feasible to connect to a public water supply or if on-site water supplementation is required, a well may be drilled in accordance with the specifications and provisions of the Minnesota Department of Health, Water Well Construction Code.

(Ord. 280, passed 7-21-2005)

§ 152.066 STORAGE STANDARDS.

Besides the storage regulations found within the city's nuisance ordinance, the following storage standards shall apply:

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(A) *Exterior storage in Residential Districts.* All materials and equipment shall be stored within a building or fully screened (so as not to be visible) from adjoining properties, except for the following: laundry drying and recreational equipment, construction and landscaping materials and equipment currently being used for construction on the premises, agricultural equipment and materials if these are used or intended for use on the premises, off-street parking except as otherwise regulated herein. Boats, recreational vehicles and recreational camping vehicles, less than 35 feet in length, are permissible if stored in the rear or side yard not less than 10 feet distant from any property line.

(B) *Exterior storage in Business and Manufacturing Districts.* Exterior storage in Business and Manufacturing Districts shall meet the following requirements:

(1) *Governed by respective zoning district.* Exterior storage and display shall be governed by the respective zoning district in which the use is located.

(2) *Setback requirements.* All exterior storage shall conform with all building setback requirements.

(3) *Location, screening.* All exterior storage shall be located in the rear or side yard and shall be screened so as not to be visible from adjoining properties and public streets except for the following permitted activities:

(a) Materials and equipment currently being used for construction on the premises.

(b) Merchandise being displayed for sale in accordance with zoning district requirements. The merchandise being displayed may not use space required as a parking lot, except which is allowed below in this section under seasonal unenclosed areas and temporary, outdoor promotional events.

(c) The following merchandise shall not be given an exception under this section, and thus must meet the exterior storage requirements described above:

1. Automobiles, trucks, tractors and other motorized vehicles which are incapable of movement under their own power due to mechanical deficiency.

2. Parts for vehicles and machinery.

(4) *Located on durable and dustless surface and to include storm drainage management facilities.* All exterior storage areas must be on a durable and dustless surface and include storm drainage management facilities as required by the city. The 1 exception to this section is that for storage areas in Manufacturing Districts may have a gravel surface, provided the storage area is used only to store heavy machinery and the access to the storage area is not less than 100 feet from a public right-of-way.

(5) *Seasonal open displays.* The unenclosed sale and display of cut Christmas trees, wreathes, tree branches, pine cones, holly and related plant items during the months of November and December, and the unenclosed sale and display of plants and garden supplies during the months of April through August,

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shall be permitted as an accessory use, provided that the sale and display is conducted in connection with the operation of an existing retail use in a Business District, and that the area used for the unenclosed sale and display does not exceed 20% of the area of the parcel containing buildings or use more than 20% of the required parking lot.

(6) *Temporary, outdoor promotional events.* Temporary, outdoor promotional events which include activities such as grand openings, craft shows, flea markets, sidewalk sales shall be allowed up to 4 days in length and not more than 2 times a year per property.

(C) *Bulk storage (liquid).* All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall comply with the requirements of the Minnesota State Fire Marshall, the Minnesota State Pollution Control Agency (PCA), the United States Environmental Protection Agency (EPA) and have documents from those offices stating that the use is in compliance. Buried gas and/or diesel bulk storage for vehicles are not permitted in Residential Districts.

(Ord. 280, passed 7-21-2005)

§ 152.067 TRAFFIC CONTROL.

(A) The traffic generated by any use shall be channelized and controlled in a manner that will avoid

- (1) Congestion on the public streets,
- (2) Traffic hazards, and
- (3) Excessive traffic through residential areas, particularly truck traffic.

(B) Internal traffic shall be so regulated as to insure its safe and orderly flow. Traffic into and out of business and industrial areas shall in all cases be forward moving with no backing onto streets.

(Ord. 280, passed 7-21-2005)

§ 152.068 BUILDING RELOCATION.

(A) *Review process.* The relocation of any building or structure on a lot or onto another lot within the city shall be subject to approval of a conditional use permit. Accessory buildings less than 120 square feet in floor area shall be allowed without issuance of a conditional use permit, but shall comply with all other provisions of this chapter.

(B) *Performance standards.*

(1) Upon relocation, the building shall comply with the applicable requirements of the Minnesota State Building Code.

(2) The proposed relocated building shall comply with the character of the neighborhood in

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which it is being relocated as determined by the City Council or Building Official.

(3) The relocated use will not result in a depreciation of neighborhood or adjacent property values.

(4) Except as otherwise allowed by the City Council or Building Official, the relocated structure shall be ready for occupancy within 6 months from the date of location on the site.
(Ord. 280, passed 7-21-2005)

§ 152.069 INTERFERENCE WITH TRAFFIC SIGNALS.

No sign, structure, tree, planting, or vegetation or any portion thereof shall protrude over or into any street so as to create confusion around, or otherwise interfere with, traffic signals of any kind.
(Ord. 280, passed 7-21-2005)

§ 152.070 DUMPING AND DISPOSAL OF EXCAVATED MATERIALS.

The dumping of dirt, rock or other earthen material is permitted in any district not part of a drainage channel provided the surface of such material is graded within a reasonable period of time in a manner preventing the collection of stagnant water and that the ground surface is left in a condition suitable for growing of turf or for other land uses permitted in the district. This shall not prevent the development of the property for its best use when adequate facilities are provided to maintain the primary purpose of the drainage way or flood plain, i.e. the uninterrupted flow of surface water.
(Ord. 280, passed 7-21-2005)

§ 152.071 ESSENTIAL SERVICES.

Essential services shall be allowed in all zoning districts. Essential services is defined under the definition section of this chapter.
(Ord. 280, passed 7-21-2005)

§ 152.072 TELECOMMUNICATION TOWERS AND ANTENNAE PERFORMANCE STANDARDS.

(A) *Purpose.* To meet the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the city finds that this section is necessary in order to:

(1) Facilitate the provisions of the wireless telecommunications services to the residents and businesses of the community;

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(2) Through setback requirements and structural standards, avoid potential damage to adjacent properties from tower failure;

(3) Minimize adverse visual effects of towers through careful design and siting standards;

(4) Reduce the number of towers necessary to serve the area by maximizing the use of existing and approved towers and buildings that can accommodate new wireless telecommunication antennas;

(B) *Consistency with federal law.* In addition to other findings required by this section, the city shall find that its decision regarding an application is intended to be consistent with federal law, particularly the Telecommunications Act of 1996. This section does not:

(1) Prohibit or have the effect of prohibiting the provision of personal wireless services;

(2) Unreasonably discriminate among providers of functionally equivalent wireless services; or

(3) Regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the Federal Communications Commission (FCC) regulations concerning such emissions.

(C) *Definitions.*

ANTENNA. Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and omni-directional antennas, such as whip antennas.

COMMERCIAL WIRELESS TELECOMMUNICATION SERVICES. Licensed commercial wireless communication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

ESSENTIAL SERVICES. Overhead or underground electrical, gas, steam, or water transmission or distribution systems and structures or collection, communication, supply, or disposal systems and structures used by public utilities or governmental departments or commissions or as are required for the protection of the public health, safety, or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes and accessories in connection therewith but not including buildings. For the purpose of this chapter, commercial telecommunication service facilities shall not be considered public utility uses, and are defined separately.

RFI. Radio frequency interference.

RFR. Radio frequency radiation.

TOWER. Any ground or mounted pole, spire, steeple, structure, or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose

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of mounting an antenna, meteorological device, or similar apparatus above grade.

TOWER, MULTI-USER. A tower to which is attached the antennas of more than 1 commercial wireless telecommunication service provider or governmental entity.

TOWER, SINGLE-USER. A tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate the antennas of multiple users as required in this chapter.

(D) *Required permits.*

(1) Prior to any construction activities, the following permits must be secured from the city:

(a) A city building permit; and

(b) A conditional use permit, with attachments, as required by this chapter.

(2) An applicant for a telecommunications tower or facility permit must be a telecommunications provider or must provide a copy of its executed contract to provide land or facilities to an existing telecommunications provider to the city at the time that an application is submitted. A permit shall not be granted for a tower or facility to be built on speculation.

(3) No construction, alteration, modification (including the installation of antennas for new uses) or installation of any telecommunications tower or facility shall commence without a conditional use permit first being obtained from the city.

(E) *Zoning district use.* Telecommunication towers and antennae shall only be allowed in the Highway Business and Industrial Zoning Districts in the city upon the approval of the 2 permits required above. A building permit and a conditional use permit are both required in said Highway Business and Industrial Districts.

(F) *Conditional use permit.* The city may, by conditional use permit, authorize the use of city property for towers in accordance with the procedures of this code. The city has no obligation to allow the use of city property for this purpose.

(G) *Water tower or reservoir sites.* The city's water towers and reservoirs represent a large public investment in water pressure stabilization and peak capacity reserves. Protection of the quality of the city's water supply is of prime importance to the city. As access to the city's water storage systems increases, so too increases the potential for contamination of the public water supply. For these reasons, the placement of antennas or towers on water tower or reservoir sites will be allowed only when the city is fully satisfied that the following requirements are met.

(1) The applicant's access to the facility will not increase the risks of contamination to the city's water supply;

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(2) There is sufficient room on the structure and/or on the grounds to accommodate the applicant's facility;

(3) The presence of the facility will not increase the water tower or reservoir maintenance costs to the city; and,

(4) The presence of the facility will not be harmful to the health or workers maintaining the water tower or reservoir.

(H) *Application process.* All applicants who wish to locate an antenna or tower on city owned property must submit to the Zoning Administrator a completed application and detailed plan that complies with the submittal requirements of the Zoning Ordinance along with other pertinent information requested by the city.

(I) *Termination.*

(1) The City Council may terminate any lease if it determines that any 1 of the following conditions exist:

(a) A potential user with a higher priority cannot find another adequate location and the potential use would be incompatible with the existing use;

(b) A user's frequency broadcast unreasonably interferes with other users of a higher priority, regardless of whether or not this interference was adequately predicted in the technical analysis; or

(c) A user violates any of the standards in this policy or the conditions attached to the city's permission.

(2) Before taking action, the city will provide notice to the user of the intended termination and the reasons for it, and provide an opportunity, for the user to address the City Council regarding the proposed action. This procedure need not be followed in emergency situations.

(J) *Reservation of right.* Notwithstanding the above, the City Council reserves the right to deny, for any reason, the use of any or all city owned property by any 1 or all applicants.

(K) *Use of revenue.* All revenue generated through the lease of city owned property for towers and antennas shall be made payable to the city and transmitted to the city's Department of Finance.

(L) *Area, setback and height restrictions.*

(1) *Lot area.* The minimum lot area requirements are determined by the zoning district in which the tower development site is located and as determined by any additional area needed to meet all setback requirements of this chapter.

(2) *Tower setbacks.* The minimum setback from all property lines and public rights of way for

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telecommunications towers, exclusive of attached antennae, shall be equal to its height.

(3) *Height restrictions.*

(a) A maximum height for telecommunications towers is 150 feet, excluding attached antennae. Measurement of tower height must include the tower structure itself, the base pad, and any other telecommunications facilities attached thereto. Tower height is measured from grade.

(b) Notwithstanding the above, additional height may be approved upon a finding by the city that additional height is necessary in order to provide coverage in the city or to accomplish collocation of facilities and that the additional height will not cause an undue visual impact on the scenic character or appearance of the area.

(c) When the property is within the vicinity of the city's airport, the airport's zoning height requirements within various control zones shall take precedent over the limits shown above. Please refer to the city's airport zoning map and document for further information.

(M) *Collocation requirements.*

An application for a new telecommunications tower shall not be approved unless the city finds that the telecommunications facilities planned for the proposed tower cannot be accommodated on an existing or approved tower or structure due to 1 of the following reasons:

(1) The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility, as documented by a qualified engineer licensed to practice in the State of Minnesota. Additionally, the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.

(2) The proposed antennas and equipment would cause interference, materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility as documented by a qualified engineer licensed to practice in the State of Minnesota and such interference cannot be prevented at a reasonable cost.

(3) The proposed antennas and equipment, either alone or together with existing facilities, equipment or antennas, would create RFI in violation of federal standards or requirements.

(4) The proposed antennas and equipment, either alone or together with existing facilities, equipment or antennas, would create RFR in violation of federal standards or requirements.

(5) Existing or approved towers and structures cannot accommodate the planned equipment at a height necessary to function reasonably or are too far from the area of needed coverage to function reasonably as documented by a qualified engineer licensed to practice in the State of Minnesota.

(6) Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment

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upon an existing or approved tower or building.

(7) There is no existing or approved tower in the area in which coverage is sought.

(8) Other unforeseen specific reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.

(N) *Tower design requirements.* Proposed or modified towers and antennae shall meet the following design requirements:

(1) Towers and antennae shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities.

(2) Commercial wireless telecommunication service towers shall be of a monopole design unless the City Council determines that an alternative design would better blend in to the surrounding environment. Towers must be self-supporting without the use of wires, cables, beams, or other means.

(3) Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights when overall permitted height allows. Towers shall be designed structurally, electrically and in all respects to accommodate both the applicant's antennas and additional antennas when overall permitted height allows.

(O) *Construction requirements.*

(1) All antennae, towers, and accessory structures shall comply with all applicable provisions of this chapter.

(2) Towers shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Uniform Building Code and Electronics Industry Association.

(3) No part of any antenna or tower nor any lines, cable, equipment, wires, or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line.

(4) Towers and associated antennae shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.

(5) All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least 8 feet above the ground at all points, unless buried underground.

(6) Every tower affixed to the ground shall be protected by a security fence to discourage climbing of the tower by unauthorized persons.

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(7) Tower locations should provide the maximum amount of screening possible for off-site views of the facility. Existing on-site vegetation shall be preserved to the maximum extent practicable. The area around the base of the tower and any accessory structures shall be landscaped and/or screened.

(P) *Site plan requirements.* In addition to site plan requirements found elsewhere in this zoning ordinance or within Olivia's subdivision ordinance and building permit requirements, site plans for telecommunications facilities shall include the following supplemental information:

(1) *Location map.* A copy of a portion of the most recent USGS Quadrangle map showing the area within at least a 2-mile radius of the proposed tower site.

(2) *Vicinity map.* Vicinity map showing the entire vicinity within a 2,500-foot radius of the tower site, including the telecommunications facility or tower, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, historic sites and habitats for endangered species. It shall indicate the property lines of the proposed tower site parcel and all easements or rights of way needed for access from a public way to the tower.

(3) *Proposed site plans.* Proposed site plans of the entire development indicating all improvements including landscaping, utility lines, guy wires, screening and roads.

(4) *Elevations.* Elevations showing all facades and indicating all exterior materials and color of towers, buildings and associated facilities.

(5) *Construction sequences and time schedules.* Construction sequences and time schedule for completion of each phase of the entire project.

(6) *Scale.* Plans shall be drawn at a minimum at the scale of 1 inch equals 50 feet.

(Q) *Lights and other attachments.*

(1) No antenna or tower shall have affixed or attached to it in any way, except during time of repair or installation, any lights, reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Agency (FAA) or the Federal Communications Commission (FCC), nor shall any tower have constructed on, or attached to, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.

(2) The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

(R) *Accessory utility buildings.* All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the zoning district in which the tower site is located. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

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(S) *Screening standards.*

(1) When used, walls or fences must provide for full visual screening of accessory buildings or storage areas, as viewed from residential areas and state and county roads;

(2) The materials used for constructing the wall or fence shall be specified in the site plan and shall be subject to recommendation by the Planning Commission and approval by the City Council;

(3) Berms, if used, shall be constructed with a slope not to exceed 3:1 and shall be covered with sod or other landscape material sufficient to prevent erosion of the berm.

(4) Trees, hedges or other vegetative materials, when used, must provide at least 75% screening capacity throughout the year. Such screening must also conform to all vegetative setback requirements of this Code.

(T) *Security.* Towers must be reasonably secured to protect against trespass. Appropriate signage shall be posted indicating that trespassing and/or vandalism to the property may be punishable under local, state, or federal laws.

(U) *Access.* Parcels upon which towers are located must provide access during normal business hours to at least 1 paved vehicular parking space on site.

(V) *Maintenance requirements.*

(1) The yard area in front of fences and walls shall be trimmed and maintained in a neat and attractive manner.

(2) Repairs to damaged areas of walls or fences shall be made within 30 days of sustaining said damage.

(3) Areas left in a natural state and vegetative screening areas shall be properly maintained in a sightly and well kept condition.

(4) Diseased, dying, or dead vegetative screening elements shall be removed and then replaced, at a minimum, with healthy plants of the same size required when first planted.

(5) The telecommunications facility owner shall maintain adequate insurance on all telecommunications facilities.

(W) *Abandoned or unused towers or portions of towers.*

(1) All abandoned or unused towers and associated facilities shall be removed within 6 months of the cessation of operations at the site unless a time extension is approved by the City Council. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and any associated

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facilities upon the cessation of their operations shall be submitted at the time of application. In the event that a tower is not removed within 6 months of cessation of operations at a site, the tower and associated facilities may be removed by the city and the cost of removal assessed against the property.

(2) Unused portions of towers above manufactured connection shall be removed within 6 months of the time of antenna relocations. The replacement of portions of a tower previously removed requires the issuance of a new building/conditional use permit.

(X) *Antennae mounted on roofs, walls, and existing towers.* The placement of wireless telecommunication antennae on roofs, walls and existing towers may be approved by the City Council, provided the antennae meet the requirements of this ordinance, after submittal of:

(1) A site and building plan.

(2) A report prepared by a qualified and licensed professional engineer indicting the existing structure or tower's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure. A complete detailing of all fixtures and couplings needed and the precise point of attachment shall be indicated.

(Y) *Additional submittal requirements.* In addition to the information required elsewhere in this chapter, applications for towers shall include the following supplemental information:

(1) Documentation of the area to be served by the tower including a narrative describing why the site chosen is the most appropriate site for the tower location, the results of any environmental review conducted on the chosen site, and a discussion of why existing structures within the search area would not be suitable as locations or co-locations for the purpose of antennae.

(2) A copy of an agreement between the applicant and property owner that the site and tower will be designed for not less than 3 users. The agreement shall also include a statement that any unused or obsolete tower shall be removed by the property owner or applicant. This agreement shall be signed by the applicant and property owner and shall be attached to and become part of the permit .

(3) A report from a qualified and licensed professional engineer which:

(a) Describes the tower height and design including a cross section and elevation;

(b) Documents the height above grade for all potential mounting positions for co-locating antennae and the minimum separation distances between antennae;

(c) Provides written evidence from the engineer that at the proposed site the applicant will be in compliance with all FCC regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards and requirements regarding both radio frequency interference (RFI) and radio frequency radiation (RFR). The city may hire independent engineers to perform evaluations of compliance with the FCC regulations,

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standards and requirements on an annual basis at unannounced times.

(d) Includes an engineer's stamp and registration number; and

(e) Includes other information necessary to evaluate the request.

(4) Before the issuance of a building permit, the following supplemental information shall be submitted:

(a) Proof that the proposed tower complies with regulations administered by the FAA; and

(b) A report from a qualified and licensed professional engineer which demonstrates the tower's compliance with the aforementioned structural and electrical standards.

(5) Additional liability insurance equivalent to the minimum city requirements and proof of insurance be provided with all other information contained with the submittal materials.

(Z) *Existing antennas and towers.* Antennas and towers in existence before the adoption of the ordinance creating this chapter that do not conform to or comply with this chapter are subject to the following provisions:

(1) Towers and antennas may continue in use for the purpose now used and as now existing but may not be replaced or materially altered without complying in all respects with this chapter.

(2) If such towers or antennas are hereafter damaged or destroyed due to any reason or cause whatsoever, the tower or antenna may be repaired and restored to its former use, location, and physical dimensions upon obtaining a building permit therefore, but without otherwise complying with this chapter, provided, however, that if the cost of repairing the tower to the former use, physical dimensions, and location would exceed the cost of a new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with this chapter.

(AA) *Temporary wireless communications.* Any telecommunications facility designed for temporary use is subject to the following:

(1) Use of a temporary facility is permitted only if the owner has received a temporary use permit from the city.

(2) Temporary telecommunications facilities are permitted for no longer than 5-days' use during a special event.

(3) The maximum height of a temporary facility is 50 feet from grade.

(4) Temporary facilities must comply with all applicable portions of these regulations.

(BB) *Evaluation and monitoring.* As a condition of approval for telecommunication facilities the

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applicant shall reimburse the city for its costs to retain outside expert technical assistance to evaluate any aspect of the proposed siting of telecommunications facilities. The owner of a telecommunications facility shall provide the city with current, technical evidence of compliance with FCC radiation emission requirements, annually or more frequently at the city's reasonable request. If the owner does not promptly provide the city with satisfactory technical evidence of FCC radiation compliance, the city may carry out tests to ensure FCC radiation compliance using a qualified expert. The owner shall reimburse the city for its reasonable costs in carrying out such compliance testing.

(CC) *Interference with public safety telecommunications.* No new telecommunications facility shall be placed or constructed in such a way as to interfere with public safety telecommunications. All applications for new telecommunications facilities shall be accompanied by an intermodulation study that predicts no likely interference problems and certification that the study has been provided to the appropriate public safety agencies. Before testing or operating new service or changes in existing service, telecommunications providers shall notify the City at least 10 calendar days in advance of such changes and allow the city to monitor interference levels during the testing process.

(DD) *Variances.* The City Council may grant a variance to the setback, separation or buffer requirements, and maximum height provision of this section by the criteria set forth under this chapter, including the following additional variance criteria for telecommunication towers and antennae:

(1) The location, shape, appearance or nature of use of the proposed tower will not substantially detract from the aesthetics of the area, not change the character of the neighborhood in which the tower is proposed to be located;

(2) The variance will not create a threat to the public health, safety or welfare;

(3) In the case of a requested modification to the setback requirement, that the size of the plat upon which the tower is proposed to be located makes compliance impossible, the only alternative for the applicant is to locate the tower at another site but poses a greater threat to the public health, safety or welfare or is closer in proximity to a residentially zoned land;

(4) In the case of a request for modification of separation requirements, if the person provides written technical evidence from an engineer that the proposed tower and telecommunications facilities must be located at the proposed site in order to meet the coverage needs of the applicant's wireless communications system and if the person agrees to create approved landscaping and other buffers to screen the tower from being visible to the residential area;

(5) In the case of a request for modification of the maximum height limit, that the modification is necessary to (1) facilities co-location of telecommunications facilities in order to avoid construction of a new tower; or (2) to meet the coverage requirements of the applicant's wireless communications system, which requirements must be documented with written, technical evidence from an engineer.

(EE) *Penalties.* Any person, corporation, or other entity that constructs, erects, places, reconstructs, enlarges, expands or repairs a tower or antenna in violation of this chapter shall be guilty of a misdemeanor and shall be subject to any additional legal or equitable remedies available to the city.

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(FF) *Fees.* The fees for filing an application to build or alter a telecommunications facility shall be set by the city. Fees may include the reasonable costs of an independent technical assessment of the application.

(Ord. 280, passed 7-21-2005)

§ 152.073 ADULT USE BUSINESSES.

The following provisions are applicable for purposes of this Chapter and supplemental to Chapter 112 of this Code to the extent that they are consistent with that Chapter.

(A) *Accessory use.* No adult use shall be permitted as an accessory use.

(B) *Adult use - incidental.* An adult use - incidental may locate as a permitted use in the B-3 Central Business Zone subject to the provisions of this chapter and other ordinances, including the standards of said zone.

(C) *Adult use - nonprotected.* An adult use - nonprotected may not locate as a permitted or conditional use in any zone of the city.

(D) *Adult use - primary.* An adult use - primary may locate as permitted uses in a B-1 Highway Business, I-1 Light Industry, and I-2 Heavy Industry Zones, subject to the provisions of this chapter and other ordinances, including the standards of said zones.

(E) *Adult use - primary distance provisions.* No adult use-primary shall be permitted within: 300 feet of R-1 Single-Family Residential Districts and R-2 Mixed Residential Districts; 600 feet of a public library, park, church, or school; 200 feet of a cemetery; and 300 feet of an establishment licensed to sell on-sale intoxicating or non-intoxicating alcoholic beverages. The distance is to be measured in a direct line from the property line to property line without regard for intervening properties or structures.

(F) *Simple subdivision of a large parcel allowed.* When a property owner petitions for a simple subdivision of a large parcel in order to accommodate the distance requirements of division (E) and both resulting parcels would be buildable lots as far as setbacks, lot width and depth, lot area, building coverage, parking, access, and utilities are concerned, the Council shall allow the simple subdivision to accommodate the above-described distance requirements for an adult use-primary.

(G) *Off street parking requirements.* An adult use involving new construction shall have off-street parking to accommodate normal traffic generated by the business.

(1) When the determination of the required number of parking spaces results in a fraction, the fraction of 1/2 or less may be disregarded and the fraction in excess of 1/2 shall be counted as 1 space.

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(2) An adult cabaret, adult mini-motion picture theater, adult motion picture arcade, adult motion picture theater, or other adult use - primary providing on-premises entertainment shall have a minimum of 1 space for each 3 seats based upon the designed maximum occupancy.

(3) An adult use - incidental, adult bookstore, adult novelty business, or other adult use providing retail sales or rental shall have a minimum of 1 space for each 200 square feet of floor area.
(Ord. 280, passed 7-21-2005)

HOME OCCUPATIONS

§ 152.085 INTENT AND PURPOSE.

(A) It is the intent of this section on home occupations to provide peace, quiet and domestic tranquility within all residential neighborhoods in the city, and in order to guarantee to all residents freedom from excessive noise, excessive traffic, nuisance, fire hazard and other possible effects of commercial uses being conducted in residential areas; to ensure the compatibility of home occupations with other uses permitted in the Residential Districts; and maintain and preserve the character of residential neighborhoods. It is also the intent of this section to promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than commercial uses.

(B) The city recognizes the need for some citizens to use their place of residence for limited nonresidential activities. However, the city believes that the need to protect the integrity of its residential areas is of paramount concern.
(Ord. 280, passed 7-21-2005)

§ 152.086 STANDARDS.

In all residential zones, home occupations in compliance with the following regulations are permitted as accessory uses, and no special use permit shall be required in order to establish and maintain such uses.

(A) The primary use of the unit is a dwelling. The area set aside for home occupations shall not exceed 20% of the total floor area of such residence.

(B) The use shall be conducted entirely within a dwelling and carried on by the inhabitants thereof and no others.

(C) There shall be no change in the outside appearance of the dwelling or premises or any visible evidence of the conduct of a home occupation.

(D) No interior or exterior business sign shall be permitted.

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(E) There shall be no storage of equipment, vehicles or supplies associated with the home occupation outside the dwelling.

(F) There shall not be conducted on the premises the business of selling stocks of merchandise, supplies or products, provided that orders previously made by telephone, Internet, or at a sales party may be filled on the premises. That is, direct sales of products off display shelves or racks is not allowed, but a person may pick up an order placed earlier as described above.

(G) Parties for the purpose of selling merchandise or taking orders shall not be held more than 4 times each month.

(H) A home occupation shall not create greater vehicle or pedestrian traffic than normal for the district in which it is located. In no case shall a home occupation be open to the public at times earlier than 7:00 a.m. nor later than 10:00 p.m.

(I) No highly explosive or combustible material should be used or stored on the premises. No activity shall be allowed that would interfere with radio or television transmission in the area, nor shall there be any offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line.

(J) A home occupation shall not generate the need for parking spaces to cause such parking to be located on the street in front of a neighbor's property.

(K) Deliveries from commercial suppliers may not be made more than once each week, and the deliveries shall not restrict traffic circulation.

(L) No vehicle which requires a commercial driver's license for its driver, nor commercially-licensed vehicles, may be utilized in the home occupation business except as otherwise permitted by applicable Minnesota law or Olivia ordinance.

(M) The use of mechanical equipment other than is usual for purely domestic or hobby purposes is allowed only when it meets the requirements under division (I).

(N) Garage sales are permitted without special permit provided they meet the following standards:

- (1) Sales last no longer than 3 days.
- (2) Sales are held no more than twice yearly.
- (3) Sales are conducted on the owner's property. Multiple family sales are permitted if they are held on the property of 1 of the participants.
- (4) No goods purchased for resale may be offered for sale.
- (5) No consignment goods may be offered for sale.

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(6) All directional and advertising signs shall be free-standing and removed after completion of the sale.

(7) All directional and advertising signs placed on private property shall have the owner's permission.

(8) No directional or advertising signs may be larger than 2 feet by 3 feet.

(O) The operation of day care homes in Residential Districts has its own standards and regulations and are found elsewhere in this chapter.

(P) The following uses shall be allowed home occupations (unless listed as prohibited in this section.)

(1) Architectural studio.

(2) Art studio.

(3) Baby sitting.

(4) Consulting service.

(5) Contracting (except as specifically prohibited.)

(6) Data processing.

(7) Direct sale product distribution (Am way, Avon, Shaklee, Tupperware, Herbalife and similar products.)

(8) Drafting and graphic service.

(9) Dressmaking, sewing, tailoring, contract sewing.

(10) Engineering service.

(11) Financial planning, investment service.

(12) Flower arranging.

(13) Gardening, landscape maintenance.

(14) Home crafts.

(15) House cleaning service.

(16) Insurance sales or broker.

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- (17) Interior design.
- (18) Jewelry making, jeweler.
- (19) Laundry, ironing service.
- (20) Locksmith.
- (21) Mail order (not including retail sales from site.)
- (22) Real estate sales or broker.
- (23) Sales representative (office only.)
- (24) Telephone answering, switchboard, call forwarding.
- (25) Tutoring.
- (26) Typing, word processing service.
- (27) Wallpapering.
- (28) Watch repair.
- (29) Writing, computer programming.

(Q) The following uses shall be prohibited as home occupations, unless authorized by a conditional use permit. In the rare case where the city grants a conditional use permit, the home occupation still must meet the standards shown above for home occupations, and meet any other stipulation placed on the business by the city.

- (1) Ambulance service.
- (2) Appliance repair.
- (3) Automobile repair, part sales, upholstery or detailing, washing service (including businesses working at customer's homes.)
- (4) Beauty salons and barber shops (owner operated only.)
- (5) Boarding house, time share condominium.
- (6) Carpentry, cabinet making.
- (7) Dog kenneling.

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- (8) Contracting, masonry, plumbing or painting.
- (9) Health salons, gyms, dance studios, aerobic exercise studios, massage.
- (10) Limousine or pedicabs service.
- (11) Medical or dental office.
- (12) Mortician, hearse service.
- (13) Palm reading, fortune telling.
- (14) Private clubs.
- (15) Restaurants, taverns, food preparation.
- (16) Retail sales from site (except direct distribution and sales parties.)
- (17) Tow truck service.
- (18) Upholstery.
- (19) Veterinary uses (including care, grooming, or boarding.)

(R) All uses not listed in divisions (P) or (Q) shall require a conditional use permit from the city, subject to the interpretation of the Zoning Administrator, unless the City Council, through a recommendation of the City Planning Commission, determines that the home occupation is similar to uses listed under division (P).

(S) The home occupation shall not be considered a nonconforming use in the event of revisions to the applicable provisions of this chapter.

(T) Persons with demonstrated physical handicaps may be permitted special consideration by the Planning Commission and the City Council. The applicant may request waiver of a portion or all of 1 or more of the foregoing requirements. This special request shall be considered by the Planning Commission at a public hearing after notice to property owners within 350 feet of the subject property. The Planning Commission will make recommendations to the City Council, which may only grant waivers on the basis of applicant's physical inability to function within said requirements.
(Ord. 280, passed 7-21-2005)

§ 152.087 ENFORCEMENT PROCEDURES.

- (A) Any aggrieved person believing that a violation or violations of this subchapter are occurring and

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who desires that action be taken by the city shall notify the Zoning Administrator of such written allegation(s). Within 30 calendar days after receipt by the Zoning Administrator of such written allegation(s), the Zoning Administrator shall complete an investigation of the allegation(s) to determine the merits thereof.

(B) Within 10 calendar days after the Zoning Administrator has completed the investigation(s), he or she shall notify in writing the following persons.

(1) If the Zoning Administrator determines that no violation as alleged or otherwise is occurring, notification of that decision shall be given to the complaining person or a spokesperson for the complaining person by certified mail, return requested.

(2) If the Zoning Administrator determines that a violation is occurring or has occurred as alleged, notification of that decision and a time for compliance shall be sent by certified mail, return requested, to both the violator and the complaining person or a spokesperson for the complaining person. The notification shall also state what action, if any, will be taken if compliance is not timely affected. (Ord. 280, passed 7-21-2005)

§ 152.088 PENALTY.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this subchapter shall, upon conviction, be fined not more than \$100 for each offense. Each day a violation shall exist shall constitute a separate offense. (Ord. 280, passed 7-21-2005)

§ 152.089 BED AND BREAKFAST INNS.

(A) *Special use permit.* Bed and breakfast inns shall only be allowed through the granting of a special use permit for those meeting at least the minimum criteria outlined herein, and only after it is determined that the single-family character of the property and the quality of the neighborhood will be preserved. A bed and breakfast inn must be an existing residential building and have no greater impact than, or be perceived to be other than, a private home with house guests. The intent is not to permit or allow yards to be destroyed, landscaping to be removed or the integrity of the neighborhood to be altered in order to convert the property to a bed and breakfast inn.

(B) *Obligation to comply.* The bed and breakfast owner shall at all times be subject to all lawful exercise of the police power of the city and to such reasonable regulations as the city hereafter by ordinance provides.

(C) *Application.* An application for this special use permit shall include the following:

(1) A site plan.

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(2) A landscape plan.

(3) A set of floor plans indicating the traditional uses of all rooms and the intended uses in the bed and breakfast operation.

(4) Sign drawings showing location, dimensions and detail.

(D) *Standards and conditions.* Bed and breakfast inns may be granted permits in zones subject to the following standards and conditions.

(1) The main residential building must contain a minimum of 1,500 square feet of area.

(2) The proprietor shall be the owner or manager of the property and no dwelling unit other than that of the proprietor, no home occupation, roomers or boarders shall be permitted.

(3) Two off street parking spaces for the home occupants plus 1 for each guest room shall be provided.

(4) Parking layouts and construction shall be considered on a case-by-case basis prior to approval.

(5) Only breakfast or light refreshments shall be provided to guests. Dining and other facilities shall not be open to the public, but shall be used exclusively by the registered guests and residents, unless allowed by a separate permit.

(6) There shall be a limitation of no more than 6 on the number of guest rooms permitted based on the character and size of the building, and guest rooms shall have traditionally been bedrooms.

(7) One sign may be erected on the property, not to exceed 2 square feet in size. Such signage shall not be illuminated and shall complement the architecture of the structure.

(8) Guests stays shall be limited to 10 consecutive days.

(9) The bed and breakfast shall be a subordinate use to the primary single-family use of the structure.

(10) The bed and breakfast shall employ not more than the equivalent of 2 full-time persons who are not domicile in the principal structure.

(11) The inn shall comply with all applicable laws, rules and regulations governing its existence and operation, including, but not limited to, the State Building Code, the State Fire Code, and the State Health Code.

(12) The bed and breakfast shall have a valid, current State license (hotel and/or food.)

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(13) Such other conditions deemed necessary by the planning commission and/or city council to ensure the use complies with the purpose of this division.

(Ord. 280, passed 7-21-2005)

CHILD DAY CARE FACILITIES

§ 152.105 INTENT.

To allow the establishment of child care facilities in safe and convenient locations throughout the community to accommodate the growing demand for child care in the community caused by demographic, economic and social forces. The city believes that the need to protect the integrity of its residential areas is of paramount concern.

(Ord. 280, passed 7-21-2005)

§ 152.106 FAMILY DAY CARE HOME AND GROUP FAMILY DAY CARE HOME.

A family day care home and a group family day care home shall be permitted by right in all zoning districts permitting residents, provided that:

(A) State of Minnesota licensing requirements are met, including those pertaining to building, fire safety and health code.

(B) Lot size, building size, setbacks and lot coverage conform to those applicable to the zoning district.

(C) One off-street parking space is provided for each nonresident or nonfamily member employee, in addition to the off-street parking spaces required within this chapter. The residential driveway is acceptable for this purpose.

(D) If located on a major arterial street, an off-street drop-off/pick-up area must be provided.

(E) All necessary forms filed with the city.

(F) Signage shall conform to the requirements for the zoning district in which the home is located.

(G) No structural or decorative alteration that will alter the single-family character of an existing residential structure or be incompatible with surrounding residences is permitted.

(Ord. 280, passed 7-21-2005)

§ 152.107 CHILD DAY CARE CENTERS.

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A child day care center may be allowed in the designated zoning districts as follows:

(A) *Limitation in use of family residence.* No child day care center shall be located in a private family residence.

(B) *Conditional use AG permits.* A child day care center may be allowed in all zoning districts permitting residents only upon issuance of a conditional use permit by the city.

(C) *All other zoning districts.* A child day care center is permitted by right in all other zoning districts subject to the following conditions:

(1) State licensing standards and requirements are met.

(2) Setbacks, screening, and landscaping shall conform to the pertinent portions of the zoning code.

(3) Structure shall meet building, sanitation, health, traffic safety and fire safety code requirements.

(4) A minimum of 1 off-street parking space shall be provided for each employee, plus an off-street drop-off/pick-up area. Parking areas shall be screened from view if they abut residential uses.

(5) All necessary forms filed with the city.
(Ord. 280, passed 7-21-2005)

§ 152.108 DECLARATION OF CONDITIONS.

The Planning Commission and City Council may impose such conditions on the granting of a day care facility conditional use permit as may be necessary to carry out the purpose and provisions of this section.
(Ord. 280, passed 7-21-2005)

§ 152.109 GENERAL PROVISIONS.

Day care facilities shall be allowed as a principal use or as an accessory use, provided that the day care facilities meet all the applicable provisions of this section.

(A) *Lot requirements and setbacks.* The proposed site for a day care facility as a principal use shall have a minimum lot area as set forth in the respective zoning district. The City Council may increase the required lot area in those cases where such an increase is considered necessary to ensure compatibility of activities and maintain the public health, safety and general welfare. The day care facility shall meet the setback requirements of the respective zoning district.

(B) *Sewer and water.* All day care facilities shall have access to municipal sewer and water or have

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adequate private sewer and water to protect the health and safety of all persons who occupy the facility.

(C) *Buffering.* Unless exempted by the Zoning Administrator, where an outdoor play area of a day care facility abuts any commercial or industrial use or zone, or public right-of-way, the day care facility shall provide screening along the shared boundary of such uses, zones, or public rights-of-way. All of the required fencing and screening shall comply with the fencing and screening requirements of this chapter.

(D) *Off-street loading.* The facility shall have an off-street loading space.

(E) *Signage.* All signing and informational and visual communication devices shall be in compliance with the provisions of §§ 152.150 *et seq.*

(F) *Compliance with state requirements.* The structure and operation shall be in compliance with State of Minnesota Department of Human Services regulations and shall be licensed accordingly. (Ord. 280, passed 7-21-2005)

§ 152.110 INSPECTION.

At any and all reasonable hours, with or without notice, the city hereby reserves the right upon issuing any day care facility conditional use permit to inspect the premises in which the occupation is being conducted to insure compliance with the provisions of this section or any conditions additionally imposed. (Ord. 280, passed 7-21-2005)

OFF-STREET PARKING AND LOADING

§ 152.120 OFF-STREET PARKING FACILITIES.

In all districts where off-street parking lots are permitted or required, such off-street parking lots shall be constructed and maintained subject to the following regulations.

(A) Adequate ingress and egress shall be provided.

(B) Off street parking areas shall be improved with a durable and dustless surface. Such areas shall be so graded and drained as to dispose of all surface water accumulation within the area. These requirements shall also apply to open sales for cars, trucks and other equipment.

(C) Necessary curbs or other protections against damage to adjoining properties, streets and sidewalks shall be provided and maintained.

(D) Plans for the construction of any parking lots must be approved by the Planning Commission before construction is started. No such land shall be used for parking until approved by first the Building

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Official and then by the Planning Commission.

(E) Parking and driveway areas adjacent to the streets must have barriers. The barriers may be vegetative (i.e. shrubs) or physical (i.e. curbs).

(F) Any lighting used to illuminate any off-street parking area shall be arranged to reflect the light away from adjoining premises in any "R" District.

(G) All off-street parking spaces shall have access off driveways and not directly off the public street. Such driveway access shall not exceed 30 feet in width.

(H) Property that constitutes required off-street parking area may not be separated, through sale or other means, from the property containing the principal use for which the parking area is required.

(I) Signs located in any parking area necessary for orderly operation of traffic movement, shall be in addition to accessory signs.

(J) Existing off-street parking spaces upon the effective date of this chapter shall not be reduced in number unless said remaining number exceeds the requirements set forth herein for a similar new use.

(K) Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants or customers of nearby business or manufacturing establishments.

(L) All utilities shall be protected against damage as specified by Olivia Public Facilities Department Heads.
(Ord. 280, passed 7-21-2005)

§ 152.121 OFF-STREET PARKING LOCATION.

All required off-street parking facilities shall be located as follows:

(A) One- and 2-family dwellings: on the same lot as principal use served.

(B) Multiple-family dwellings: on the same lot as the principal use served or within 100 feet of the main entrance to the principal building served.

(C) Business and industrial off-street parking spaces shall not be less than 20 feet from an adjacent lot zoned or used for residential purposes. In all other cases, no off-street parking area containing more than 4 parking spaces shall be located closer than 15 feet from an adjacent lot zoned or used for residential purposes.

(D) Within 300 feet of a main entrance to the principal building served in a Business or Industrial District.

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(E) There shall be no off-street parking space within 3 feet of any street right-of-way.

(F) Nothing in this section shall prevent the extension of, or addition to a building or structure into an existing parking area which is required for the original building or structure when the same amount of space taken by the extension or addition is provided by an enlargement of the existing parking area or an additional area within the required distance of such building.

(G) Off-street parking space may be located within the required front yard of any "B" or "M" District, but no off-street parking shall be permitted in the required front yard of any "R" District except upon a driveway providing access to a garage, carport or parking area for a dwelling.
(Ord. 280, passed 7-21-2005)

§ 152.122 OFF-STREET PARKING REQUIREMENTS.

(A) In all zoning districts, except (B-2) Central Business District and in connection with all uses, there shall be provided at the time any use or building is erected, enlarged, expanded or increased, off-street parking spaces for vehicles of employees, residents and/or patrons in accordance with the following requirements.

(B) For the purpose of this chapter, an off-street parking space shall be a minimum of 8½ feet wide for angle parking and 9 feet wide for 90-degree stall parking. It shall also provide proper access to a public street or alley, in which maneuvering room may be estimated at 300 square feet, but off-street parking requirements will be considered to be met only when the requirements below are provided and maintained, improved in a manner appropriate to the circumstances of the case and in accordance with all applicable ordinances and regulations.

(C) (1) Required off-street parking areas for 3 or more automobiles shall have individual spaces marked and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley, and so that any automobile may be parked and unparked without moving another.

(2) Loading space shall not be construed as supplying off-street parking space.

(3) When units or measurements used in determining the number of required parking spaces result in requirement of a fractional space and fraction up to and including 1/2 shall be disregarded and fractions over 1/2 shall require 1 parking space.

(4) Whenever a use requiring off-street parking is increased in floor area, and such use is located in a building existing on or before the effective date of the ordinance creating this chapter, additional parking space for the additional floor area shall be provided and maintained in amounts hereafter specified for that use.

(5) Floor area in the case of offices, merchandising or service types of uses, shall mean the gross

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floor area used or intended to be used for services to the public as customers, patrons, clients, patients as tenants, including areas occupied by fixtures and equipment used for display or sale of merchandise.

(6) Off-street parking facilities for dwellings shall be provided and located on the same lot or parcel of land as the building they are intended to serve.

(7) Where a use is not specifically mentioned, off-street parking requirements shall be the same as for a similar use.

(8) Nothing in this section shall be construed to prevent collective provisions of off-street parking facilities for 2 or more buildings or uses provided, collectively, such facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the following table.

(9) The amount of required off-street parking space for new uses or buildings, additions thereto and additions to existing buildings as specified above, shall be determined in accordance with the following table, and the space so required and shall be irrevocably reserved for such use.

<i>Use</i>	<i>Required Parking Space</i>
All retail stores, except as otherwise specified	One for each 100 square feet of gross floor area
Apartments above commercial uses in Central Business District	One per dwelling unit
Automobile, truck, boat or similar vehicle sales or rental establishment	One for each 2 employees during time of maximum employment plus 1 space for each 2,000 square feet of lot and building area used to display or storage of vehicles
Beauty parlors and barber shops	Two for each barber and/or beauty shop chair
Bowling alley	Five for each alley, plus additional space as may be required herein for related uses such as a restaurant
Business or professional office, and bank	One for each 200 square feet of gross floor space
Churches, theaters, auditoriums, mortuaries and other places of assembly	One for each 3 seats based on maximum design capacity
Dance hall, pool and billiard rooms, assembly halls and exhibition halls, community centers, civic clubs, fraternal	One for each 4 people allowed within the maximum occupancy load as established by the State Fire Marshal

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<i>Use</i>	<i>Required Parking Space</i>
orders, union halls, adult use businesses and similar uses	
Drive-in food establishment (No seating for customers)	One for each 10 square feet of gross floor area
Establishments for sale and consumption on the premises of alcoholic beverages, food or refreshments	One for each 75 square feet of floor area
Furniture and appliance stores, personal service shops (not including beauty or barber shops), household equipment or furniture repair shops, clothing, shoe repair or service shops, wholesale stores and machinery sales	One for each 500 square feet of floor area
Gasoline service station	One for each employee, plus 1 for the owner and/or management plus 2 for each grease, service or wash stall
Hospital	One and one-half for each bed
Industrial establishments including manufacturing, research and testing laboratories, creameries, bottling works, printing and engraving shops, warehousing and storage buildings	One for each 2 employees on maximum shift or 1 for each 500 square feet of gross floor area, whichever is the larger
Medical and dental clinic	Three for each doctor or dentist
Residential	Two for each dwelling unit; the area of which may include driveways for 1- and 2-family dwellings
Sanitarium, convalescent home, rest home, nursing home, assisted living or institution	One for each 2 beds plus 1 for each 3 employees, plus 1 for each resident and staff doctor
Schools, elementary and junior high	Two for each classroom plus 1 additional for each 200-student capacity
Schools, high school, colleges and other institutions of higher learning	One for each 7 students based on design capacity, plus 2 additional for each classroom

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<i>Use</i>	<i>Required Parking Space</i>
Senior residential complexes Assisted living units	One per dwelling unit Assisted living units: .50 spaces for each residential unit based on maximum occupancy
Service garage, automobile salesroom, automobile repair, body shop	Four plus 2 for each service stall and wash stall
Tourist homes, bed & breakfast inns, motels, hotels, boarding & rooming houses	One for each guest or sleeping room or suite, 1 per employee, plus 2 if there is a dwelling unit

(Ord. 280, passed 7-21-2005)

§ 152.123 LOADING SPACE.

On the premises with every building, structure, or part thereof, erected and occupied for manufacturing, or commercial use storage, receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interferences with public use of the streets or alleys. Such loading berths shall be constructed and maintained subject to the following regulations:

(A) *Size.* Unless otherwise specified in this chapter, the minimum dimensions allowable for a loading space or truck berth shall be 15 feet in width and 50 feet in depth. Such space shall be sufficient for the proposed use as determined by the Planning Commission and approved by the Planning Commission and the City Council.

(B) *Location.* All required loading berths shall be off street and shall be located on the building or use to be served. A loading berth shall not be located less than 100 feet from the intersection of 2 street right of ways, nor less than 50 feet from a Residential District unless within a building. Loading berths shall not occupy the required front yard setback space.

(C) *Access.* Each required loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will least interfere with traffic.

(D) *Surfacing.* All loading berths and accessways shall be improved with a durable material to control dust and drainage.

(E) *Accessory use.* Any space allocated as a loading berth or access drive so as to comply with the terms of this chapter 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.

Zoning Code

(F) *Required loading berths.*

(1) Institutional uses having over 20 units shall have 1 loading space 25 feet in length minimum for the first 20,000 square feet of gross floor area plus 1 for each 40,000 square feet thereafter.

(2) Retail sales, office, shall have 1 loading space 25 feet in length minimum for the first 6,000 square feet of gross floor area plus 1 for each 10,000 square feet thereafter. This is not required within the B-3 Central Business District.

(3) Manufacturing, fabrication, warehousing, storing and servicing in a facility over 3,000 square feet shall have at least 1 loading space, with additional berths as needed to adequately serve the establishment without interfering with off street parking or flow of traffic in public streets or alleys.
(Ord. 280, passed 7-21-2005)

MANUFACTURED HOMES/MOBILE HOME PARKS

§ 152.135 PARK PERMIT REQUIRED.

It shall be unlawful for any person to establish, maintain or operate a manufactured home/mobile home park or the facilities therein unless such person shall first procure a permit from the city. Compliance with the provisions of this chapter is necessary to obtain said special use permit.
(Ord. 280, passed 7-21-2005)

§ 152.136 PROCEDURE.

The following procedure shall be followed for a park permit application.

(A) *Application.*

(1) An application for a special use permit shall be filed with the Zoning Administrator and shall contain the following information: Name and address of developer and landowner; Location and legal description of the proposed park property; Survey and engineering information including distances with angles, bearings, lengths; and legal descriptions of property involved. This shall be shown on drawings not to exceed 1 inch equals 50 feet and including the following information:

(a) Location and size of the park.

(b) Location and size of each lot with dimensions and boundary lines.

Zoning Code

(c) Limits and location of proposed or existing streets, cartways, curbs, driveways, sidewalks, easements and rights-of-way.

(d) Location of off-street parking facilities.

(e) Plans for sanitary sewer collection, water systems and storm water drainage system.

(f) Plans for electrical services, telephone services, fuel systems and garbage collection.

(g) Detailed landscaping plans and specifications.

(h) Location and construction plans for park structures such as auxiliary sanitary facilities, laundries and utility buildings.

(i) Location of required park and/or recreation site including type of equipment.

(j) Such other information as may be requested by the Zoning Administrator to enable him to determine if the proposed park will comply with all legal requirements including this chapter.

(2) The following general design requirements shall be incorporated into the park site plan.

(a) *General location and size.*

1. Each park shall comply with applicable ordinances and codes of the city and the laws of the State of Minnesota. The developer shall provide evidence that the plans have been approved by the Minnesota Department of Health before the special use permit will be issued.

2. The park shall be located on a well-drained site suitable for the purpose, and so the drainage of the park area will not endanger any water supply. All plans for the disposal of surface storm water must be approved by the city.

3. The park shall be located on a minimum lot size of 3 acres, shall contain not less than 15 home spaces and shall not exceed a gross density of 8 units per acre.

4. Each park shall have frontage to and access to a public street which is deemed adequate to serve the anticipated traffic needs of the park. Access to parks shall be as approved by the city.

Zoning Code

(b) Roads and parking.

1. Each park shall contain all-weather hard surfaced interior roadways free from dust and mud and includes adequate provisions for surface drainage. This requirement shall be applicable no later than 1 year following the initial construction of said interior private roadways. Such streets shall be private streets.
2. An adequate entrance road of 44-foot pavement width shall be constructed to the municipality's street or road specifications capable of handling heavy service vehicles such as fire and garbage trucks without injury to surface or base.
3. Interior roads shall be not less than 44 feet in width for 2-lane roads.
4. Off-street (or road) parking for the park shall be provided in the ratio of 2 spaces per unit with an all-weather, permanent, hard surfaced area for each home site.
5. Provisions shall be made for each home site to have access on an approved roadway.
6. Streets approved for dedication to the city shall be constructed in accordance with applicable city standards.

(c) Bulk and space requirements.

1. Each home space shall have a minimum area of 5,000 square feet exclusive of roadways and common space.
2. Each home space shall have a minimum width of not less than 50 feet, and a minimum depth of not less than 100 feet.
3. No home shall be placed closer than 30 feet to any adjacent mobile home, except that when awnings, porches or cabanas are attached, the minimum distance between each mobile home shall be 20 feet.
4. No home shall be located closer than 20 feet to the traveled portion of an interior street.
5. No home shall be placed closer than 15 feet from the side lot line, closer than 15 feet from the rear lot line.
6. No building or structure hereafter erected or altered in a park shall exceed 25 feet or 1½ stories in height.

Zoning Code

7. No home shall be located nearer than 20 feet to any property line of the park and adjacent properties.

8. The occupied area of a home site shall not exceed 75% of the total area of the site the individual home sites.

(d) Utilities and essential services.

1. Each park shall be served by a sanitary sewer system as provided by this chapter.

2. Each park shall be served by a central water supply system as provided by this chapter and shall include fire hydrants located in accordance with generally accepted practices.

3. Each park shall be served by a central fuel source metered to the individual home sites. The source of fuel cooking, heating, or other purposes at each home site shall be as approved by the city.

4. All electrical and telephone or any other cable service shall be underground facilities from the existing city's distribution system.

5. All utility connections shall be approved by the city.

6. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities, and related mobile home equipment.

7. The proposed method of garbage, waste, and trash disposal must be as approved by the city.

(e) Landscaping and parks.

1. A boundary of 15 feet around the entire park site shall be provided. This boundary area shall be landscaped and screened as may be required by the Planning Commission.

2. The front yard of each site shall be landscaped except for driveways and parking needs.

3. Landscaping shall provide for at least 1 tree on each site.

4. At least 10% with a minimum of 10,000 square feet of the land area within each park shall be designed for development into a recreational space. Such space shall be of appropriate design and provided with appropriate equipment and maintained by the owner of the park.

5. The corners of each home site shall be clearly marked and each site shall be numbered.

Zoning Code

6. A compact hedge, wood fence, or landscaped area shall be installed around each park and be maintained in first class condition at all times as approved.

7. Additional requirements as to screening, landscaping and space reserved for recreation and playground may be required by the Planning Commission for proper development and protection of the park's occupants and that of the surrounding area.

(B) *Processing*

(1) At least 5 copies of the application and park site plan shall be filed with the Zoning Administrator.

(2) The Zoning Administrator shall forward the application and park site plan to the Planning Commission and to other agencies as deemed necessary.

(3) After Planning Commission review, the City Council shall consider the application in accordance with its procedures for acting on special exception use permits as provided in this chapter.

(C) *Permit issuance.* Subsequent to City Council approval, the Zoning Administrator shall be instructed to issue a special use permit, providing all other provisions of this chapter have been met.

(D) *Compliance required.*

(1) It shall be the duty of the Zoning Administrator to ensure that the approved special use permit is followed by the owner and/or developer.

(2) No departure from the approved special use permit shall be made without the express written permission of the city. The procedure for review and approval or disapproval of changes shall be the same as for the initial application.

(3) No building or site shall be used or occupied until all requirements and provisions of this chapter and any special conditions as provided by this article have been complied with.

(4) The city may require performance bonds or other forms of security for reasons and in amounts as specified in the city's special assessment policies.
(Ord. 280, passed 7-21-2005)

Zoning Code

§ 152.137 ADDITIONAL REGULATIONS.

The following additional regulations shall apply to manufactured homes/mobile homes and manufactured homes/mobile home parks.

(A) Other than what is allowed under the §§ 152.085 *et seq.*, no commercial operation shall be conducted within the park other than those necessary to the operation thereof. Commercial sales lots for homes are prohibited within the home park.

(B) Any enlargement or extension to any existing park shall require application for a special use permit as if it were a new establishment.

(C) A request for transfer of the permit shall be treated in the same manner as an original application for a permit.

(D) No additions, building or other structure shall be attached to a home without a city permit and approval of the park operator. Such additions shall not encroach upon the setbacks herein provided.

(E) All manufactured homes as defined by M.S. §§ 327.31 through 327.35, as they may be amended from time to time, shall be anchored in accordance with the Minnesota Code of Agency Rules, Building Code Division, Section 2 MCAR 1.904.50 *Stabilizing System for Mobile Homes*.

(F) Skirting for homes is required with a fireproof material harmonious with the appearance of the home and in good repair. There must be an enclosure for access for inspection purposes. Plywood, hardwood, and cardboard, or baled hay or straw shall be prohibited.

(G) One accessory building not to exceed 100 square feet in floor area shall be allowed for each home space. Accessory buildings shall be located within the rear yard 5 feet from lot lines.

(H) In addition to the foregoing, the Planning Commission may impose such other conditions, requirements or limitations concerning the design, development and operation of each park as it may deem necessary for the protection of adjacent properties and the public interest.

(I) The park grounds shall be lighted as approved by the city from sunset to sunrise. Artificial light shall be maintained during all hours of darkness in all buildings containing public toilets, laundry equipment, and the like.

(J) Advertising the home park shall be limited to 1 sign not to exceed 6 square feet, with lighting, height and location as approved by the city.

(K) There shall be no outdoor camping anywhere in the park.

(L) No public address or loud speaker shall be permitted.

Zoning Code

(M) The operator of every park shall maintain a registry of the park showing both the name and address of the residents and the make, type, and license number of each home. The park shall be available for inspection at all times by authorized city, state, and county officials, public health officials and other public officials whose duty necessitates acquisition of the information contained in the register. The register record for each occupant and/or mobile home register shall not be destroyed until after a period of 3 years following the date of departure of the registrant from the park.

(N) All dwellings within the park shall contain a minimum gross area of 800 square feet.

(O) The park must meet all licensing, rules, and regulations from the Minnesota Department of Health. See M.S. Ch. 327, (Hotels, Motels, Resorts, and Manufactured Homes), as it may be amended from time to time, for details.

(P) Mobile homes shall not be used for residential purposes in the city if they:

- (1) Are in an unsanitary condition or have an exterior in bad repair.
- (2) Are structurally unsound and do not protect the inhabitants against all elements.

(Q) All land areas shall be clean and free from refuse, garbage, rubbish or debris.

(R) No tents shall be used for other than recreational purposes in a mobile home park.

(S) All structures, i.e. fences, storage, etc., shall require a building permit.

(T) A mobile home park shall have an adequate storm shelter maintained in a safe, clean and sanitary condition, for its tenants, per Minnesota state regulations. A severe weather evacuation plan shall be developed by each mobile home park owner. This plan shall be reviewed by the Civil Defense Director of the municipality in which the park is located. The plan shall include the name, location and safest route to the nearest severe weather shelter servicing the park. A map of the route shall be included with the evacuation plan. The severe evacuation plan shall include emergency telephone numbers and the mobile home contact person(s). The plan and all subsequent amendments shall be distributed to each park resident and the Civil Defense Director immediately.

(Ord. 280, passed 7-21-2005)

Zoning Code

SIGNS

§ 152.150 PURPOSE.

The purpose of this chapter is to protect, insure, maintain and regain the natural and scenic beauty and attractiveness throughout the city. By the construction of public roads, the public has created views to which the public retains a right of view and it is the intent of these standards to prevent the taking of that right. Signs are recognized as accessory uses and may be permitted in all districts subject to the regulations of this chapter. The purpose of this subchapter is to coordinate and regulate the type, placement and physical dimensions of signs within the city's various zoning districts. The City Council considers the standards and regulations in this chapter to be reasonable and necessary.
(Ord. 280, passed 7-21-2005)

§ 152.151 DEFINITIONS OF SPECIFIC TERMS AND PHRASES.

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

AWNING. A shelter, of canvas or other material, projecting from and supported by the exterior wall of a building, constructed on a supporting framework.

AWNING, or CANOPY SIGN. A sign painted, stamped, perforated, or stitched, or otherwise applied on the valance of an awning.

BANNER. Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at 1 or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered a banner.

BEACON. Any light with 1 or more beams directed into the atmosphere or directed at 1 or more points not on the same zone lot as the light source; also, any light with 1 or more beams that rotates or moves.

BILLBOARD. A sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same zone lot where the sign is displayed. This definition does not include noncommercial.

BUILDING MARKER. Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into the masonry surface or made of bronze or other permanent material.

DIRECTIONAL SIGN. A sign that indicates the required or preferred direction of movement for vehicular or pedestrian traffic.

Zoning Code

FESTOON. A string or garland of leaves, flowers, ribbons, tinsel, small flags, pinwheels, ornamental windsocks, or other like ornaments.

FLASHING SIGN. Any directly or indirectly illuminated sign which the artificial light is not kept constant in terms of intensity or color at all times when the sign is illuminated.

FREE STANDING SIGN. A sign supported by 1 or more upright poles, columns, posts, pylons or braces placed in or on the ground and not attached to any building or structure.

ILLUMINATED SIGN. A sign illuminated in any manner by an artificial light source.

INCIDENTAL SIGN. A small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises, such as a credit card sign or a sign indicating hours of business. A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as no parking, entrance, loading zone, telephone, and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

MARQUEE. A permanent, roof-like structure of rigid materials supported by and extending from the facade of the building and projecting over its entrance.

MARQUEE SIGN. A projecting sign attached to, in any manner, or made a part of a marquee.

NAMEPLATE. A non-electric on-premise identification sign limited to the name, address and occupation of an occupancy or a group of occupancies.

OFF-PREMISE SIGN. A sign advertising or announcing any place, product, goods, or services whose subject is not available or located at or on the lot where the sign is erected or placed. A billboard is considered an **OFF-PREMISES SIGN**. This definition does not include noncommercial.

PARAPET. The extension of a false front or wall above the roof line.

PORTABLE SIGN. A sign that is not permanently affixed to a building, other unmovable structure, or the ground.

PROJECTING SIGN. Any sign other than a wall sign that is attached to and projects from the wall or face of a building or structure, including an arcade/marquee sign.

ROOF SIGN. Any sign erected upon, against, or directly, above a roof or roof eave, or on top or above the parapet, or on a functional appendage above the roof or roof eave.

Zoning Code

SIGN. A name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public and which directs attention to a product, place, activity, person, institution, or business. The term **SIGN** shall also mean and include any display of 1 or more of the following:

- (1) Any letter, numeral, figures, emblem, picture, outline, character, spectacle delineation, announcement, trademark, and logo;
- (2) Multiple colored bands, a stripe or stripes, patterns, outlines or delineations displayed for the purpose of commercial identification; or
- (3) Anything specified above in divisions (1) or (2) in part or in combination by any means whereby the same are made visible from beyond the boundaries of the lot on which the same are displayed for the purpose of attracting attention outdoors to make anything known.

SIGN AREA. Sign area shall be measured as follows:

- (1) When such sign is on a plate or framed or outlined, all of the area of such plate or the area enclosed by such frame or outline shall be included.
- (2) When such sign consists only of letters, designs or figures engraved, painted, projected or in any manner affixed on a wall, or a fascia panel integrated into the building, canopy, marquee or other covered structure, the total area of such sign shall be deemed the area of the smallest triangle, rectangle, or circle within which all of the matter such sign consists may be inscribed.

TEMPORARY SIGN. A sign or advertising display constructed of cloth, canvas, fabric, plywood or other temporary light material and designed or intended to be displayed for a period of 7 days or less.

WALL SIGN. A wall sign shall consist of any sign which is attached flat against or represented on the surface of a building wall. A wall sign may have a depth of up to 15 inches.

WINDOW SIGN. A sign painted, stenciled, or affixed on a window, which is visible from a right-of-way.
(Ord. 280, passed 7-21-2005)

§ 152.152 GENERAL REGULATIONS.

(A) *Signs exempt from regulation under this chapter.* The following signs shall be exempt from regulation under this chapter:

- (1) Any public notice or warning required by a valid and applicable federal, state or local law, regulation or ordinance.

Zoning Code

(2) Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than 3 feet beyond the lot line of the zone lot or parcel or which such sign is located.

(3) Works of art that do not include a commercial message.

(4) Holiday lights and decorations with no commercial message.

(5) Traffic control signs on private property, such as Stop, Yield and similar signs, the faces of which meet Department of Transportation standards and which contain no commercial message of any sort.

(B) *Signs not requiring permits.* No permit shall be required for the following types of signs, provided that such signs shall be subject to all other applicable provisions of this chapter:

(1) Signs advertising garage, rummage, or household auction sales and placed on the premises where the sale is held.

(2) Temporary signs not in place for more than 30 days.

(3) Real estate signs.

(4) Construction signs of 32 square feet or less.

(5) On premise-directional signs of 4 square feet or less.

(6) Nameplates of 2 square feet or less.

(7) Political signs.

(8) Public signs or notices placed by any agency of government.

(9) Emergency signs, or signs warning of hazards, whether placed by public or private persons or agencies.

(10) Window signs, provided that not more than 50% of the window is covered.

(11) Incidental signs.

(12) Banners, festoons, and pennants in place for 30 days or less, unless specified by special permit.

Zoning Code

(C) *Prohibited signs.* All signs not expressly permitted under this chapter or exempt from regulation hereunder in accordance with the previous section are prohibited in the city. Such signs include, but are not limited to:

(1) Abandoned signs.

(2) Flashing signs.

(3) Unsafe or dangerous signs. Any sign which becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or land upon which the sign is located within 10 days after written notification from the Zoning Administrator.

(4) Signs imitating or resembling traffic signs or signals or governmental signs.

(5) Signs attached to trees, telephone or utility poles, public benches, streetlights or placed on any public property or street or highway right-of-way by any person other than the 1 having a permit from the government to place such a sign.

(6) Signs which obstruct access to fire escapes, exits, doors, standpipes, or ventilating systems, or which interfere with the view of traffic signals or signs by those to whom such signs or signals are directed.

(7) Strings of lights not permanently mounted to a rigid background, except those exempt from regulation under this chapter.

(8) Signs for which a permit is required under this chapter, which were constructed before the ordinance creating this chapter was adopted, and as to which no procedures provided by this chapter have been initiated to bring such signs into compliance with the provisions of this chapter.

(9) Signs with rotating beams or flashing illumination.

(D) *Signs permitted only through the issuance of a special sign permit.*

(1) Off-premise directional sign that are no larger than 4 square feet in size.

(2) Temporary sign in place for more than 30 days.

(3) Portable sign.

(4) Banners, festoons and pennants in place for more than 30 days.

(5) Searchlight.

Zoning Code

(6) Animated signs.

(7) Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign.

(8) Inflatable signs and tethered balloons.

(9) Any other signs not specifically prohibited or allowed in other sections.

(10) Signs covered by grandfather clause.

(E) *Signs in the public right-of-way.* No sign shall be allowed in the public right-of-way, except for the following:

(1) *Permanent signs, including:*

(a) Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic.

(b) Bus stop signs by a public transit company.

(c) Informational signs of a public utility regarding its poles, lines, pipes or facilities.

(d) Awning, projecting and suspended signs projecting over a public right-of-way in conformity with this chapter.

(2) *Temporary signs.* Temporary signs for specific or special events shall be issued only for signs meeting the following requirements. Signs are limited to a 30-day period, unless permission from the city grants a longer specific period of time.

(a) Such signs shall contain no commercial message.

(b) Such signs shall be no more than 4 square feet in area each.

(3) *Emergency signs.* Emergency warning signs erected by a governing agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

(4) *Other signs forfeited.* Any sign installed or placed on public property, except in conformity with the requirements of this section, shall be forfeited to the public hereunder, the city shall have the right to recover from the owner or person placing such a sign the costs of removal and disposal of such sign. (Ord. 280, passed 7-21-2005)

Zoning Code

§ 152.153 ZONING CLASSIFICATIONS.

(A) *Residential Districts.* In all classes of residence districts, no sign, business sign, nameplate sign or advertising sign shall be erected except for the following:

(1) A nameplate sign identifying the owner or occupant of a building or dwelling unit; provided, that the surface area does not exceed 2 square feet. This sign may be placed in any front yard, but in no case may it be placed in any side yard. The sign may not be for the purpose of identifying a home occupation business.

(2) A sign pertaining to the lease or sale of a building or property; provided, that such sign shall not exceed 12 square feet in surface area and shall not be illuminated.

(3) Temporary signs advertising a new subdivision development; each subdivision or development shall be allowed the following signs:

(a) One sign not to exceed 96 square feet in surface area, no more than 15 feet in height.

(b) One sign not to exceed 12 square feet in surface area, no more than 15 feet in height.

(c) Directional signs not to exceed 2 square feet in surface area; provided, that each subdivision shall be limited to 1 such sign per major thoroughfare approach to the subdivision or development. No such sign shall be allowed on minor residential streets.

(d) Temporary non-illuminated signs identifying an engineer, architect, contractor or product engaged in or used in the construction of a building; provided, that such signs shall not exceed 32 square feet each in surface area and are no more than 15 feet in height; and provided, that such signs are removed prior to occupancy of the building.

(4) One identification sign, not to exceed 30 square feet in area, for the following uses: church, school, college, club, library, or similar uses. Such signs shall be solely for the purpose of displaying the name of the institution and its activities or services. It may be illuminated, but not flashing. Unless otherwise noted, the maximum height of all free standing identification signs shall be 6 feet and all signs shall have a minimum setback of 8 feet from the property line.

(5) Directional signs not to exceed 4 square feet in surface area for the following uses: church, school, college, hospital, club, library or similar use; provided, that each shall be limited to 1 such sign per major thoroughfare approach. No such sign shall be allowed on minor residential streets.

(6) One nameplate sign for a dwelling group of 4 or more units not exceeding 24 square feet in surface area. Such sign may indicate the names and addresses of the buildings or it may be a directory for occupants.

Zoning Code

(7) Directional signs in any area necessary for the orderly movement of traffic; provided, that such signs shall not be used as advertising space and shall not be illuminated.

(8) Signs not specifically addressed under this ordinance require interpretation by the Zoning Administrator.

(B) *Business and Industrial Districts.* Business and industry signs and nameplate signs are permitted subject to the following regulations:

(1) There shall be permitted 1 freestanding sign on each premise, provided that, lots adjacent to more than 1 street may have 1 sign per street frontage. Within the Central Business District freestanding signs shall be no larger than 35 square feet in area per sign with a maximum height of 15 feet. Within other Business and Industrial Districts, freestanding signs shall be no larger than 50 square feet in area per sign with a maximum height of 15 feet. All freestanding signs shall be set back at least 5 feet from the property line in the Central Business District and at least 8 feet from the property line in all other Business and Industrial Districts. In all cases the freestanding sign shall not overhang the property line.

(2) A minimum 20 square feet, may be devoted to wall signs, provided that the maximum wall area devoted to signs on any side of a building will be no larger than 120 square feet. For the purposes of these measurements, wall, canopy and/or marquee signs shall go into the total sign area figures.

(3) Allocation of sign area for wall signs on multiple occupancy buildings shall be controlled by the building owner, who shall be directly responsible for obtaining the necessary permits for all signs, or for seeing that they are obtained and for compliance with this chapter.

(4) Each premise shall be permitted, in lieu of a wall sign, to have 1 projecting sign, provided that such sign shall not exceed 20 square feet in sign area, shall not project more than 4 feet from the building to which it is attached when located in a Business District.

(5) Wall signs shall not extend or project more than 18 inches from the wall to which they are affixed, the lower edge of said signs shall not be less than 7½ feet over any pedestrian use area.

(6) Each occupancy having an awning/canopy shall be permitted to maintain, in addition to the under the canopy sign herein permitted, 1 canopy sign for each of the front, back and sides of the canopy.

(7) Marquee signs shall not be permitted on any marquee, other than signs built into and forming a part of the marquee itself. Marquee signs shall not extend beyond the edge of the marquee. Such signs shall not exceed a height of 3 feet or a total area of 24 square feet on any 1 side of the marquee.

(8) Each occupancy shall be permitted to maintain a maximum of 2 incidental signs, not to exceed 2 square feet in aggregate sign area.

(9) All freestanding, projecting, awning, canopy and marquee signs shall have a minimum setback of 2 feet from any vehicle use area, and a minimum clearance of 7½ feet over any pedestrian use area.

Zoning Code

(10) All shopping center or mall signs not provided for under this section require a variance.

(11) Time and temperature informational signs shall be permitted.

(12) One menu board per restaurant use is permitted with a permitted drive-through facility. Such signs shall not exceed 32 square feet in surface area or 8 feet in height. Such signs are permitted in addition to other permitted signage.

(13) Business special event signs. One temporary sign for commercial announcements such as grand openings and special events, may be mounted on a portable stand, with a maximum surface area not exceeding 32 square feet, or may be a wall sign subject to the same size standards as the permanent wall signage allowed for the enterprise. Such signs must be located on the subject property and may be used not more than 4 times per calendar year, and for a period of not more than 14 days per time.

(14) Transient merchant signs. One temporary sign for transient merchants and transient produce merchants is allowed. The sign shall not exceed 16 square feet in surface area, and shall not exceed 6 feet in height. The sign shall be set back at least 10 feet from lot lines and shall be erected only during the period of transient sales.

(15) Off-premises advertising signs (billboards) may be permitted along state trunk highways in the B-1 or Industrial Districts as a conditional use. Billboards erected along state trunk highways shall be spaced a minimum of 2,500 feet apart. These signs shall not exceed 200 square feet in area. Off-premises advertising signs shall meet all setback requirements and shall not be located within 100 feet of any residential zone, church, school or designated recreational area.

(Ord. 280, passed 7-21-2005)

§ 152.154 CONSTRUCTION AND MAINTENANCE STANDARDS.

(A) *Maintenance.*

(1) All signs shall be maintained so that exposed surfaces are clean and painted if painting is required, defective parts are replaced, and broken or nonfunctioning parts are repaired or removed.

(2) The owner, or lessee, of any sign or the owner of the land on which the sign is located shall keep the grass, weeds or other growth cut and the area free from refuse between the sign and the street and also the distance of 6 feet behind at the ends of said signs.

Zoning Code

(B) *Lighting.* Unless otherwise provided by this chapter, all signs may be illuminated, provided that no sign may utilize:

(1) The light from any illuminated sign or from any light source, including interior of a building, shall be so shaded, shielded, or directed that the light intensity of brightness shall not adversely affect surrounding or facing Residential Districts, or adversely affect safe vision of operators of vehicles moving on public or private roads, highways or parking areas. Light shall not shine or reflect on or into residential structures.

(2) Any lamp throwing light on the sign, in which the direct light from the lamp is visible from any public street or public sidewalk.

(3) Any revolving beacon light.

(C) *Changeable copy.* Unless otherwise provided by this chapter, any sign permitted by this chapter may use changeable copy, changed either manually or electronically.

(D) *Compliance with codes.* All signs shall comply with provisions of all applicable codes.

(1) All signs, excluding temporary signs, shall be designed and constructed of materials that are similar to those used on the principal building. Such signage shall be dominated with materials of permanency and strength and shall be compatible with other structures and signs in the development. A sign must not obscure architectural features of a building.

(2) No sign face shall extend horizontally beyond the supporting structure a distance greater than 13 inches.

(3) All electric signs shall be manufactured to meet UL specifications and other standards as outlined by the state electrical code.

(E) *Electrical signs watertight.* Electrical signs shall be watertight, with service holes to provide access to each compartment with fitted waterproof covers.

(F) *No electrical interference requirements.* Any electrical equipment or apparatus of a sign, which causes interference with radio or television reception, shall not be permitted.

(G) *Wind pressure and dead load requirements.* All signs and sign structures shall be designed and constructed to withstand a wind pressure as regulated by the Building Code of the city, and shall be constructed to receive dead loads as required in the Building Code and/or other ordinances of the city. Temporary signs shall be excluded from dead load requirements as required above.

(H) *Clearance from electrical lines.* A clearance of not less than 8 feet horizontally and 12 feet vertically shall be maintained between any sign and any overhead electrical transmission line.

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(I) *Number of faces.* No sign shall have more than 2 faces. Sign faces shall be parallel, unless otherwise permitted.

(J) *Emissions prohibited.* No sign shall emit audible sound, noticeable odor, or smoke or other visible matter.

(K) *Obstruction of fire exits, light or ventilation.* No sign shall be permitted to obstruct or interfere in any way with free use of any door, window, fire escape, nor to obstruct or impair operation of any opening required for light or ventilation.

(L) *Traffic hazard.* It shall be illegal for any sign to interfere with, obstruct the view of, or be of such design which may be confused with any authorized traffic sign, signal, or device; nor shall any sign imitate an official traffic sign or include the words STOP, LOOK, CAUTION, or any other work, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse motorists.

(M) *Obscene matter.* No obscene, indecent, or immoral matter prohibited by City Code shall be displayed on any sign.

(N) *Building address.* A building address is not a sign.

(O) *Anchoring.*

(1) No sign shall be suspended by non-rigid attachments that will allow the sign to swing in a wind.

(2) All freestanding signs shall have self-supporting structures erected on or permanently attached to concrete foundations.

(3) All portable signs on display shall be braced or secured to prevent motion.
(Ord. 280, passed 7-21-2005)

§ 152.155 ILLEGAL SIGNS.

The following signs are illegal signs:

(A) Any sign placed or maintained in the city from and after the effective date of the ordinance creating this chapter without a permit as required by this chapter.

(B) Any sign maintained in the city as to which the nonconforming use period has expired or has terminated as provided in this chapter.

(C) Any sign as to which limitations on the period of maintaining said sign has expired.
(Ord. 280, passed 7-21-2005)

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§ 152.156 SIGN ADMINISTRATION AND ENFORCEMENT.

(A) *Generally.* The sign regulations set forth in this section shall be administered and enforced by the Zoning Administrator with the possible assistance of other appointed city staff. The procedures, standards and requirements for the administration and enforcement of the provisions of this section shall be in accordance with this section, the City Code, and other applicable laws and regulations.

(B) *Permits required.* Every person shall obtain from the city a permit before erecting, placing, rebuilding, reconstructing, structurally altering, enlarging or relocating any sign which is not specifically exempted by regulations from this permit requirement. A nonrefundable sign permit fee is due and payable with the filing of the sign permit application. More than 1 sign on 1 building or group of buildings located on the same parcel of land may be included on 1 application provided that all such signs be applied for at the same time. It is up to the City Council to set the cost of the permit fee.

(C) *Sign application.* The following information for a sign permit must be supplied by the applicant which shall be requested on a form provided by the city.

(1) Name, address and telephone number of the person making application.

(2) Name, address and telephone number of the person owning sign.

(3) Necessary sketches and supporting information indicating location of sign, size, sign type and method of construction, building materials used and attachment to the building or placement method in the ground

(4) Information on current signage as to type, size and location. The city may require drawings to scale showing this information as well as showing existing buildings and location of lot lines.

(5) Copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other laws and ordinances of the city. This provision may be waived for individual applications at the discretion of the Zoning Administrator.

(6) Written consent of the owner or lessee of any site on which the sign is to be erected.

(7) Any electrical permit required and issued for said sign.

(8) Such other information as the Zoning Administrator shall require to show full compliance with this and all other laws and ordinances of the city.

(D) *Duty of Zoning Administrator.* It shall be the duty of the Zoning Administrator upon the filing of an application for a permit to examine such plans, specifications and other data and the premises upon which it is proposed to erect the sign. If it shall appear that the proposed structure is in compliance with all the requirements of this chapter and all other laws and ordinances of the city, the permit shall then be issued. If the work authorized under the permit has not been completed within 90 days after the date of

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issuance, the permit shall be null and void.

(E) *Inspection.* After the issuance of an approved sign permit, the applicant may install and display any such sign or signs approved. Once installed, city staff may inspect the sign(s) for conformance with the approved sign permit and this chapter.

(F) *Sign permits, subsequent.*

(1) Except for existing billboard signs, the city shall not require any subsequent sign permits for unchanged existing signs. Billboard sign permits shall be issued for a 5-year period. Except as provided herein, billboard sign permits shall be renewable every 5 years upon submission of a renewal application form and the applicable fees.

(2) Renewal applications for billboard signs shall contain a representation by the applicant that no change in signage under the permit has been made or shall contain dimensions, drawings and photos of any changes.

(G) *Assignment of sign permits.* A current and valid sign permit shall be freely assignable to a successor as owner of the property or holder of a business license for the same premises, subject only to filing such application as the zoning administrator may require and paying any applicable fee. The assignment shall be accomplished by filing and shall not require approval.

(Ord. 280, passed 7-21-2005)

§ 152.157 SIGN VARIANCES.

(A) In order to provide additional flexibility in the enforcement of this subchapter and alleviate hardship and injustice, the City's Board of Appeals, may, upon application, grant a variation from the terms of this subchapter. Upon application therefore from the person seeking a permit for the erection or installation of a sign, the request for variance shall be processed in accordance with applicable provisions of this chapter, as may be amended.

(B) Additionally, the Board of Appeals shall make findings of fact that undue hardship or injustice exists if a variance were not granted and therefore, may grant such variations based upon consideration the following:

(1) The particular physical surroundings, shape or topographical conditions of the specific parcel of land involved.

(2) The condition involved is unique to the parcel of land involved.

(3) The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the business involved.

(4) The alleged difficulty or hardship is caused by this chapter and has not been created by any

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person presently having an interest in the parcel.

(5) The granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the neighborhood.

(6) The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets or interfere with the function of the police and fire departments of the city.

(Ord. 280, passed 7-21-2005)

§ 152.158 NONCONFORMING SIGNS.

(A) Signs existing on the effective date of the ordinance creating this chapter which do not conform to the regulations set forth in this chapter shall become a nonconforming use.

(B) Nonconforming signs existing for at least 6 months prior to the effective date of the ordinance creating this chapter which do not conform to their respective zoning classifications standards will automatically qualify for a special exception permit under the grandfather clause of this chapter. This special exception permit will be issued upon application following adoption of the ordinance creating this chapter and be good for a term of 5 years.

(C) All hanging grandfathered nonconforming signs shall be required to meet the minimum height requirements of 7½ feet for pedestrian areas and 15 feet for vehicular areas with a minimum setback of 2 feet from all vehicular traffic areas. Alteration of these nonconforming signs to meet these requirements will not jeopardize their grandfather status in this chapter.

(D) A non-conforming sign may not be:

(1) Changed to another non-conforming sign

(2) Structurally altered except to bring it into compliance with the provisions of this chapter.

(3) Expanded.

(4) Re-established after its discontinuance for 14 days.

(5) Repaired or otherwise rehabilitated, except to bring it into compliance after damage more than 50% of the sign market value.

(E) Nothing in this chapter shall be construed as relieving the owner or user of a legal non-conforming sign or owner of the property on which the legal non-conforming sign is located from the provisions of this chapter regarding the construction and maintenance standards found in this section. Provided, however, that any repainting, cleaning, and other normal maintenance or repair of the sign or sign structure shall not modify the sign structure or copy in any way which makes it more non-conforming or the sign shall lose its

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legal non-conforming status.

(F) Except as otherwise provided herein, the provisions of this chapter are not intended to alter, diminish, increase or otherwise modify any rights or liabilities imposed upon nonconforming or prohibited signs existing prior to the adoption of the ordinance creating this chapter. Any act done, offense committed, or signs existing prior to the date of the adoption of the ordinance creating this chapter is not affected by its enactment.

(Ord. 280, passed 7-21-2005)

PUD PLANNED UNIT DEVELOPMENT REGULATIONS

§ 152.175 PURPOSE.

(A) The purpose of the Planned Unit Residential Development regulations is to encourage flexibility in the design and development of land in order to promote the most efficient use of land and preserve natural features and open space.

(B) PUDs are intended to provide an alternative to the conventional approach to zoning by permitting flexibility and innovation in design, placement of buildings, use of open spaces, circulation facilities, and off-street parking areas to encourage a more creative approach in the utilization of land. A PUD District permits a more efficient, aesthetic, and desirable development characterized by special features of the geography, topography, size or shape of a particular piece of property while simultaneously providing a compatible and stable environment in harmony with the surrounding area.

(C) Under the provisions of a PUD District, the City Council has the right to allow deviations from any standards set forth in this chapter. However, rezonings to a Planned Development District shall not be allowed merely as a convenience or benefit to the applicant or as a means of circumventing the requirements of this chapter. Rather, the PUD District shall be used to create a development having greater public benefit than would otherwise have been possible.

(Ord. 280, passed 7-21-2005)

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§ 152.176 USE REGULATIONS.

The PUD District permits any use or combination of uses allowed in the zoning districts established by this chapter in accordance with the procedures, requirements, and standards set forth herein.
(Ord. 280, passed 7-21-2005)

§ 152.177 PROCEDURES, REQUIREMENTS, AND STANDARDS.

An application for a Planned Unit Development District shall meet and follow the same procedures, requirements, and standards as that of a rezoning request. In addition, the application shall include a development plan that meets the following requirements and standards set forth herein.

(A) *Ownership.* The tract shall be under unified ownership or control at the time of application and shall be planned as a whole. If the tract is not to be developed as a whole, a phasing schedule shall be provided showing the chronological order in which portions of the tract are to be developed.

(B) *Conformance with the city's long range plans.* The proposed PUD shall be consistent with the long range goals, Comprehensive Plan, etc., that the city has developed in terms of land use, density, streets, and traffic.

(C) *Lot area regulations.* A proposed residential planned unit development or a residential planned unit development mixed with commercial and/or industrial uses shall consist of an area that is not less than 3 acres in size. A proposed commercial and/or industrial planned unit development shall consist of an area that is not less than 2 acres in size.

(D) *Density.* In a residential planned unit development, where a variety of housing types may be provided, the total number of dwelling units allowed shall be determined by the density standard of the original zoning district classification of the area that is now proposed for the PUD District. The planned unit development may exceed these maximum density standards by 50% if it can be demonstrated by the applicant that such an excess will not adversely affect public facilities nor the enjoyment of adjacent property.

(E) *Setback regulations.* Building setbacks from all property lines which form the perimeter of the total area devoted to the planned unit development shall blend well adjacent developments by matching the setback requirements of the original zoning district classification of the area that is proposed for the PUD District or the setback requirements applicable to the adjacent zoning districts.

(F) *Height regulations.* Heights of buildings and structures shall result in a development that will blend well with adjacent developments by matching the height requirements of the original zoning district classification of the area that is now proposed for the PUD District or the height requirements applicable to the adjacent zoning districts.

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(G) *Open space.*

(1) Common open space, varying in amount and location, shall be provided to off-set any substantial increase in dwelling unit density or building height or any substantial decrease in interior building setback distance.

(2) A minimum of 20% of the land of a planned residential development shall be devoted to private outdoor passive or active recreation. Such space shall be effectively separated from automobile traffic and parking and be readily accessible. Provisions shall be made for the permanent private maintenance of such land. The term ***OPEN SPACE*** shall not include space devoted to streets and parking. Such private outdoor recreation space shall not be a substitute for the dedication of land and/or cash for public parks as may be required by another city ordinance.

(H) *Streets, utilities, services, and public facilities.* Because of the uniqueness of each planned unit development proposal, the specifications and standards for streets, utilities, services, and public facilities may be different from those normally required in this chapter and other ordinances if it can be demonstrated by the applicant that such modification of specifications and standards will not adversely affect the interests of the general public or the entire city. In addition, the planned unit development proposal shall illustrate how the streets, utilities, services, and public facilities, and traffic circulation will function and serve the entire development.

(I) *Off-street parking.* The proposed planned unit development and the land use therein shall provide the necessary amount of off-street parking areas and shall illustrate how such areas will adequately serve the entire development.

(J) *Architecture.* Architectural style of buildings shall not solely be a basis for the denial or approval of a PUD Development Plan. However, the overall appearance and compatibility of the individual buildings to other site elements or to the surrounding development will be primary considerations in the review of such application.

(K) *Other information.* Any other information which the City Planning Commission and/or the City Council deems necessary to properly assess the request for the Planned Unit Development District.
(Ord. 280, passed 7-21-2005)

§ 152.178 APPROVAL AND REQUIREMENTS PRIOR TO CONSTRUCTION.

(A) *Approval.* The planned unit development request may be approved after a public hearing has been held. Additional conditions may be imposed to insure the public interest.

(B) *Building permit.* A building permit shall be issued only if the building or structure, for which the permit is to be issued, is in conformance with the approved development plan and only if all site and facility improvements are in place adjacent to and in front of the location of the building or structure.
(Ord. 280, passed 7-21-2005)

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SITE PLAN

§ 152.190 SITE PLAN REQUIRED.

All planned buildings and/or structures or uses of land unless exempted, whether they be new, substantially changed, converted or reconstructed, must secure approval of a site plan from the Planning Commission. No permit shall be issued prior to approval of the site plan. The site plan need not be drawn by an architect or engineer.

(Ord. 280, passed 7-21-2005)

§ 152.191 PROCEDURE.

The following procedure shall be followed in the preparation of site plans.

(A) Preparation of site plans.

(1) The person, developer, contractor or builder shall be responsible for preparation of the site plan.

(2) The site plan shall contain the following information as is pertinent to the proposed use of the land.

(a) Name and address of the developer and property owner.

(b) Small key (location) map.

(c) Zoning classification of the land and names of adjoining land owners and zoning classification of adjacent lands.

(d) Proposed buildings and/or land use.

(e) Area of land in square feet.

(f) Survey and engineering information including distances with angles, bearings, lengths and legal description of property involved shall be shown on drawings at a scale not to exceed 1 inch equaling 50 feet and including the following information:

1. Proposed buildings with location dimensions, building area and height.
2. Distances on all sides from buildings to property lines and between buildings.
3. Location, dimensions and area of existing buildings not to be razed.

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4. Location and use of all buildings and adjacent lands that are within 50 feet of the property line in question.
5. Existing and proposed contours or spot grades at no more than 2-foot intervals.
6. Drainage design for roof areas, parking lots and driveways showing area for or method of disposal of surface run-off waters.
7. Existing and proposed street curb cut radii and curb cut width.
8. Limits and location of proposed or existing streets, cartways, curbs, sidewalks, easements and rights-of-way.
9. Location, size and elevation of proposed or existing sanitary sewerage facilities, storm sewers, catch basins and drywalls.
10. Location and approximate diameter of proposed or existing trees and other woody stemmed plantings together with the common names of the plantings.
11. Limits and location of plantings or physical structures designed for screening.
12. Limits, location and size of retaining walls and the type of material to be used in construction.
13. Limits and location of parking lots, driveways, parking bays, outside storage, garbage areas, loading and unloading areas and surfacing and screening thereof.
14. Directions of vehicular traffic flow to, from and within the area, together with traffic control signs and markings.
15. Locations, height, candle power and type of all outside lighting including street lighting and sign lighting.
16. Locations, size, height and overall dimensions of outside signs.
17. Location of underground utilities, e.g. wells and fuel tanks.
18. Such other or different information as may be required by the design standards set forth hereinafter or as required elsewhere in this chapter.

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(3) The following general principles of design shall be incorporated into the site plan.

(a) *Landscaping.*

1. All front yards shall be landscaped to soften the effect the building creates at ground level.
2. Existing trees shall be preserved where possible.
3. Surface denuded of vegetation shall be seeded or sodded to prevent soil erosion.

(b) *Light glare from vehicles.*

1. When a building, parking lot or driveway adjoins or is within 200 feet of a residential area, provision shall be made to screen all vehicle lights so as to curtail direct illumination of the residential area. Screening provided on the land may be provided by the use of closely spaced evergreen trees, shrubs or physical structures which will harmonize with the developed use of the land and with the residential area.
2. Vehicle lights need not be screened on that portion of a site bounded by and parallel to a street.

(c) *Surface water, sewage disposal and erosion control.*

1. Storm water and sanitary sewage systems shall be laid out by a professional engineer.
2. Run-off water from parking lots, roofs and driveways shall not be allowed to cross sidewalks or to run onto private property that is not a part of the site unless easements have been obtained.
3. Surface run-off waters shall be directed into municipal facilities where such facilities are available. Where municipal facilities are not available, a drywell or drainage area owned or controlled by the owner or developer shall be provided.
4. Sanitary sewage shall be directed into municipal facilities where such facilities are available. Where municipal facilities are not available, other disposal methods approved by the Planning Commission may be used.
5. Retaining walls shall be constructed where necessary for land stabilization.

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(d) *Parking lots.*

1. Parking lots shall be designed to avoid creating large open expanses.
2. Parking lots shall be designed to avoid the problem of vehicles backing onto streets, alleys and sidewalks.
3. Vehicular traffic flow to, from and within land containing a parking lot shall be controlled by appropriate traffic control signs and surface markings.
4. Adequate provision shall be made for vehicular ingress and egress.
5. Provisions shall be made for a safe and convenient circulation pattern within any parking lot.
6. Proposed curb cut widths shall be kept to a minimum consistent with vehicular and pedestrian safety. Curb cut radii shall allow safe ingress and egress of vehicles from and to the proper lane of traffic on the street which they adjoin. Existing curb cuts and curb radii shall be used only if they comply with appropriate standards for proposed curb cuts and curb cut radii.

(e) *Parking lot lighting.* A parking lot shall be lighted for vehicular and pedestrian safety.

(B) *Processing.*

- (1) Adequate copies of the complete site plan shall be filed with the Zoning Administrator.
- (2) The Zoning Administrator shall forward the site plan to the Planning Commission and to applicable reviewing agencies as instructed by the Planning Commission.
- (3) The Planning Commission or a delegation thereof shall view the area being considered within the site plan.

(C) *Decision.*

- (1) The Planning Commission shall review the site plan and any written comments from reviewing agencies and recommend notification as necessary within 45 days from the time it is filed.
- (2) Decisions and recommendations of the Planning Commission shall be filed and recorded with the Zoning Administrator. Copies shall be sent to the applicant and/or his or her representative.

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(D) *Compliance required.*

(1) It shall be the duty of the Zoning Administrator or other appointed city staff to ensure that the approved site plan is followed by the owner and/or developer.

(2) The land area of a site developed pursuant to an approved site plan shall not thereafter be reduced in size, and no departure from the approved site plan shall be made without the express written permission of the Planning Commission. The procedure for review and approval or disapproval of changes shall be the same as for the initial application.

(3) No building or site shall be used or occupied until all requirements and provisions of this chapter and any special conditions have been complied with.
(Ord. 280, passed 7-21-2005)

§ 152.192 PERFORMANCE.

To ensure performance that development proposed in the plan submitted abides by all conditions of the city and that all tasks planned and all development proposed are completed within the established time frame, the city may require a warranty, and be given security, through performance bond or other security means.

(Ord. 280, passed 7-21-2005)

ADMINISTRATION, PERMITS AND FEES

§ 152.205 ZONING ADMINISTRATOR DUTIES.

The City Council shall appoint a Zoning Administrator. It shall be the duty of the Zoning Administrator to do the following:

(A) Administer the requirements of this chapter for permits and issue or deny each application in accordance with the provisions of this chapter.

(B) Review the use of land to determine compliance with the terms of this chapter.

(C) Publish and attend to the service of all notices required under the provisions of this chapter.

(D) Receive, file and forward applications for appeals, variances, conditional use permits, amendments or other action to the appropriate official bodies.

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(E) Maintain permanent and current records pertaining to this chapter including, but not limited to, maps, amendments, conditional uses, variances, appeals and applications thereof.

(F) Keep up to date records of the appointments of the Planning Commission members, their terms, addresses, and telephone contacts.

(G) Provide technical assistance to the Planning Commission, City Council and the Board of Appeals.

(H) Make recommendations to the Planning Commission, City Council, and Board of Appeals as necessitated by this chapter.

(I) Serve as an Ex-Officio member of the Planning Commission.

(J) Refer to the City Attorney all violations of this chapter which can not be handled administratively.

(K) Maintain permanent and current records of this chapter, including maps, amendments, conditional uses, and variances.

(L) Keep current records of all non-conforming uses.

(M) Provide the County Recorder with a copy of all variances and Conditional Use permits granted so they can be attached to the deed for permanent record.

(N) Review and forward to the Building Official building permit applications that require verification of property lines, setbacks, and State Building Code inspections and work closely with the Building Official on building permit applications.

(O) Answer questions, review and interpret the Zoning Ordinance with applicants. Refer to the Zoning Ordinance on such issues as, but not limited to: zoning district map, City plat map, whether a particular use is permitted or accessory, or conditional use in a designated district, lot size requirements of each district, moving in a structure, off street parking requirements, zoning definitions, fencing requirements, outside storage requirements, nuisance standards, traffic standards, access driveway requirements, sign provisions, motor fuel stations, Planned Unit Developments, etc.

(P) Perform duties in accordance with the Land Subdivision Ordinance including preliminary and final platting procedures and lot splits (minor subdivisions).

(Q) Perform duties in accordance with the Airport Zoning Ordinance.
(Ord. 280, passed 7-21-2005)

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§ 152.206 APPEALS.

It is the intent of this chapter that all questions of interpretation and enforcement shall first be presented to the Zoning Administrator, and that such questions shall be presented to the Board of Appeals only in accordance with §§ 152.230 *et seq.* or §§ 152.260 *et seq.*

§ 152.207 FEES.

The City Council shall establish a schedule of fees for appeals, amendments and charges, conditional uses, variances and other matters pertaining to this chapter. The schedule may be altered or amended only by the City Council. Until all applicable fees have been paid in full, no action shall be taken on any application or appeal.

(Ord. 280, passed 7-21-2005)

CONDITIONAL USES

§ 152.220 CONDITIONAL USES.

(A) A conditional use is a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would not be detrimental to the public health, safety, or general welfare. If granted, a permit would be issued specially and individually for conditional use(s) permitted in any district. Any of the uses or purposes for which such permits are required or permitted by the provisions of this chapter shall be submitted to the Planning Commission and City Council for review and determination of its applicability to the district in which it is proposed. After due consideration in each case, the City Council, upon receiving a report and recommendation of the Planning Commission relative to the requirements of this chapter, may or may not grant/approve the conditional use.

(B) The following procedure shall be followed for conditional use permit application:

(1) *Application.*

(a) The applicant requests proper form for a conditional use permit from the Zoning Administrator. The Zoning Administrator may assist the applicant with filing the application.

(b) The application shall be filed with the Zoning Administrator accompanied by the fee as set by the City Council. The application shall contain the following information:

1. The legal description and local address of the property.

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2. A map showing the locations, dimensions and use of all property within 350 feet of the applicant's property including streets, alleys, railroads and other physical and cultural features.

3. The names and addresses of the owners of all property within 350 feet of the property for which the conditional use permit is being applied.

4. A detailed description of the proposed conditional use.

5. Detailed plans of all buildings, roadways and any other structural or cultural improvements.

6. A statement describing the reasons for the request of the conditional use permit.

7. Other information or exhibits as required by the Planning Commission and City Council in making recommendations, determinations and dispositions on the application.

(2) *Application processing.* Upon receipt of the application by the Zoning Administrator, a copy of the completed application and attachments shall be forwarded immediately to the Planning Commission and City Council.

(3) *Planning Commission.*

(a) The Zoning Administrator shall present the complete application with the Applicant at the next regular meeting of the Planning Commission, or, in the Zoning Administrator's discretion, at a special meeting in order to process the application in a timely manner.

(b) The Planning Commission or delegation thereof shall view the area being considered for a conditional use permit.

(c) The Planning Commission shall consider all possible effects of the proposed conditional use permit and what, if any, additional requirements may be deemed necessary to prevent adverse effects.

(d) The Planning Commission, in considering an application for a conditional use permit, shall make findings on the following criteria and report these findings and a recommendation, with reasons, within 30 days to the City Council:

1. Whether the establishment, maintenance or operation will not be detrimental to or endanger the public health, safety or general welfare and is not contrary to established standards, regulations or ordinances of other governmental agencies.

2. Whether each structure or improvement is so designed and constructed that it is not unsightly, undesirable or obnoxious in appearance to the extent that it will hinder the orderly and harmonious development of the city and of the district wherein proposed.

3. Whether the use will not be substantially injurious to the permitted uses nor unduly

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restrict the enjoyment of other property in the immediate vicinity nor substantially diminish and impair property values within the area.

4. Whether the establishment of the use will not impede the orderly and normal development and improvement of the surrounding property for uses permitted in the zoning district.

5. That adequate water supply and sewage disposal facilities are provided and in accordance with applicable standards.

6. Whether adequate access roads, on-site parking, on-site loading and unloading berths and drainage have been or will be provided.

7. Whether adequate measures have been taken to provide ingress and egress so as to minimize traffic congestion on public roads.

8. Whether the use will not be in major conflict with the Comprehensive Plan.

9. Whether the use will conform to all other applicable regulations as required in this chapter.

(4) *Public hearing.*

(a) The City Council shall conduct a public hearing within 30 days of receiving fact findings and recommendation from the Planning Commission.

(b) The Zoning Administrator shall set the date for a hearing and give notice of the time, place, and purpose of the hearing in the following manner:

1. Notify by mail all property owners within 350 feet of the property at least 10 days prior to the date of the hearing.

2. Give public notice in a newspaper of general circulation in the city at least 10 days prior to the hearing.

3. Notify individuals and other agencies as instructed or deemed necessary.

(c) The Zoning Administrator, along with the applicant and/or his or her representative, shall appear before the City Council to present the application and answer questions relative to the application.

(d) Any person with a legitimate interest in the application may present his or her views to the City Council either verbally or in writing.

(e) An accurate record of all testimony shall be kept by the Zoning Administrator. This record shall include the names of all persons who participated in the meeting.

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(5) Decision.

(a) The City Council shall make a decision on the application for a conditional use permit following the public hearing.

(b) The concurring vote of a majority of the full Council membership shall be necessary for the approval or denial of an application for a conditional use permit within 60 days of submission of the application (unless an extension is granted.) The Council may act without a recommendation from the Planning Commission after 60 days.

(c) Decisions of the City Council shall immediately be filed with fact findings and properly recorded with the Zoning Administrator.

(6) Approval.

(a) Issuance of permit.

1. The Council shall detail its reasons for approval by adopting a resolution and may impose any additional special conditions considered necessary to protect the public health, safety, and welfare.

2. The Zoning Administrator shall record the Resolution with the County Recorder.

3. The Zoning Administrator shall issue a conditional use permit to the applicant for a specific use on a particular tract of land.

4. Copies shall be sent to the applicant and/or his or her representative.

(b) A conditional use permit shall become void 1 year from the date of issuance if significant construction has not been undertaken.

(7) Denial.

(a) The City Council shall detail its reasons for denial and the Zoning Administrator shall inform the applicant of the reasons it is denied and document its official findings on file.

(b) Failure to approve the requested conditional use permit shall not be deemed cause to refund the fee to the applicant.

(8) *Violations.* Violations of such conditions shall be deemed a violation of this chapter and punishable hereunder.
(Ord. 280, passed 7-21-2005)

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VARIANCES

§ 152.230 PURPOSE.

(A) Pursuant to M.S. §§ 462.357, Subd. 6, as it may be amended from time to time, the Board of Appeals and Adjustments, may issue variances from the provisions of this zoning code. A variance is a modification or variation of the provisions of this zoning code as applied to a specific piece of property. A variance from the literal provisions of this zoning code may be granted by the Board of Appeals and Adjustments only when the variance is in harmony with the general purposes and intent of the zoning code and the variance is consistent with the comprehensive plan, if the city has adopted one. A variance may be granted when the applicant for the variance establishes that there are PRACTICAL DIFFICULTIES in complying with the zoning ordinance. PRACTICAL DIFFICULTIES as used in connection with granting a variance, means the property owner proposes to use the property in a reasonable manner not permitted by the zoning code; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

(B) Variances shall be granted for earth sheltered construction as defined in M.S. § 216C.06, Subd. 14, as it may be amended from time to time, when in harmony with this zoning code. The Board of Appeals and Adjustments may not permit as a variance any use that is not allowed under this zoning code for property in the zone where the affected person's land is located. The Board of Appeals and Adjustments may permit as a variance the temporary use of a one-family dwelling as a two-family dwelling. The Board of Appeals and Adjustments may impose conditions in the granting of variances to ensure compliance and to protect adjacent properties. A condition must be directly related to and must bear rough proportionality to the impact created by the variance. The variance shall not become effective until a certified copy is filed by the applicant with the County Recorder, which shall include the legal description of the property included.

(C) Establishment or expansion of a use otherwise prohibited shall not be allowed by variance.

(D) Decisions of the Board of Appeals within the city are final, subject to judicial review (M.S. § 462.357, subd. 6 and § 462.358, subd. 4, as they may be amended from time to time.)
(Ord. 280, passed 7-21-2005)

§ 152.231 PROCEDURE.

(A) *Approved.* Pursuant to M.S. § 15.99, as it may be amended from time to time, an application for a variance shall be approved or denied within 60 days from the date it is officially completed and submitted, unless extended pursuant to statute or a time waiver is granted by the applicant. If applicable, processing of the application through required state or federal agencies shall extend the review and decision-making period an additional 60 days unless this limitation is waived by the applicant.

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(B) *Application.*

(1) The applicant requests the proper form for a variance from the Zoning Administrator. The Administrator may assist the applicant with filing the application.

(2) The application shall be filed with the Zoning Administrator accompanied by the fee as set by the City Council. The application shall contain the following information:

(a) The legal description and local address of the property.

(b) A map showing the locations, dimensions and use of all property within 350 feet of the applicant's property including streets, alleys, railroads and other physical features.

(c) The names and addresses of the owners of all property within 350 feet of the property for which the conditional use permit is being applied.

(d) A statement on what is intended to be done on, or with, the property which does not conform with this chapter.

(e) Detailed plans of all buildings, roadways, and any other structural improvements.

(f) Other information or exhibits as required by the Planning Commission and City Council in making recommendations, determinations, and dispositions of the application.

(3) The following requirements shall be addressed within the application:

(a) That there are exceptional or extraordinary circumstances or conditions which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.

(b) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

(c) That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this chapter or the public interest.

(d) That the condition or situation of the specific piece of property, or the intended use of said property for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situations.

(e) That the special conditions and circumstances do not result from the actions of the applicant.

(C) *Application processing.*

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(1) Upon receipt of the application by the Zoning Administrator, a copy of the completed variance application shall be forwarded to the Planning Commission for review and recommendation to the Board of Appeals.

(2) A physical inspection of the property in question by all members or a delegation of members of the Planning Commission shall be done.

(3) The Planning Commission shall review and make findings and a recommendation to the Board of within 30 days for final action as to whether the requirements of § 152.231(B)(3) have been met by the applicant.

(4) After a recommendation has been made by the Planning Commission, the application materials and the recommendation of action shall be sent to the Board of Appeals for action.

(5) The Zoning Administrator shall do the following:

(a) Set the public hearing date within 30 days from the submission date of the application.

(b) Provide notice of hearing to the applicant and all property owners, stating the: location, purpose, date and time.

(c) Notify by mail all property owners within 350 feet of the property at least 10 days prior to the date of the hearing.

(d) Give public notice in the local newspaper at least 10 days prior to the hearing.

(e) Notify the appropriate individuals and other agencies (township or county if applicable) as instructed or deemed necessary.

(D) *Public hearing.*

(1) The Board of Appeals shall conduct the hearing within 30 days of receiving fact findings and recommendation from the Planning Commission.

(2) The applicant and/or his or her representative shall appear before the Board of Appeals and answer questions relative to the application for variance.

(3) An accurate record of all testimony shall be kept by the Secretary of the Board of Appeals. This record shall include the names of all persons who participated in the meeting.

(E) *Decision.*

(1) *Approval.*

(a) The Board of Appeals by concurring vote of the majority of the members may approve

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the application within 60 days of the receipt of the application. The Board may act without a recommendation from the Planning Commission after 60 days.

(b) If approved, the Board of Appeals shall adopt a resolution finding the reasons set forth in the application justify the granting of the variance that will make possible the reasonable use of the land, building or structure. The Board of Appeals may further attach any condition to the grant of the variance as it shall determine is necessary and desirable to bring it within the purpose and intent of this chapter, provided, however, that no variance shall be granted that establishes any setback requirement at less than 3 feet.

(c) The Zoning Administrator shall document the fact findings and properly record the resolution as required with the County Recorder.

(d) Copies shall be sent to the applicant and/or his or her representative by mail.

(e) The Zoning Administrator shall issue a variance as decided on by the Board of Appeals.

(f) Unless otherwise stated in the decision, any order or decision of the Board of Appeals shall become void if significant construction has not been undertaken within 12 months. It would be necessary to apply to the Zoning Administrator for a specific time extension.

(2) *Denial.*

(a) The Board of Appeals by concurring vote of the majority of the members may deny the application within 60 days of the receipt of the application. The Board may act without a recommendation from the Planning Commission after 60 days. The decision shall describe the reasons for the determination and the decision shall also state in detail what the denial was based upon.

(b) A copy shall be sent to the applicant and/or his or her representative by mail.

(c) Failure to approve the requested variance shall not be deemed cause to refund the fee to the applicant.

(F) *Violations.* Violations of any conditions or restrictions shall be deemed a violation of this chapter and punishable hereunder.
(Ord. 280, passed 7-21-2005)

CHANGE AND AMENDMENTS (INCLUDING RE-ZONING REQUESTS)

§ 152.245 ANNUAL REVIEWS.

The Planning Commission, in cooperation with the Zoning Administrator, shall annually prepare and file with the City Council a report on the operations of the Zoning Ordinance. This may include

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recommendations as to the enactment of amendments or supplements thereto. This report shall include, but not be limited to, the study of the following:

- (A) Development of property uses.
- (B) Nature of population trends.
- (C) Commercial and industrial growth, both actual and prospective.

(D) Effect upon the community as whole in view of the city's Comprehensive Plan and how the ordinance has assisted in implementing the plan.
(Ord. 280, passed 7-21-2005)

§ 152.246 AMENDMENT PROCEDURE.

A procedure whereby the regulations, restrictions and boundaries set forth in this chapter may from time to time be amended, supplemented, changed or repealed. No such action may be taken unless it shall have been proposed by, or shall have been first submitted to the Planning Commission for review and recommendation in the following manner:

(A) *Application.*

(1) Applicant requests the proper form for zoning amendment from the Zoning Administrator.

(2) Application shall be filed with the Zoning Administrator accompanied by the fee as set by the City Council. The application shall contain the following information:

- (a) The legal description and local address of the property.
- (b) The present zoning classification and the zoning classification requested for the property.
- (c) The existing use and proposed use of the property.

(d) The names and addresses of the owners of all property within 350 feet of the property for which the change is requested.

(e) A statement of the reasons why the applicant believes the present zoning classification is no longer valid.

(f) A map showing the locations, dimensions and use of the applicant's property and all property within 350 feet thereof, including streets, alleys, railroads and other physical features.

(3) Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant.

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(B) *Application processing.*

(1) Upon receipt of the application by the Zoning Administrator, a copy of the completed application shall be forwarded to the Planning Commission for study and recommendation at the next regular meeting, or the Administrator may call for or arrange a special meeting in order to process the application in a timely manner.

(2) The Planning Commission, or a delegation thereof, shall view the area being considered.

(3) The Planning Commission shall, prior to making a recommendation, consider the following:

(a) Would the granting of the re-zoning request conform to the presently accepted future land use plans for the city as well as present land uses.

(b) Is it in the community's best interest for additional land space to be zoned to the class requested.

(c) If it is in the community's best interest for additional land to be zoned as requested, should the re-zoning be done in areas requested or would the community's interest be better served if the re-zoning were done in other areas of the city.

(d) Would the granting of the re-zoning request adversely affect property values of adjacent landowners to an unreasonable degree.

(e) If the request was granted, what additional public services would be required.

(f) Is the capacity of existing roads and sewer and water facilities sufficient to accommodate this proposal.

(g) Was there an error or oversight in preparing the original zoning map which indicates that this zoning should have been included at that time.

(h) Is this change beneficial to the community or is it merely a convenience to the applicant.

(4) The Planning Commission shall send a written recommendation, with reasons, to the City Council.

(C) *Public hearing.*

(1) The Zoning Administrator shall schedule a date for a hearing to be conducted by the City Council within 30 days of receipt of the recommendation of the Planning Commission and give notice of time, place, and purpose of the hearing in the following manner:

(a) Notify by mail all property owners within 350 feet of the property at least 10 days prior

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to the date of the hearing.

(b) Notify the Township Clerk by certified mail not less than 20 days prior to hearing if the zoning change or amendment affecting land is within 1 mile of the city boundary.

(c) Give public notice in the local newspaper of the city at least 10 days prior to the hearing date.

(d) Notify individuals and other agencies as instructed and deemed necessary.

(2) The Zoning Administrator shall appear before the City Council to present the application and answer questions relative to the application.

(3) Any person with legitimate interest in the application may present his or her views to the City Council either verbally or in writing.

(4) An accurate record of all testimony shall be kept by the Zoning Administrator. This record shall include the names and addresses of all persons who participated in the meeting.

(D) *Decision.*

(1) *Approval.*

(a) The City Council may approve the application within 60 days by majority vote of the entire City Council when concurring with the Planning Commission's fact findings and recommendations, or the City Council may override the recommendation of the Planning Commission and thereby approve or disapprove an application by a 4/5 vote of the entire City Council. The Council may act without a recommendation from the Planning Commission after 60 days.

(b) The City Council shall officially act on a granted change, amendment or a re-zoning request by adopting a new ordinance.

(c) The Zoning Administrator shall prepare a map and/or forward a certified copy of the new ordinance to the County Recorder, as needed.

(d) Copies of the ordinance shall be sent to the applicant and/or his or her representative.

(2) *Denial.*

(a) The City Council may deny the application within 60 days by majority vote of the entire City Council when concurring with the Planning Commission's recommendation. If the application is denied by the City Council, a period of not less than 1 year is required between presentation of the same petitions for a change or amendment or re-zoning request, applying to a specific piece of property unless there has been a substantial change in facts.

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(b) The City Council shall detail its reasons for denial and the Zoning Administrator shall inform the Applicant of the reasons it is denied and documents its official findings on file.

(c) Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant.

(Ord. 280, passed 7-21-2005)

CITY COUNCIL

§ 152.260 POWERS AND DUTIES.

It is the intent of this chapter that the duties of the City Council shall include the following:

(A) Review formulation and adoption of the ordinance creating this chapter and applicable maps as empowered by M.S. § 462.357, subd. 2, as it may be amended from time to time.

(B) Appoint members to and delegate certain powers and duties to the City Planning Commission, Board of Appeals and Zoning Administrator for the purpose of implementing and enforcing the requirements of this chapter in a fair, conscientious and intelligent manner.

(C) Review all applications for conditional use permits, zoning changes and ordinance amendments, i.e. proposed land use requests; conduct public hearings and make decisions on them as provided in this chapter.

(D) Establish a schedule of fees and charges as relating to this chapter.
(Ord. 280, passed 7-21-2005)

§ 152.261 DECISIONS.

All actions and recommendations of the city pertaining to this chapter shall require a 4/5 vote of the entire City Council.

(Ord. 280, passed 7-21-2005)

BOARD OF APPEALS

§ 152.275 ESTABLISHMENT.

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The Board of Appeals shall consist of 5 members appointed by the Mayor with the approval of the City Council. One of the members shall be a member of the Planning Commission and 1 of the members shall be a member of the City Council. The initial terms of the members shall be 1, 2, or 3 years and thereafter all terms shall be for 3 years, or until removed by the City Council, or until his or her successor is duly appointed and qualified. Any vacancies shall be filled by appointment by the Mayor with the approval of the City Council. Members may be re-appointed for additional terms. Members may be removed by the City Council without cause, after a hearing.
(Ord. 280, passed 7-21-2005)

§ 152.276 RECORDS.

Minutes shall be kept for all Board meetings. The minutes shall include all important facts pertaining to each meeting which will include, but not be limited to, names and addresses of all persons appearing before the Board, a record of all hearings and testimony, all exhibits presented to the Board, a copy of each resolution acted upon by the Board, the vote of each member upon each question, the reasons for the Board's determination and the members absent or failing to vote. These records shall be immediately filed in the office of the Zoning Administrator and shall be a public record.
(Ord. 280, passed 7-21-2005)

§ 152.277 POWERS AND DUTIES.

The Board of Appeals shall decide on issuance of a variance in accordance to §§ 152.230 *et seq.* and have the following powers and duties with regard to this chapter:

(A) *Appeals.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement and interpretation of this chapter, as follows:

(1) *Procedure and process to appeal.* An appeal may be taken by an aggrieved person or by any City Personnel, Board or Commission member. Such an appeal shall be filed within 30 calendar days after the date of the decision or determination of the Zoning Administrator. An appeal shall be made in the following manner:

(a) The Applicant's requests the proper form from the Zoning Administrator.

(b) The application shall be filled with the Zoning Administrator accompanied by the fee set by the City Council. The application shall contain the following information:

1. Applicant's name, address and telephone number.
2. The section of the Zoning Ordinance in question.
3. The nature of the difficulty encountered with the Zoning Ordinance.

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4. The nature of the action by the Zoning Administrator.

5. The manner in which it is believed that an error in action, determination, or decision has occurred.

(2) Application processing.

(a) Upon receipt of the application by the Zoning Administrator, a copy of the completed application for an appeal shall be forwarded to the Board of Appeals for review.

(b) The Board of Appeals shall schedule and conduct a hearing on the application, and the Zoning Administrator shall provide the applicant at least 10-days' advance notice thereof.

(c) The Board of Appeals shall conduct the Hearing within 30 days.

(d) The applicant and/or his or her representative shall appear before the Board of Appeals and answer questions relative to the application.

(e) An accurate record of all testimony shall be kept by the Secretary of the Board of Appeals, and shall include the names of all persons who participated in the meeting.

(B) Decision.

(1) Approval.

(a) The Board of Appeals (quorum of members) may approve the application within 60 days of the receipt of the application. The decision shall show the reasons for the determination and may reverse or affirm, wholly or in part, or may modify the order or determination appealed. Such decision shall also state in detail any exceptional difficulty or unusual hardships upon which the appeal was based and which the Board found present. The decision shall also state in detail what, if any, conditions and safeguards are required.

(b) The Board of Appeals shall adopt a resolution stating its interpretation and determination of the provisions of this chapter being appealed through the application.

(c) The Zoning Administrator shall notify the order or determination as decided on by the Board of Appeals.

(d) Copies shall be sent to the Applicant and/or his or her representative by mail.

(e) The decision will be kept on file.

(2) Denial.

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(a) The Board of Appeals (quorum of members) may deny the application within 60 days of the receipt of the application. The decision shall state the reasons for the determination.

(b) The decision will be kept on file.

(c) Copies shall be sent to the applicant and/or his or her representative by mail.
(Ord. 280, passed 7-21-2005)

CITY PLANNING COMMISSION

§ 152.290 ESTABLISHMENT.

(A) The Planning Commission shall consist of six (6) appointed members, plus one (1) member from the City Council, which the Council shall select from its own members. The appointed members shall serve a 3 year term, or until removed by the City Council, or until his or her successor is duly appointed and qualified. Any vacancies shall be filled by appointment of the Mayor with the approval of the City Council for the unexpired portion of the term. Members may be re-appointed for additional terms. Members may be removed by the City Council without cause, after a hearing.

(B) The Commission shall elect a Chair, Vice Chair and Assistant Secretary for the term of 1 year and may create and fill such other offices as they determine. The Planning and Zoning Administrator shall act as the official Secretary of the Planning Commission, but shall not be a voting member.
(Ord. 280, passed 7-21-2005)

§ 152.291 MEETINGS.

Regular meetings of the Planning Commission shall be held on the second Monday of each month at 7:00 p.m. The date, time and location will be established from time to time by the City Council and Zoning Administrator. Special meetings of the Planning Commission may be called by the Zoning Administrator. Decisions, resolutions, and recommendations of the Planning Commission shall be by majority vote of members present.
(Ord. 280, passed 7-21-2005)

§ 152.292 RECORDS.

Minutes shall be kept for all Commission meetings. The minutes shall include all important facts pertaining to each meeting which will include, but not be limited to names and addresses of all persons appearing before the Commission; a record of the application (and any attachments) and all exhibits presented to the Commission; the vote of each member upon each recommendation; the reasons for the Commission's determination; and the members absent or failing to vote. These records shall be

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immediately filed in the office of the Planning and Zoning Administrator and shall be a public record.
(Ord. 280, passed 7-21-2005)

§ 152.293 POWERS AND DUTIES.

The duties of the City Planning Commission shall include the following:

(A) To prepare and recommend to the City Council a Comprehensive Plan for the physical development of the city including: street arrangements and improvements, public utility services, parks and playgrounds, use of property, and other matters relating to the physical development of the city. Before recommending the plan or any substantial amendment thereto, the Commission shall hold at least 1 public hearing, notice of which shall be given by publication at least 10 days before the day of the hearing. The Commission may from time to time amend or add to the plan whenever a change or further studies indicate that such action is necessary. The recommendation of the plan or amendment shall be a resolution of the Commission, approved of by not less than 2/3 of its total membership.

(B) Upon instruction of the City Council, the Planning Commission shall prepare a revised zoning plan for the city. Before recommending such plan to the Council, the Planning Commission shall hold at least 1 public hearing, notice of which shall be given by publication at least 10 days before the day of the hearing. The same procedures shall apply for the following:

(1) Preparation of any plan of proposed rights-of-way for future streets or highways or the future widening of existing streets or highways or the reservation of lands for other public purposes,

(2) Preparation of an official map of the platted and unplatted portions of the city and adjoining areas, or portions thereof, indicating proposed future extension growth areas.

(C) Upon its own motion may, and upon instructions by the City Council shall, review and make recommendations on the land subdivision ordinance, preliminary and final plats, and plans for future streets. The City Council shall have final approval.

(D) Review all applications submitted in accordance with §§ 152.220, 152.230 *et seq.* and 152.245 *et seq.* and report the findings and recommendations to the Board of Appeals or City Council as provided in this chapter.

(E) Prepare, in cooperation with the Zoning Administrator, an annual review related to the effectiveness of this chapter as provided in this chapter.
(Ord. 280, passed 7-21-2005)

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AG - AGRICULTURAL DISTRICT

§ 152.305 PURPOSE.

The AG Agricultural District is intended to preserve for a limited time those lands devoted to agricultural enterprises located within the city where urban expansion is planned to take place. In this manner, conflicts between agricultural and non-agricultural land uses shall be minimized. Its effect is to control the infiltration of urban development into areas generally devoted to agriculture until the City Council determines that it is financially and economically feasible to provide public services and facilities, thereby promoting orderly urban development.
(Ord. 280, passed 7-21-2005)

§ 152.306 PERMITTED USES.

The following uses shall be permitted in the AG Agricultural District:

- (A) Agricultural crops.
- (B) Publicly owned parks, playgrounds and community buildings.
- (C) Single-family and 2-family dwellings for resident land owners.
- (D) Home occupations.

(E) Accessory buildings or structures and uses customarily incidental to any of the above listed uses when located on the same property.

- (F) Churches, chapels and similar places of worship.

(Ord. 280, passed 7-21-2005, amended by Ord. 2018-07, passed 11-19-2018)

§ 152.307 CONDITIONAL USES.

The following uses may be permitted in the AG Agricultural District upon recommendation of the Planning Commission and approval of the City Council.

- (A) Livestock.
- (B) Game refuge and preserve areas.
- (C) Churches, chapels and similar places of worship.

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(D) Public schools and similar private education institutions, and libraries.

(E) Public utility buildings such as substations, transformer stations and regulator stations without storage yards, and public works garages and shops.

(F) Cemeteries.

(G) Temporary produce stands on premises used for agricultural purposes provided there is adequate off-street parking.

(H) Commercial radio, television and telephone towers and transmitters.

(I) Stables.

(J) Veterinary and animal clinics, commercial kennels, and riding and boarding stables.

(K) Excavating of sand and gravel.

(L) Parks, campgrounds, golf courses, golf driving ranges, historical sites and museums.

(M) Carnivals, outdoor circuses and migratory amusement enterprises.

(N) Airports and landing fields.

(O) Hospitals, clinics, nursing homes, senior housing facilities, daycare and nursery schools.

(P) Mobile home parks.

(Q) Storage rental facilities.

(R) Accessory buildings and structures and uses customarily incidental to any of the above listed uses when located on the same property.

(Ord. 280, passed 7-21-2005)

Zoning Code

§ 152.308 BULK REGULATIONS.

The following minimum requirements shall be observed:

(A) *Lot area, width and yard requirements.*

<i>Use</i>	<i>Lot Area Sq. Ft.</i>	<i>Lot Width</i>	<i>Yards</i>		
			<i>Front</i>	<i>Side</i>	<i>Rear</i>
Single-family dwelling	217,800* (5 Acres)	400 ft.	25 ft.	10 ft.	80 ft.
Other uses	217,800	400 ft	50 ft.	50 ft.	80 ft.
* For lots not served by city sewer and water the minimum lot size for a single-family dwelling shall be determined by the topography of the property, the ability to locate the principal dwelling, any accessory buildings, and 2 individual sewage treatment systems that meet state guidelines, which all meet applicable setback requirements.					

(B) *Height restrictions.* The following height restrictions shall be observed:

- (1) No residential building hereafter erected or altered shall exceed 36 feet.
- (2) Public or semipublic buildings, churches, schools, and similar uses may be erected to a height of 60 feet.
- (3) Agricultural uses and accessory buildings shall be exempted from height requirements.
- (4) When the property is within the vicinity of the city's airport, the airport's zoning height requirements within various control zones shall take precedent over the limits shown above. Please refer to the city's airport zoning map and document for further information.

(C) *Building dimension requirements.* The main exterior walls of each residential structure shall not be less than 20 feet wide at the narrowest point of the structure.

(D) *Permanent foundation.* All principal dwellings and principal structures shall be placed on a permanent continuous perimeter foundation.
(Ord. 280, passed 7-21-2005)

Zoning Code

R-1 LOW DENSITY RESIDENTIAL DISTRICT

§ 152.320 PURPOSE.

The R-1 District is intended to provide for low density residential development with a limited number of institutional and recreational uses permitted. The district is designed to protect residential areas now developed and to regulate the efficient use and orderly development of vacant land designated for residential uses. The regulations are designed to promote a suitable environment for family life.
(Ord. 280, passed 7-21-2005)

§ 152.321 PERMITTED USES.

The following uses shall be permitted in the R-1 Residential Districts:

- (A) Single-family dwellings.
- (B) Two-family dwellings.
- (C) Publicly owned parks and playgrounds.
- (D) Home occupations as regulated by this chapter.

(E) Accessory buildings or structures and uses customarily incidental to any of the above listed uses when located on the same property.
(Ord. 280, passed 7-21-2005)

§ 152.322 CONDITIONAL USES.

The following uses may be permitted in the R-1 Residential District upon recommendation of the Planning Commission and approval of the City Council.

- (A) Churches, chapels and similar places of worship, parish homes, rectories and convents.
- (B) Public schools and similar private education institutions.
- (C) Hospitals, medical clinics, nursing, rest or convalescent homes, assisted living and similar institutions.
- (D) Public utility buildings such as substations, transformer stations and regulator stations without storage yards.

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(E) Day care or nursery schools.

(F) Community buildings.

(G) Golf and country clubs.

(H) Bed and breakfast inns as regulated by this chapter.

(I) Other residential or government service uses determined by the city to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general public health, safety and welfare.
(Ord. 280, passed 7-21-2005)

§ 152.323 BULK REGULATIONS.

The following minimum requirements shall be observed:

(A) *Lot area, width and yard requirements.*

<i>Use</i>	<i>Lot Area Sq. Ft.</i>	<i>Width</i>		<i>Front Yard</i>	<i>Rear Yard</i>	<i>Side Yard (Width)</i>	
		<i>At Street</i>	<i>At Bldg. Setback Line</i>				
Dwellings:							
Single-family	12,000	45 ft.	85 ft.	25 ft.	30 ft.	10 ft.	
Two-family	13,000	50 ft.	85 ft.	25 ft.	30 ft.	10 ft.	
Other uses	20,000	100 ft.	100 ft.	25 ft.	30 ft.	10 ft.	

(B) *Building height.*

(1) No residential building hereafter erected or altered shall exceed 36 feet in height. Provided, however, public and semipublic buildings, churches, cathedrals, temples, hospitals or schools may be erected to a height of 60 feet when set back from all lot lines not less than 1 foot, in addition to required yard dimensions, for each foot such building exceeds 36 feet in height.

(2) When the property is within the vicinity of the city's airport, the airport's zoning height requirements within various control zones shall take precedent over the limits shown above. Please refer to the city's airport zoning map and document for further information.

Zoning Code

(C) *Corner lot, special requirements.* On any corner lot or lot fronting on more than 1 street, no building or structure shall be placed or erected closer than 25 feet to any property line abutting and paralleling a street. All corner lots shall be at least 10% larger in lot frontage at the building line and lot area than is required above for 1- and 2-family dwellings.

(D) *Area covered by buildings or roofed areas.* The area of the lot covered by buildings or roofed areas, excluding permitted projecting eaves, shall not exceed 35%.

(E) *Building dimension requirements.* The main exterior walls of each residential structure shall not be less than 20 feet wide at the narrowest point of the structure.

(F) All principal dwellings and principal structures shall be placed on a permanent continuous perimeter foundation.

(G) All principal dwellings shall have an earth covered, composition, shingled, tiled or steel roof.

(H) All structures, either principal or accessory, shall be constructed in conformance with the Minnesota State Building Code or the applicable manufactured housing code.

(I) Unattached garages and parking spaces accessory to single and 2-family residential structures, may be located anywhere on the buildable area, except that garages may be located to within 10 feet of an interior side lot line and to within 10 feet of a rear lot line. No unattached garage accessory to a residential structure on a corner lot or other similar situation shall be located outside a required buildable area abutting a street except by conditional use permit.

(J) *Floor area per dwelling unit.* Floor area per dwelling unit (square feet): 1000.

(K) *Zero lot line requirements.*

(1) When interior units of townhouses are placed on interior side property lines with 0 setbacks, the structure setback for end units shall be a minimum of 10 feet.

(2) All developments using the 0 lot line provision must submit a site plan according to the provisions of this chapter. The site plan shall include a plat drawn to the specifications of the city's subdivision ordinance.

(3) Each structure shall be located on its own individually platted lot. The plat shall indicate the 0 lot lines, easements and provisions for common areas and their maintenance.

(L) *Distance from a residential building.* The following structures shall be located not less than 300 feet from a structure on a zoning lot used for residential purposes.

(1) Mausoleums, crematories and columbariums.

Zoning Code

(2) Stadia, auditoriums and arenas.

(3) Radar installation and towers, telephone transmission equipment buildings and micro-wave relay towers and radio and television towers.

(Ord. 280, passed 7-21-2005)

R-2 HIGH DENSITY RESIDENTIAL DISTRICT

§ 152.335 PURPOSE.

The R-2 High Density Residential District is intended to provide for high density residential development. It is designed to accommodate single-family and multiple-family structures in an acceptable relationship with one another and to regulate the efficient use and orderly development of vacant land designated for such use. Mobile home parks and institutional uses which are compatible with residential areas are also permitted on parcels of adequate size to allow required parking and building needs.

(Ord. 280, passed 7-21-2005)

§ 152.336 PERMITTED USES.

The following uses shall be permitted in the R-2 Residential District:

(A) Single-family dwellings.

(B) Two-family dwellings.

(C) Publicly owned parks and playgrounds.

(D) Home occupations as regulated by this chapter.

(E) Dwellings in groups of not more than 4 housekeeping units in any 1 building.

(F) Accessory buildings or structures and uses customarily incidental to any of the above listed uses when located on the same property

(Ord. 280, passed 7-21-2005)

Zoning Code

§ 152.337 CONDITIONAL USES.

The following uses may be permitted in the R-2 Residential District upon recommendation of the Planning Commission and approval of the City Council.

(A) Churches, chapels and similar places of worship, parish homes, rectories and convents.

(B) Public schools and similar private education institutions.

(C) Hospitals, medical clinics, nursing, rest or convalescent homes, assisted living and similar institutions.

(D) Public utility buildings such as substations, transformer stations and regulator stations without storage yards.

(E) Day care or nursery schools.

(F) Community buildings.

(G) Golf and country clubs.

(H) Bed and breakfast inns as regulated by this chapter.

(I) Other residential or government service uses determined by the city to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general public health, safety and welfare.

(J) Mobile home parks.

(K) Institutions of a philanthropic or charitable nature.

(L) Funeral homes and mortuaries with adequate parking.

(M) Boarding and rooming house for up to 5 persons.

(N) Dwellings in groups of 5 or more housekeeping units in any 1 building.

(O) Accessory buildings and structures and uses customarily incidental to any of the above listed uses when located on the same property.

(Ord. 280, passed 7-21-2005)

Zoning Code

§ 152.338 BULK REGULATIONS.

The following minimum requirements shall be observed:

(A) *Lot area, width and yard requirements.*

Use	Lot Area Sq. Ft.	Width		Front Yard	Rear Yard	Side Yard	
		At Street				Width	
Dwellings:							
Single-family	8,000	45 ft.		25 ft.	30 ft.	10 ft.	
Two-family	10,000	50 ft.		25 ft.	30 ft.	10 ft.	
Three-family	15,000	55 ft.		25 ft.	30 ft.	10 ft.	
Four-family	15,000	60 ft.		25 ft.	30 ft.	10 ft.	
Apartments over 4	15,000	70 ft.			40 ft.	10 ft.	
Other uses	20,000	100 ft.		25 ft.	45 ft.	12 ft.	

(B) *Building height.*

(1) No building, hereafter erected or altered, shall exceed 4 stories or 60 feet. When set back from all lot lines not less than 1 foot, in addition to required yard dimensions, for each foot such building exceeds 36 feet in height

(2) When the property is within the vicinity of the city's airport, the airport's zoning height requirements within various control zones shall take precedent over the limits shown above. Please refer to the city's airport zoning map and document for further information.

(C) *Corner lot.* On any corner lot or lot fronting on more than 1 street, no building or structure shall be placed or erected closer than 25 feet to any property line abutting or paralleling a street. All corner lots shall be at least 10% larger in lot frontage at the building line and lot area than is required for 1- and 2-family dwellings.

(D) *Area covered by buildings, roofed areas.* The area of the lot and common area covered by buildings or roofed areas, excluding permitted projecting eaves, shall not exceed 35%.

(1) Ground floor area per dwelling unit minimum: 1,000

Zoning Code

(2) Floor area per dwelling unit minimums:

<i>Three or more family (each unit)</i>	<i>Square feet</i>
Efficiency	500
1-bedroom unit	600
2-bedroom unit	720
3-bedroom unit	800

(E) *Permanent perimeter foundation.* With the exception of manufactured/mobile homes located within a mobile home park, all principal dwellings and principal structures shall be placed on a permanent perimeter foundation.

(F) *Composition of roof.* With the exception of manufactured/mobile homes located within a mobile home park, all principal dwellings shall have an earth covered, composition, shingled, tiled or steel roof.

(G) *Conformance with codes.* All structures, either principal or accessory, shall be constructed in conformance with the Minnesota State Building Code or the applicable manufactured housing code.

(H) *Zero lot line requirements.*

(1) When interior units of townhouses are placed on interior side property lines with 0 setbacks, the structure setback for end units shall be a minimum of 10 feet.

(2) All developments using the 0 lot line provision must submit a site plan according to the provisions of this chapter.

(3) Each structure shall be located on its own individually platted lot. The plat shall indicate the 0 lot lines, easements and provisions for common areas and their maintenance.

(I) *Building dimension requirements.* The main exterior walls of each residential structure shall not be less than 20 feet wide at the narrowest point of the structure. These dimensions shall not apply to dwellings located within mobile home parks.

(J) *Distance from a residential building.* The following structures shall be located not less than 300 feet from a structure on a zoning lot used for residential purposes.

(1) Mausoleums, crematories and columbariums.

(2) Radar installation and towers, telephone transmission equipment buildings and micro-wave relay towers and radio and television towers.

Zoning Code

(3) Animal shelters and kennels.
(Ord. 280, passed 7-21-2005)

B-3 CENTRAL BUSINESS DISTRICT

§ 152.350 PURPOSE.

The B-3 Central Business District is intended to provide for a wide variety of retail activities and could act as a banking and financial center, entertainment center, or as a center for business and professional offices. The district comprises the downtown section of the city. The use of land is intensive. It is the purpose of these regulations to encourage such intensity of use and to exclude activities which have a negative effect upon the proper functioning of the Central Business District.
(Ord. 280, passed 7-21-2005)

§ 152.351 USES PERMITTED.

(A) Business services including banks, offices and postal stations.

(B) Clothing services including dry cleaning and laundry establishments, laundromats, dressmaking, tailor shops, shoe repair shops.

(C) Equipment services including radio and television shops, electrical appliances shops, show room of a plumber, decorator or similar trade.

(D) Food services including grocery stores, fruit, vegetable and meat markets, supermarkets, restaurants, cafes, taverns, delicatessens, candy shops and bakeries.

(E) Personal services including barber and beauty shops, reducing salons, and photographic shops.

(F) Retail services including drug stores, hardware stores, sporting good sales, stationery and book stores, news shops, apparel shops, show room for articles to be sold at retail, and flower shops.

(G) Medical and dental clinics.

(H) Commercial recreation.

(I) Buildings used for storage.

(J) Any similar commercial establishment or professional service or commercial service.

(K) Residence when included as an integral part of the principal building.

Zoning Code

(L) Rental residential units may be maintained above the ground floor but not on the main floor.

(1) Minimum apartment space shall be the following:

Efficiency unit	500 square feet
1-bedroom unit	600 square feet
2 or more bedroom	720 square feet

(2) Residential garages or carports shall have a minimum setback 10 feet from rear property lines and 10 feet from side yard.

(M) Buildings and uses customarily necessary to any of the above uses.
(Ord. 280, passed 7-21-2005)

§ 152.352 COMMERCIAL RESTRICTIONS.

The uses permitted shall be subject to the following conditions:

(A) Such businesses and sales or display or storage areas shall be confined within a building beyond normal business hours except that the City Council by resolution or by ordinance may allow an exception for city-wide promotions and activities.

(B) A public entrance to such businesses shall be from the principal street upon which the property abuts.
(Ord. 280, passed 7-21-2005)

§ 152.353 CONDITIONAL USES.

The following uses may be permitted upon recommendation of the Planning Commission and approval of the City Council:

(A) Automobile service including auto equipment sales, car wash service, new and used car sales lots, trailer sales areas, gasoline service stations and auto repair garages.

(B) Recreation services including theaters, bowling alleys, pool and billiard rooms, dance halls, roller and ice skating rinks.

(C) Hotels, motels, private clubs and lodges; wholesale establishments, night clubs, and on and off liquor stores.

(D) Drive-in restaurants, drive-in banks and other drive-in services.

Zoning Code

(E) Open air display areas for the sale of products such as garden furniture, hardware items, nursery stock or automobiles or areas used to display rental equipment such as tools or trailers.

(F) Wholesale businesses.

(G) Transportation terminals and distributing stations.

(H) Buildings and uses customarily incidental to any of the uses listed in this section when located on the same property.

(I) Churches, chapels and similar places of worship, parish homes, rectories and convents.

(Ord. 280, passed 7 21 2005, amended by Ord. 2018-07, passed 11-19-2018)

§ 152.354 BUILDING HEIGHT.

No building or structure hereafter erected or altered shall exceed 60 feet in height, or more than 4 stories.

(Ord. 280, passed 7-21-2005)

§ 152.355 LOT AREA, FRONTAGE, LOT COVERAGE, YARD SIZE AND LOADING SPACE.

For allowed (non-residential) uses there will be no requirements for lot area, frontage, lot coverage, yard sizes or loading space. For uses requiring special exception permits, lot area, frontage, lot coverage, yard size, parking and loading space shall be specified by the Planning Commission.

(Ord. 280, passed 7-21-2005)

B-1 HIGHWAY BUSINESS DISTRICT

§ 152.365 PURPOSE.

The B-1 Highway Business District is established to encourage the functional grouping of those commercial enterprises which cater primarily to either local or through motorists. Typical uses offer accommodations and services to motorists, specialized outlets and commercial amusement enterprises. The requirements of this district are developed to minimize traffic hazards.

(Ord. 280, passed 7-21-2005)

§ 152.366 USES PERMITTED.

Zoning Code

(A) Automobile service including auto equipment sales, car wash service, new and used car sales lots and trailer sales areas, gasoline service stations, convenience stores, truckstops and auto repair garages. All businesses under this sub-section shall have a principal building with a permanent continuous perimeter foundation.

(B) Business services including banks, offices, public administration and postal stations.

(C) Clothing services including dry cleaning and laundry establishments, laundromats, dressmaking and tailor shops and shoe repair shops.

(D) Equipment services including radio and television shops, electrical appliance shops, showrooms.

(E) Medical services including clinics, hospitals, and animal clinics.

(F) Food services including grocery stores, fruit, vegetable and meat markets, supermarkets, restaurants, delicatessens, candy shops and bakeries.

(G) Personal services including barber and beauty shops, reducing salons, photographic shops and funeral homes.

(H) Retail services including drug stores, hardware stores, stationery and bookstores, news shops, apparel shops, show room, flower shops and commercial landscape nurseries.

(I) Recreation services including theaters, bowling alleys, pool and billiard rooms, dancing academies and roller and ice skating rinks and miniature golf courses.

(J) Motels, hotels, private clubs and lodges, wholesale establishments, night clubs, on and off liquor stores, sales rooms, public utility buildings, transformer stations without storage yards and highway department garages and shops.

(K) Research facilities, and wholesale businesses.

(L) Residence when included as an integral part of the principal building to be occupied by the owner or his or her employee.

(M) Any similar commercial establishment or professional service or commercial service.

(N) Drive-in restaurants, drive-in banks and drive-in services or businesses not herein strictly prohibited.

(O) Open air display areas for the sale of manufactured products such as garden furniture, hardware items and nursery stock, or rental of manufactured products or equipment.

(P) Buildings used for storage, distributing stations, but not including fuel yards, junk yards or used automobile parts or wrecking establishments or businesses handling waste or junk and those businesses

Zoning Code

which are offensive by reason of sight, odor, noise, smoke or vibration to the surrounding neighborhood.

(Q) Buildings and uses customarily necessary to any of the above permitted uses.

(R) Buildings and uses customarily necessary to any of the above permitted uses, but which will not be detrimental either by reason of sight, odor, smoke, noise, dust or vibration to the surrounding neighborhood.

(S) Rental residential units may be maintained above the ground floor. In such buildings the ground floor must be commercial space only.

(T) Lumber yards.

(U) Churches, chapels and similar places of worship, parish homes, rectories and convents.

(Ord. 280, passed 7 21 2005, amended by Ord. 2018-07, passed 11-19-2018)

§ 152.367 CONDITIONAL USES.

The following may be permitted upon recommendation of the Planning Commission and approval of the City Council:

(A) Recreational camping areas.

(B) Open sales lot (must have a principal building with a permanent continuous perimeter foundation.)

(C) Used auto parts.

(D) Commercial kennels.

(E) Libraries.

(F) Broadcasting or reception towers or antenna over 45 feet in height.

(Ord. 280, passed 7-21-2005)

Zoning Code

§ 152.368 BUILDING HEIGHT.

(A) No building or structure hereafter erected or altered shall exceed 60 feet in height, and a maximum of 4 stories.

(B) When the property is within the vicinity of the city's airport, the airport's zoning height requirements within various control zones shall take precedent over the limits shown above. Please refer to the city's airport zoning map and document for further information.

(Ord. 280, passed 7-21-2005)

§ 152.369 LOT AREA AND YARD REQUIREMENTS.

(A) The following minimum requirements shall apply:

<i>Lot Area Sq. Ft.</i>	<i>Lot Width at Bldg. Setback Line</i>	<i>Front Yard</i>	<i>Side Yard</i>		<i>Rear Yard*</i>
			<i>Side (Interior)</i>	<i>Side (Street)</i>	
20,000	200 ft.	40 ft.	10 ft.	40 ft.	20 ft.
* When a rear yard abuts a street, there shall be a 40-foot setback.					

(B) On all state trunk highways there needs to be a minimum setback of 65 feet.

(Ord. 280, passed 7-21-2005)

§ 152.370 LOT COVERAGE.

The area of the lot and common area covered by buildings or roofed areas, excluding permitted projecting eaves, shall not exceed 40%.

(Ord. 280, passed 7-21-2005)

Zoning Code

I-1 LIGHT MANUFACTURING/INDUSTRIAL

§ 152.380 PURPOSE.

The purpose of the I-1, Light Manufacturing/Industrial District is to provide for the establishment of warehousing and light industrial development. The overall character of the I-1 District is intended to have low impact manufacturing/warehouse character. All activities in the district shall be carried on in a manner not injurious or offensive to the occupants of adjacent premises.

(Ord. 280, passed 7-21-2005)

§ 152.381 PERMITTED PRINCIPAL USES.

Within a I-1 District, unless otherwise provided by this chapter, no uses are permitted except for the following:

(A) Manufacturing. Any light manufacturing or process including repairs, assembling, fabricating, altering, converting, finishing, processing, treating, testing, packaging, or bottling; except any use or process hereinafter specifically excluded or which would not be in keeping with the purpose of the District as stated above. Such determination shall be made by the Planning Commission upon review of the building permit application. Manufacturing includes the storage of goods or materials related to the manufacturing process.

(B) Offices.

(C) Office-showroom buildings.

(D) Warehousing, storage and wholesaling. The storage, handling, assembly and distribution of goods and materials for retail, wholesale or on-site use, except any hazardous combustible materials and/or flammable liquids or gases. The determination of hazardous materials shall be made by the Zoning Enforcement Officer following the standards and guidelines.

(E) Vocational and technical schools.

(F) Cafes and restaurants.

(G) Public utility buildings, repair garages, public garages, and public work and highway garages and shops.

(H) Churches, chapels and similar places of worship, parish homes, rectories and convents.

(I) Railway operations and yards, motor freight services, grain elevators, and trucking operations.
(Ord. 280, passed 7 21 2005, amended by Ord. 2018-07, passed 11-19-2018, amended by Ord. 2020-07 passed 7-6-2020)

Zoning Code

§ 152.382 PERMITTED ACCESSORY USES.

The following shall be permitted accessory uses within an I-1 District:

(A) Any accessory use, building or structure customarily incidental to a principal use permitted above, and located on the same lot therewith.

(B) Specialized freight and yard equipment, private utility structures, secondary processing structures and similar specialized structures.

(C) Parking and loading facilities.

(D) Signs as regulated.

(Ord. 280, passed 7-21-2005)

§ 152.383 CONDITIONAL USES.

The following uses may be permitted upon recommendation of the Planning Commission and approval of the City Council:

(A) Any production, processing, assembly, manufacturing, cleaning service, repair, testing or storage of goods or products excepting those which may be injurious or offensive to the occupants of adjacent premise by reason of the emission of or creation of noise, vibration, smoke, dust, odors or noxious materials.

(B) Motor vehicle body shops, dog kennels, open sales lots, building material sales, auto and truck washes, motor fuel stations and retail sales.

(C) Bulk storage of liquid, construction storage yards, open storage as a primary use, broadcasting or reception towers or antenna over 45 feet in height, contractors storage yards and grain, feed and agriculture storage.

(D) Airports and heliports.

(E) Rock crushing and gravel processing.

(Ord. 280, passed 7-21-2005)

Zoning Code

§ 152.384 LIGHT MANUFACTURING/INDUSTRIAL DISTRICT SPECIAL REQUIREMENTS.

(A) Storage, auxiliary to the permitted use, is permitted in the open, but not within 20 feet of the property lines.

(B) Open storage of lumber, metals, machinery or other materials shall be enclosed by a solid fence of dense hedge or shrub to a minimum of 8 feet in height.

(C) Waste materials incidental to the principal operation shall be kept in neatly stored containers screened from public view and shall be removed and emptied periodically so no wastes shall be piled on open grounds. Storage of waste materials must be in accordance with all applicable state and federal regulations and laws.

(D) Screening shall be provided at lot boundaries abutting a Residential District, and may consist of solid fencing or dense hedge or shrub to a minimum of 8 feet in height.
(Ord. 280, passed 7-21-2005)

§ 152.385 BULK REGULATIONS.

The following requirements apply:

(A) *Lot area, width and yard requirements.*

<i>Sq. Ft.</i>	<i>Lot Width at Bldg. Setback Line</i>	<i>Yards</i>			
		<i>Front</i>	<i>Side* (Interior)</i>	<i>Side*** (Street)</i>	<i>Rear **</i>
20,000	100 ft.	25 ft.	20 ft.	40 ft.	40 ft.
* A minimum side yard of 40 feet shall be required on that side of the property abutting any AG or Residential District.					
** A minimum rear yard of 60 feet shall be required when the use backs up to any AG or Residential District.					
*** A minimum side yard of 40 feet shall be required on that side of the property abutting any street.					

(B) *Height restrictions.* No building or structure hereafter erected or altered shall exceed 45 feet in height. When the property is within the vicinity of the city's airport, the airport's zoning height requirements within various control zones shall take precedent over the limits shown above. Please refer to the city's airport zoning map and document for further information.

Zoning Code

(C) *Lot coverage.* The area of the lot covered by buildings or roofed areas, excluding permitted projecting eaves, shall not exceed 40%.
(Ord. 280, passed 7-21-2005)

I-2 HEAVY MANUFACTURING/INDUSTRIAL

§ 152.395 PURPOSE.

The I-2 Manufacturing Districts are intended to provide for areas for manufacturing, warehousing and related commercial operations. All activities in the District shall be carried on in a manner not injurious or offensive to the occupants of adjacent premises.
(Ord. 280, passed 7-21-2005)

§ 152.396 PERMITTED PRINCIPAL USES.

Within a I-2 District, unless otherwise provided by this chapter, no uses are permitted except for the following:

(A) Manufacturing. Any light manufacturing or process including repairs, assembling, fabricating, altering, converting, finishing, processing, treating, testing, packaging, or bottling; except any use or process hereinafter specifically excluded or which would not be in keeping with the purpose of the District as stated above. Such determination shall be made by the Planning Commission upon review of the building permit application. Manufacturing includes the storage of goods or materials related to the manufacturing process.

(B) Offices, and office-showroom buildings.

(C) Agriculture or grain elevators and feed milling.

(D) Warehousing, storage and wholesaling. The storage, handling, assembly and distribution of goods and materials for retail, wholesale or on-site use, except any hazardous combustible materials and/or flammable liquids or gases. The determination of hazardous materials shall be made by the Zoning Enforcement Officer following the standards and guidelines.

(E) Vocational and technical schools.

(F) Research facilities.

(G) Utility substations, public utility buildings and storage, public highway department garages and shops, and public works garages and shops.

Zoning Code

(H) Churches, chapels and similar places of worship, parish homes, rectories and convents.

(I) Railway operations and yards, motor freight services, grain elevators, and trucking operations.

(Ord. 280, passed 7 21 2005, amended by Ord. 2018-07, passed 11-19-2018, amended by Ord. 2020-07, passed 7-6-2020)

§ 152.397 PERMITTED ACCESSORY USES.

The following shall be permitted accessory uses within an I-2 District:

(A) Any accessory use, building or structure customarily incidental to a principal use permitted above, and located on the same lot therewith.

(B) Specialized freight and yard equipment, private utility structures, secondary processing structures and similar specialized structures.

(C) Parking and loading facilities.

(D) Signs as regulated.

(Ord. 280, passed 7-21-2005)

§ 152.398 CONDITIONAL USES.

The following uses may be permitted upon recommendation of the Planning Commission and approval of the City Council:

(A) Any production, processing, assembly, manufacturing, cleaning service, repair, testing or storage of goods or products excepting those which may be injurious or offensive to the occupants of adjacent premise by reason of the emission of or creation of noise, vibration, smoke, dust, odors or noxious materials.

(B) Motor vehicle body shops, dog kennels, open sales lots, building material sales, auto and truck washes, motor fuel stations and retail sales.

(C) Bulk storage of liquid, construction storage yards, open storage as a primary use, broadcasting or reception towers or antenna over 45 feet in height, contractors storage yards and grain and feed storage.

(D) Airports and heliports.

(Ord. 280, passed 7-21-2005)

§ 152.399 HEAVY MANUFACTURING/INDUSTRIAL DISTRICT SPECIAL

Zoning Code

REQUIREMENTS.

(A) Storage, auxiliary to the permitted use, is permitted in the open, but not within 20 feet of the property lines.

(B) Open storage of lumber, metals, machinery or other materials shall be enclosed by a solid fence of dense hedge or shrub to a minimum of 8 feet in height.

(C) Waste materials incidental to the principal operation shall be kept in neatly stored containers screened from public view and shall be removed and emptied periodically so no wastes shall be piled on open grounds. Storage of waste materials must be in accordance with all applicable state and federal regulations and laws.

(D) Screening shall be provided at lot boundaries abutting a Residential District, and may consist of solid fencing or dense hedge or shrub to a minimum of 8 feet in height.
(Ord. 280, passed 7-21-2005)

§ 152.400 BULK REGULATIONS.

The following requirements apply:

(A) *Lot area, width and yard requirements.*

<i>Sq. Ft.</i>	<i>Lot Width at Bldg. Setback Line</i>	<i>Yards</i>			
		<i>Front</i>	<i>Side* (Interior)</i>	<i>Side (Street)</i>	<i>Rear **</i>
1 acre	200 ft.	25 ft.	20 ft.	40 ft.	40 ft.
* A minimum side yard of 40 feet shall be required on that side of the property abutting any AG or Residential District.					
** A minimum rear yard of 60 feet shall be required when the use backs up to any AG or Residential District.					

(B) *Height restrictions.* No building or structure hereafter erected or altered shall exceed 60 feet in height. When the property is within the vicinity of the city's airport, the airport's zoning height requirements within various control zones shall take precedent over the limits shown above. Please refer to the city's airport zoning map and document for further information.

(C) *Lot coverage.* The area of the lot covered by buildings or roofed areas, excluding permitted

Zoning Code

projecting eaves, shall not exceed 35%.
(Ord. 280, passed 7-21-2005)

“HMU” HEALTHCARE MIXED USE DISTRICT

§ 152.401 PURPOSE. The purpose of the Healthcare Mixed Use District is to permit and provide for healthcare and medical office uses, health oriented professional and administrative offices, retail and service uses supporting healthcare uses, and medium to high density housing uses which benefit from immediate proximity to healthcare.

§ 152.402 PRINCIPAL USES.

(A) The following are permitted uses in the HMU District:

(1) Hospitals including ancillary uses such as pharmacy, cafeteria, gift shop, florist, dispensary of surgical supplies and similar customary uses associated with hospitals.

Definition: An institution providing primary health services and medical or surgical care to persons, including inpatients, suffering from illness, disease, injury, and other abnormal physical or mental conditions and including, as a related part of the institution, facilities such as laboratories, outpatient facilities, training facilities, medical offices, and staff residences.

(2) Medical clinics/offices. Definition: a use involving establishments dispensing health services.

(3) Extended care, intermittent care, and long term care facilities. Definition: A nursing home licensed under Minn. Stat. §§ 144A.02 – 144A.10 or a boarding care home licensed under Minn. Stat. §§ 144.50 to 144.56, as it may be amended.

(4) Residential care, congregate care, and assisted living facilities. Definition: A building, complex, or distinct part thereof, consisting of fully self-contained, individual living units with a service or package of services advertised, marketed, or otherwise described, offered, or promoted using the phrase "assisted living" either alone or in combination with other words, whether orally or in writing, and which is subject to the requirements of this Minn. Stat. §§ 144G.01 – 144G.06 as it may be amended.

(5) Outpatient surgical, diagnostic, testing, and rehabilitative services. Definition: Specialized services including diagnostic and treatment services provided under the direction of a licensed physician to patients not requiring hospitalization.

(6) Professional offices of doctors, dentists, optometrists, and other medical professionals including incidental sales of medical and dental aids.

Zoning Code

(7) Urgent care centers. Definition: Health care services provided on a walk-in, no appointment basis for acute illness or injury that is not life threatening.

(8) Essential services. Definition: Services and utilities needed for the health, safety, and general welfare of the community such as underground, surface, or overhead electrical, gas, telecommunication, water, sewer, and other utilities and the equipment and appurtenances necessary for such systems to furnish an adequate level of service for the area in which it is located. Essential services do not include utility scale power generation appurtenances or equipment.

§ 152.403 CONDITIONAL USES.

(A) The following uses require a conditional use permit as provided for by Code Section 152.220:

(1) Health and fitness centers.

(2) Adult and child care center, freestanding Definition: An establishment providing for the care, supervision, and protection of children or adults.

(3) Learning center. Definition: See “child care center”.

(4) Health related educational institutions.

(5) Drug stores and pharmacies.

(6) Emergency air transportation landing facilities.

(7) Senior independent living facilities. Definition: A building, complex, or distinct part thereof, consisting of fully self-contained, individual apartment units with full kitchen and restroom facilities in each unit which are specifically marketed to mature adults.

(8) State licensed residential facility or a housing with services establishments. Definition: A group home, family foster home, or other publicly supported out-of-home residential facility, including any out-of-home residential facility licensed by the state, county, or other political subdivision, or any agency thereof, to provide foster care.

(9) Restaurants, food service establishments, delicatessens, coffee shops with or without drive up windows.

(10) Medical equipment and supplies sales and services.

(11) Public buildings.

(12) Hotels.

Zoning Code

- (13) Public parks and trails.
- (14) Fire, ambulance, and emergency medical services.

§ 152.404 ACCESSORY USES.

(A) The following accessory uses are allowed within the HMU District:

- (1) Accessory uses, other than signs, customarily incident to the uses permitted in §§ 152.402 and 152.403.

§ 152.405 BUILDING HEIGHT.

(A) No building or structure hereafter erected or altered shall exceed 60 feet in height, and a maximum of 4 stories.

(B) When the property is within the vicinity of the City's airport, the airport's zoning height requirements within various control zones shall take precedent over the limits shown above. Please refer to the city's airport zoning map and document for further information.

§ 152.406 LOT AREA AND YARD REQUIREMENTS.

(A) The following minimum requirements shall apply:

- (1) Lot Area 20,000 Sq. Ft.
- (2) Lot Width at Building Setback Line 200 ft.
- (3) Front Yard 40 ft.
- (4) Side Yard:
 - (a) Interior Side: 10 ft.
 - (b) Street Side: 40 ft.

(5) Rear Yard: 20 ft., except when a rear yard abuts a street, then there shall be a 40 foot setback.

(B) On all state trunk highways there needs to be a minimum setback of 65 feet.

§ 152.407 LOT COVERAGE.

(A) The area of the lot and common area covered by buildings or roofed areas, excluding permitted projecting eaves, shall not exceed 40%.

Zoning Code

(Ord. 2016-04, passed 09-19-2016; and re-incorporated into Code by Ord. 2018-04, passed 03-05-2018)

OLIVIA REGIONAL AIRPORT OVERLAY ZONING DISTRICT

§ 152.500 INTRODUCTION.

This section is an ordinance regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property, in the vicinity of the Olivia Regional Airport by creating the appropriate zones and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such zones; defining certain terms used herein; referring to the Olivia Regional Airport zoning map which is incorporated in and made a part of this ordinance; providing for enforcement; establishing a board of appeals; and imposing penalties. It is hereby ordained by the Olivia City Council pursuant to the authority conferred by Minnesota statutes 360.061 B 360.074, as follows.

§ 152.501 PURPOSE AND AUTHORITY.

The Olivia Airport Advisory Board, created and established by the City Council, pursuant to the provisions and authority of M.S. § 360.063, as it may be amended from time to time, hereby finds and declares that:

(A) An airport hazard endangers the lives and property of users of the Olivia Regional Airport, and property or occupants of land in its vicinity, and also if of the obstructive type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Olivia Regional Airport and the public investment therein.

(B) The creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the Olivia Regional Airport.

(C) For the protection of the public health, safety, order, convenience, prosperity and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards.

(D) The prevention of these airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

(E) The prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds.

(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

Zoning Code

§ 152.502 SHORT TITLE.

This Overlay District shall be known as Olivia Regional Airport Zoning Ordinance. Those sections of land affected by the Olivia Regional Airport Zoning Ordinance are indicated in Exhibit A which is attached to this chapter.

(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

§ 152.503 DEFINITIONS.

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

AIRPORT. Means the Olivia Regional Airport located in portions of Troy Township, Bird Island Township, and Winfield Township.

AIRPORT ELEVATION. Means the established elevation of the highest point on the usable landing area which elevation is established to be 1,088 feet above mean sea level.

AIRPORT HAZARD. Means any structure or tree or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land which is hazardous to persons or property because of its proximity to the airport.

COMMISSIONER. Means the Commissioner of the Minnesota Department of Transportation.

DWELLING. Means any building or portion thereof designed or used as a residence or sleeping place of 1 or more persons.

ESTABLISHED RESIDENTIAL NEIGHBORHOOD IN A BUILT-UP URBAN AREA (ERN-BUUA). Means an area, which, if it existed on or before January 1, 1978 (for low density structures and lots) and an area which, if it existed on or before July 2, 1979 (all other land uses), shall be considered a conforming use that shall not be prohibited except as provided (1 below in § 152.415.) The following criteria shall be applied and considered in determining what constitutes an ERN-BUUA:

- (1) Location of the airport;
- (2) Nature of the terrain within Safety Zones A and B;
- (3) Existing land uses and character of the neighborhood around the airport;
- (4) Population of the community;

(5) That the average population density in all areas within 1 mile of any point on a runway be equal to or greater than 1 dwelling unit per acre;

Zoning Code

(6) Population density near the airport compared with population density in other areas of the community;

(7) The age and the economic, political and social stability of the neighborhood and the community as a whole;

(8) The proximity of supporting school, commercial, religious, transportation and other facilities and their degree of integration with residential land uses;

(9) Presence or absence of public utilities including, but not limited to, public sanitary sewer system, electric service and gas mains;

(10) Whether or not the factor listed in divisions (8) and (9) above tend to make the community surrounding the airport a self-sufficient unit;

(11) Whether the areas within 1 mile of the perimeter of the airport property would be considered primarily residential in character; and

(12) Other material factors deemed relevant by the governmental unit in distinguishing the area in question as established, residential, urban, and built-up.

HEIGHT. For the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

LANDING AREA. Means the area of the airport used for the landing, taking off or taxiing of aircraft.

LOW DENSITY RESIDENTIAL LOT. Means a single lot located in an area which is zoned for single-family or 2-family residences and in which the predominant lands use is such type of residences.

LOW DENSITY RESIDENTIAL STRUCTURE. Means a single-family or 2-family home.

NONCONFORMING USE. Means any preexisting structure, tree, natural growth, or use of land which is inconsistent with the provisions of this subchapter or an amendment hereto.

NONPRECISION INSTRUMENT RUNWAY. Means a runway having an existing or planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are planned or indicated on an approved planning document.

PERSON. Means an individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

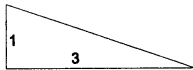
PLANNED. As used in this subchapter, refers only to those proposed future airport developments that are so indicated on a planning document having the approval of the Federal Aviation Administration, Mn/DOT, Office of Aeronautics, and the city.

Zoning Code

RUNWAY. Means any existing or planned paved surface or turf covered area of the airport which is specifically designated and used or planned to be used for the landing and/or taking off of aircraft.

SLOPE. Means an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.

slope = 3:1 = 3 feet horizontal to 1 foot vertical



STRUCTURE. Means an object constructed or installed by man, including, but without limitations, buildings, towers, smokestacks, and overhead transmission lines.

STRUCTURE. Means an object constructed or installed by man, including, but without limitations, buildings, towers, smokestacks, and overhead transmission lines.

TRAVERSE WAYS. For the purposes of determining height limits as set forth in this subchapter shall be increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads; 23 feet for railroads; and for waterways and all other traverse ways not previously mentioned an amount equal to the height of the highest mobile object that would normally traverse it.

TREE. Means any object of natural growth.

UTILITY RUNWAY. Means a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

VISUAL RUNWAY. Means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an approved planning document.

WATER SURFACES. For the purpose of this subchapter, shall have the same meaning as land for the establishment of protected zones.

(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

§ 152.504 AIRPORT OBSTRUCTION ZONES.

In order to carry out the purposes of this subchapter, as set forth above, the following airspace zones are hereby established: Primary zone, Horizontal Zone, Conical Zone, Approach Zone, and Transitional Zone and whose locations and dimensions are as follows:

(A) *Primary Zone.*

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(1) All that land which lies directly under an imaginary primary surface longitudinally centered on a runway and:

- (a) Extending 200 feet beyond each end of Runway 11/29.
- (b) Coinciding with each end of Runway 3/21.

(2) The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is:

- (a) Five hundred feet for Runway 11/29.
- (b) Two hundred and fifty feet for Runway 3/21.

(B) *Horizontal Zone.*

(1) All that land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation, or a height of 1,238 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs.

(2) The radius of each arc is: 6,000 feet for Runway 11/29 and Runway 3/21.

(C) *Conical Zone.* All that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet as measured radially outward from the periphery of the horizontal surface.

(D) *Approach Zone.*

(1) All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of a runway. The inner edge of the approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The approach surface inclines upward and outward at a slope of:

- (a) Forty to 1 for Runway 11/29.
- (b) Twenty to 1 for Runway 3/21.

(2) The approach surface expands uniformly to a width of:

(a) Three thousand, five hundred feet for Runway 11/29 at a distance of 10,000 feet to the periphery of the conical surface.

(b) Two thousand, two hundred and fifty feet for Runway 3/21 at a distance of 10,000 feet to the periphery of the conical surface.

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(E) *Transitional Zone.* All that land which lies directly under an imaginary surface extending upward and outward at right angles to the runway centerline and centerline extended at a slope of 7:1 from the sides of the primary surfaces and from the sides of the approach surfaces until they intersect the horizontal surface or the conical surface. Transitional surfaces for those portions of the precision instrument approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the precision instrument approach surface and at right angles to the extended precision instrument runway centerline.

(F) *Height restrictions.* Except as otherwise provided in this chapter, and except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow in any airspace zone created in § 152.413(A), so as to project above any of the imaginary airspace surfaces described in said § 152.413(A) hereof. Where an area is covered by more than 1 height limitation, the more restrictive limitations shall prevail.

(G) *Boundary limitations.* The airspace obstruction height zoning restrictions set forth in this section shall apply for a distance not to exceed 1½ miles beyond the perimeter of the airport boundary and in that portion of an airport hazard area under the approach zone for a distance not exceeding 2 miles from the airport boundary.

(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

§ 152.505 LAND USE SAFETY ZONE BOUNDARIES.

In order to carry out the purpose of this subchapter, as set forth above and also, in order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Olivia Regional Airport, and furthermore to limit population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property in case of an accident, there are hereby created and established the following land use safety zones:

(A) *Safety Zone A.* All land in that portion of the approach zones of a runway, as defined in § 152.413(A), which extends outward from the end of the primary surface a distance equal to 2/3 of the planned length of the runway, which distance shall be:

(1) Two thousand, eight hundred and sixty-seven for Runway 11/29.

(2) One thousand, nine hundred and thirty-three for Runway 3/21, etc.

(3) See the detail in Exhibits B and C relating to the Runway 29 approach for modification to Zone A and Zone B, dated June 24, 1999.

(B) *Safety Zone B.* All land in that portion of the approach zones of a runway, as defined in Subsection IV A hereof, which extends outward from Safety Zone A a distance equal to 1/3 of the planned length of the runway, which distance shall be:

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(1) One thousand, four hundred and thirty-three for Runway 11/29.

(2) Nine hundred and sixty-seven for Runway 3/21.

(C) *Safety Zone C.*

(1) All that land which is enclosed within the perimeter of the horizontal zone, as defined in § 152.413(A), and which is not included in Zone A or Zone B.

(2) No established residential neighborhoods exist. See exception below in division (C)(3).

(3) Exception: An isolated low density residential building lot and low density residential structures: The following property on the aforesaid established residential lot with structures is hereby designated as an isolated, low-density residential building lot with low-density residential structures. A low-density residential structure shall mean a single-family or 2-family home and an isolated low-density residential building lot shall mean a single lot located in an area which is zoned for a single-family or 2-family residences and in which the predominant land use is such type of residence. This sporadic low-density use which was in existence since February 1, 1999, is subject to special provisions set forth in § 152.415(E), exemption located in Zone A and Zone B described below:

(a) A 5-acre building site in the East half of the East half of the NE Quarter, Section 14, Troy Township 115. (See Exhibit D and E for an explanation and legal description.)

(b) Runway 11/29, Runway 29 Approach.
(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

§ 152.506 USE RESTRICTIONS IN ZONES.

The following use restrictions apply:

(A) *General.* Subject at all times to the height restrictions set forth in § 152.413, no use shall be made of any land in any of the safety zones defined in § 152.414 which creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

(B) *Zone A.* Subject at all times to the height restrictions set forth in § 152.413 and to the general restrictions contained in § 152.414 areas designated as Zone A shall contain no buildings, temporary structures, exposed transmission lines, or other similar aboveground land use structural hazards, and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include, but are not limited to, such uses as agriculture (seasonal crops), horticulture, wildlife habitat, light outdoor recreation (nonspectator), cemeteries, and automobile parking.

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(C) *Zone B.* Subject at all times to the height restrictions set forth in § 152.413, and to the general restrictions contained in § 152.414, areas designated as Zone B shall be restricted in use as follows:

- (1) Each use shall be on a site whose area shall not be less than 3 acres.
- (2) Each use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage.
- (3) Each site shall have no more than 1 building plot upon which any number of structures may be erected.
- (4) A building plot shall be a single, uniform and non-contrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total site area:

<i>Site Area at Least (Acres)</i>	<i>But Less Than (Acres)</i>	<i>Ration of Site Area to Bldg. Plot Area</i>	<i>Building Plot Area (Sq. Ft.)</i>	<i>Max. Site Population (15 persons/A)</i>
3	4	12:1 12:1	10,900	45
4	6	10:1 10:1	17,400	60
6	10	8:1 8:1	32,700	90
10	20	6:1 6:1	72,600	150
20	and up	4:1	218,000	300

(5) The following uses are specifically prohibited in Zone B: Churches, hospitals, schools, theaters, stadiums, hotels and motels, trailer courts, campgrounds, and other places of frequent public or semi-public assembly.

(D) *Zone C.* Zone C is subject only to height restrictions set forth in § 152.413, and to the general restrictions contained in § 152.414.

(E) *Exemption.* Exemption: An isolated low density residential building lot and low density residential structures:

- (1) Land uses which come into existence after June 24, 1999 are subject to the Zone A or Zone B restrictions as the case may be.

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(2) (a) Land uses which violate any of the following restrictions are prohibited as safety hazards and must be acquired, altered, or removed at public expense.

(b) Those conditions are as follows: The following land uses if they exist in Safety Zones A and B and in an ERN-BUUA are considered by the Commissioner to constitute airport safety hazards so severe, either to persons on the ground or to the air-traveling public, or both, that they must be prohibited under local airport zoning ordinances;

1. Any structure which a person or persons customarily use as a principal residence and which is located entirely inside Safety Zone A within 1,000 feet of the end of the primary zone;

2. Any structure which a person or persons customarily use as a principal residence and which is located entirely within Safety Zones A and B and which penetrates an imaginary approach surface as defined by § 152.413;

3. Any land use in Safety Zone A or B which violates any of the following standards:

a. The land use must not create or cause interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft;

b. The land use must not make it difficult for pilots to distinguish between airport lights and other lights;

c. The land use must not result in glare in the eyes of pilots using the airport or impair visibility in the vicinity of the airport.

4. Any isolated residential building lot zoned for single-family or 2-family residences on which any structure, if built, would be prohibited by division (E)(2)(a), (b)1., (b)2. or (b)3. above. An **ISOLATED** residential building lot is one located in the area in which the predominant land use is single-family or 2-family residential structures; and

5. Any other land use which presents, in the opinion of the Commissioner, a material danger to the landing, taking off or maneuvering of aircraft or to the safety of persons on the ground. In making such a determination, the Commissioner shall consider the following factors:

a. Possibility that the land use may contribute to or cause a collision of 2 or more aircraft or an aircraft and some other object;

b. Possibility that the land use may, in case of an aircraft accident, cause an explosion, fire or the release of harmful or noxious fumes, gases or substances;

c. Tendency of the land use to increase the number of persons that would be injured in case of an aircraft accident;

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d. Effect of the land use on availability of clear areas for emergency landings; and

e. Flight patterns around the airport, the extend of use of the runway in question, the type of aircraft using the airport, whether the runways are lighted, whether the airport is controlled, and other similar factors.

(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

§ 152.507 BOUNDARY LIMITATIONS.

The land use zoning restrictions set forth in this section shall apply for a distance not to exceed 1 mile beyond the perimeter of the airport boundary and in that portion of an airport hazard area under the approach zone for a distance not exceeding 2 miles from the airport boundary.

(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

§ 152.508 AIRPORT ZONING MAP.

The several zones herein established are shown on the Olivia Regional Airport Zoning Map consisting of 13 sheets, prepared by Short Elliott Hendrickson Inc., and dated June 24, 1999, which is incorporated by reference as if appearing in total and made a part hereof, which map, together with such amendments thereto as may from time to time be made, and all notations, references, elevations, data, zone boundaries, and other information thereon, shall be and the same is hereby adopted as part of this subchapter.

(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

§ 152.509 NONCONFORMING USES.

(A) Regulations are not retroactive. The regulations prescribed by this subchapter shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of the ordinance creating this subchapter, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the ordinance creating this subchapter, and is diligently prosecuted and completed within 2 years thereof.

(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

(B) Nonconforming Uses Abandoned or Destroyed: Whenever the zoning administrator determines that a nonconforming structure or tree has been abandoned or more than 50% torn down, deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations. Whether application is made for a permit under this paragraph or not, the zoning administrator may order the owner of the abandoned or partially destroyed nonconforming structure, at his or her own expense, to lower, remove, reconstruct, or equip the same in the manner necessary to conform to the provisions of this Ordinance. In the event the owner of the

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nonconforming structure shall neglect or refuse to comply with such order for ten days after receipt of written notice of such order, the zoning administrator may, by appropriate legal action, proceed to have the abandoned or partially destroyed nonconforming structure lowered, removed, reconstructed, or equipped and assess the cost and expense thereof against the land on which the structure is or was located. Unless such an assessment is paid within ninety days from the service of notice thereof on the owner of the land, the sum shall bear interest at the rate of eight per cent per annum from the date the cost and expense is incurred until paid, and shall be collected in the same manner as are general taxes.

§ 152.510 PERMITS, FUTURE USES.

Except as specifically provided in divisions (A) and (B) below, no material change shall be made in the use of land and no structure shall be erected, altered, or otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted by the Zoning Administrator, hereinafter, provided for. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

(A) However, a permit for a tree or structure less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land contour, or topographic features, would extend the height or land use limit prescribed for the respective zone.

(B) Nothing contained in this foregoing exception shall be construed as permitting or intending to permit any construction, alteration, or growth of any structure or tree in excess of any of the height limitations established by this chapter as set forth in § 152.413 and the land use limitations set forth in § 152.414.

(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

§ 152.511 PERMITS, EXISTING USES.

Before any existing use or structure may be replaced, substantially altered or impaired, or rebuilt within any zone established herein, a permit must be secured authorizing such replacement, change, or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this chapter or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

§ 152.512 PERMITS, NONCONFORMING USES ABANDONED OR DESTROYED.

Whenever the Zoning Administrator determines that a nonconforming structure or tree has been

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abandoned or more than 50% torn down, deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations. Whether application is made for a permit under this paragraph or not, the Zoning Administrator may order the owner of the abandoned or partially destroyed nonconforming structure, at his or her own expense, to lower, remove, reconstruct, or equip the same in the manner necessary to conform to the provisions of this subchapter. In the event the owner of the nonconforming structure shall neglect or refuse to comply with such order for 10 days after receipt of written notice of such order, the Zoning Administrator may, by appropriate legal action, proceed to have the abandoned or partially destroyed nonconforming structure lowered, removed, reconstructed, or equipped and assess the cost and expense thereof against the land on which the structure is or was located. Unless such an assessment is paid within 90 days from the service of notice thereof on the owner of the land, the sum shall bear interest at the rate of 8% per annum from the date the cost and expense is incurred until paid, and shall be collected in the same manner as are general taxes.

(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

§ 152.513 VARIANCES.

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his or her property not in accordance with the regulations prescribed in this subchapter may apply to the Board of Appeals, hereinafter provided for, for a variance from such regulations. If a person submits an application for a variance by certified mail to the members of the Board and the Board fails to grant or deny the variance within the required 60 days or 120 days if a 60-day extension is applied for, after the last member receives the application, the variance shall be deemed to be granted by the Board. When the variance is granted by reason of the failure of the Board to act on the variance, the person receiving the variance shall notify the Board and the Commissioner by certified mail that the variance has been granted. The applicant shall include a copy of the original application for the variance with this notice to the Commissioner. The variance shall be effective 60 days after this notice is received by the Commissioner subject to any action taken by the Commissioner pursuant to M.S. § 360.063, subd. 6a, as it may be amended from time to time. A variance from the literal provisions of this zoning code may be granted by the Board of Appeals and Adjustments only when the variance is in harmony with the general purposes and intent of the zoning code and the variance is consistent with the comprehensive plan, if the city has adopted one. A variance may be granted when the applicant for the variance establishes that there are PRACTICAL DIFFICULTIES in complying with the zoning ordinance. PRACTICAL DIFFICULTIES as used in connection with granting a variance, means the property owner proposes to use the property in a reasonable manner not permitted by the zoning code; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Any variance so allowed may be subject to any reasonable conditions that the Board or Commissioner may deem necessary to effectuate the purpose of this subchapter.

§ 152.514 HAZARD MARKING AND LIGHTING.

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(A) *Nonconforming uses.* The owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Zoning Administrator to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the City of Olivia owners of the Olivia Regional Airport.

(B) *Permits and variances.* Any permit or variance deemed advisable to effectuate the purpose of this subchapter and be reasonable to effectuate the purpose of this subchapter and be reasonable in the circumstances, and granted by the Zoning Administrator or Board, shall require the owner of the structure or tree in question, at his or her own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.
(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

§ 152.515 AIRPORT ZONING ADMINISTRATOR.

It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Board of Appeals upon a form furnished the Administrator. Permit applications shall be promptly considered and granted or denied by the Administrator in accordance with the regulations prescribed herein. Variance applications shall be forthwith transmitted by the Zoning Administrator for action by the Board hereinafter provided for.
(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

§ 152.516 BOARD OF APPEALS.

(A) *Establishment.* The Board of Appeals shall consist of 5 members appointed by the City Council, and each shall serve for a term of 3 years, or until removed by the City Council, or until his or her successor is duly appointed and qualified. Of the members first appointed, 1 shall be appointed for a term of 1 year, 2 for a term of 2 years, and 2 for a term of 3 years. Upon their appointment, the members shall select a chairperson to act at the pleasure of the Board. Members may be removed by the City Council without cause, after a hearing.

(B) *Powers.* The Board of Appeals shall have and exercise the following powers:

(1) To hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this subchapter.

(2) To hear and decide special exceptions to the terms of this subchapter upon which such Board of Appeals under such regulations may be required to pass.

(3) To hear and decide specific variances.

(C) *Procedures.*

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(1) The Board of Appeals shall adopt rules for its governance and procedure in harmony with the provisions of this subchapter. Meetings of the Board of Appeals shall be held at the call of the Zoning Administrator and at such other times as the Board of Appeals may determine. The Chairperson, or in their absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Appeals shall be public. The Board of Appeals shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Zoning Administrator and shall be a public record.

(2) The Board of Appeals shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision or determination which comes before it under the provisions of this chapter.

(3) The concurring vote of a majority of the members present of the Board of Appeals shall be sufficient to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this subchapter, or to effect any variation in this subchapter.

(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

§ 152.517 APPEALS.

The appeals process is as follows:

(A) Any person aggrieved, or any taxpayer affected by any decision of the Zoning Administrator made in his or her administration of this subchapter may appeal to the Board of Appeals. Such appeals may also be made by any governing body of Olivia City Council, which is of the opinion that a decision of the Zoning Administrator is an improper application of this subchapter as it concerns such governing body or board.

(B) All appeals hereunder must be commenced within 30 days of the Zoning Administrator's decision, by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. In addition, any person aggrieved, or any taxpayer affected by any decisions of the Zoning Administrator made in his or her administration of this subchapter who desires to appeal such decision shall submit an application for a variance by certified mail to the members of the Board of Appeals in the manner set forth in M.S. § 360.068, Subd. 2, as it may be amended from time to time.

(C) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Appeals, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Appeals on notice to

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the Zoning Administrator and on due cause shown.

(D) The Board of Appeals shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(E) The Board of Appeals may, in conformity with the provisions of this chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination, as may be appropriate under the circumstances, and to that end shall have all the powers of the Zoning Administrator.

(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

§ 152.518 JUDICIAL REVIEW.

Any person aggrieved, or any taxpayer affected by any decision of the Board of Appeals, or any governing body of the City Council, which is of the opinion that a decision of the Board of Appeals is illegal may present to the District Court of Renville County a verified petition setting forth that the decision or action is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the decision is filed in the office of the Board of Appeals. The petitioner must exhaust the remedies provided in this subchapter before availing himself or herself of the right to petition a court as provided by this section.

(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

§ 152.519 PENALTIES.

Every person who shall construct, establish, substantially change, alter or repair any existing structure or use, or permit the growth of any tree without having complied with the provision of this subchapter or who, having been granted a permit or variance under the provisions of this subchapter, shall construct, establish, substantially change or substantially alter or repair any existing growth or structure or permit the growth of any tree, except as permitted by such permit or variance, shall be guilty of a misdemeanor and shall be punished accordingly. Each day a violation continues to exist shall constitute a separate offense. The Airport Zoning Administrator may enforce all provisions of this subchapter through such proceedings for injunctive relief and other relief as may be proper under the laws of M.S. § 360.073, as it may be amended from time to time, and other applicable law.

(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

§ 152.520 CONFLICTS.

Where there exists a conflict between any of the regulations or limitations prescribed in this subchapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or regulation shall govern and prevail.

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(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

§ 152.521 SERVERABILITY.

(A) In any case in which the provision of this subchapter, although generally reasonable, is held by a court to interfere with the use of enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the constitution of this state or the constitution of the United States, such holding shall not affect the application of this subchapter as to other structures and parcels of land, and to this end the provisions of this subchapter are declared to be severable.

(B) Should any section or provision of this subchapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the subchapter as a whole or any part thereof other than the parts so declared to be unconstitutional or invalid.

(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

§ 152.522 EFFECTIVE DATE.

(A) This Ordinance be effective as of the 28th day of July, 2005. Copies thereof shall be filed with the Commissioner through the Office of Aeronautics, State of Minnesota, and the Register of Deeds, Renville, Minnesota. Upon the recommendation of the Airport Advisory Board, this Ordinance was passed and adopted after a public hearing was held by the Olivia City Council this 27th day of June, 2005.

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§ 152.523 EXHIBIT A

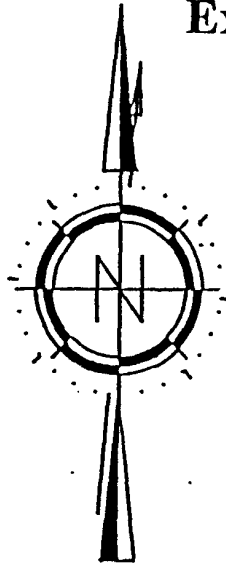
This Ordinance affects all or a portion of the following sections of land:

Name and Number of Township	AIRSPACE OBSTRUCTION ZONING: Section IV of Ordinance; Pages <u>5 - 11 of 13</u> of Zoning Map	LAND USE SAFETY ZONING: Section V of Ordinance; Page <u>12 of 13</u> of Zoning map
Troy Township T 115 N R 35 W	Sections: 1, 2, 3, 4, 5, 8, 9, 10 11, 12, 13, 14, 15, 16, 17, 20 21, 22,23, & 24	Sections: 1, 2, 3, 4, 9, 10, 11 12, 13, 14, 15, 16, 22 & 23
Bird Island Township T 115 N R 34 W	Sections: 6, 7, and 8	Sections:
Winfield Township T 116 N R 35 W	Sections: 33, 34, 35, and 36	Sections:

Zoning Code

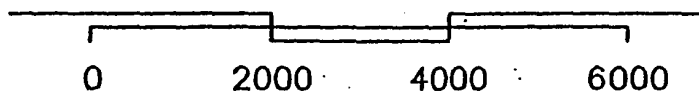
§ 152.524 EXHIBIT B

Exhibit B



MAGNETIC DECLINATION = 3.69° E
SOURCE: GEOMAGNETIC INFORMATION CENTER,
USGS; JUNE 24, 1999

GRAPHIC SCALE IN FEET



General Restrictions

No use shall be made of any land in any of the safety zones which creates or causes interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, take off, or maneuvering of aircraft.

Safety Zone "A" shall contain no buildings, temporary structures, exposed transmission lines or other similar land use structural hazards, and shall be restricted to those uses which will not create, attract or bring together an assembly of persons thereon. Permitted uses may include but are not limited to, such uses as agriculture (seasonal crops), horticulture, raising of livestock, animal husbandry, wildlife habitat, light outdoor recreation (nonspectator), cemeteries, and auto parking.

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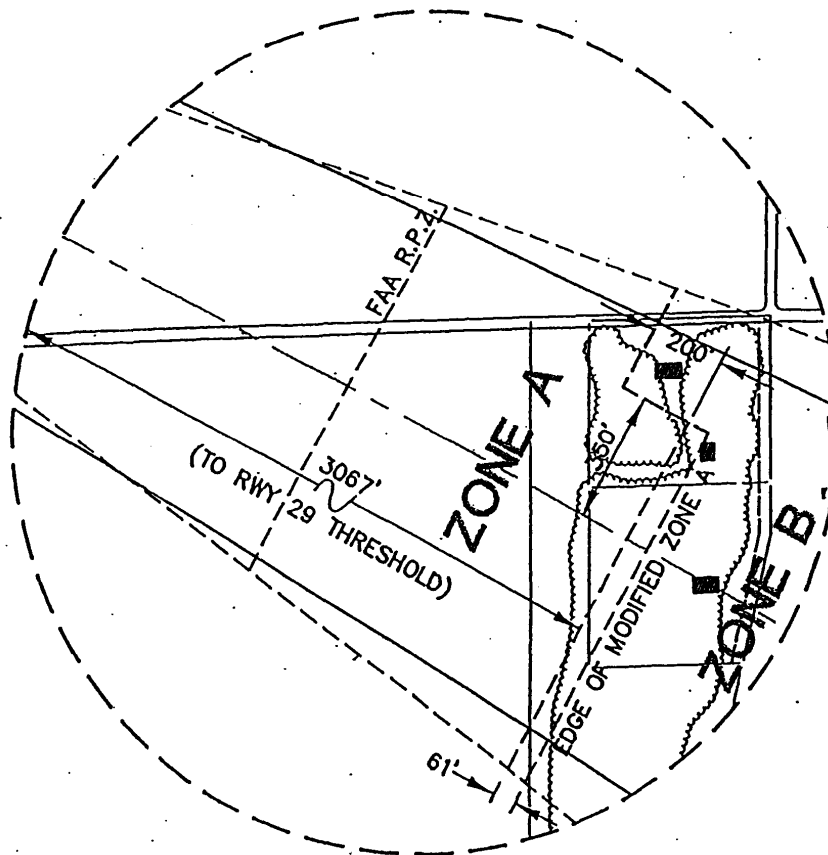
§ 152.525 EXHIBIT C

Safety Zone "B" shall be restricted in use as follows. Each use shall be on a site whose area shall not be less than three acres. Each use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage. Each site shall have no more than one building plot upon which any number of structures may be erected.

The following uses are specifically prohibited in Zone B:

churches, hospitals, schools, theaters, stadiums, hotels and motels, trailer courts, camp grounds, and other places of public or semipublic assembly.

Safety Zone "C" is subject to the general restrictions. Safety Zone "C" is enclosed within the perimeter of the horizontal zone.



ZONE A DETAIL

(NO SCALE)

Zoning Code

§ 152.526 EXHIBIT D

**CITY OF OLIVIA
RESOLUTION NO. 2000-74
A RESOLUTION STATING THE CITY HAS ACTED IN GOOD FAITH
TO KEEP ANY AND ALL BUILDING STRUCTURES OUT OF ZONE A
ACCORDING TO THE AIRPORT MASTER PLAN**

Whereas, Gary McRell, 33007 820th Avenue, Olivia, Minnesota has a 5 acre building site in the East half of the East half of the NE Quarter, Section 14, (Troy) Township 115. The City of Olivia was notified Mr. McRell has made application to Renville County Planning and Zoning to construct a miscellaneous storage shed on said parcel of property where a single family residential dwelling was constructed in Spring of 1999. (Legal description attached.)

Whereas, The City of Olivia acknowledges Renville County has building permit authority for this application but would like to express concerns relating to the proposed location of the building in proximity to the Olivia Regional Airport. It is noted the Minnesota Aviation guidelines have established that Gary McRell's property lies both in Zone A and Zone B. The Airport Master Plan identifies restrictions on lands located in the designated safety zones. The purpose of these zones are to protect the safety and well being of the Airport, aircraft and adjacent land owners.

Whereas, According to aviation restrictions, no buildings shall be permitted or allowed" to be placed in Zone A, however; buildings may be allowed and constructed in Zone B with elevation restrictions. According to MNDOT, Office of Aeronautics, the City of Olivia risks future state and federal Airport funding if any type of building structure is found to be located in Zone A. Currently, the City of Olivia receives 60% state grant funds for airport improvement projects.

Whereas, after careful consideration by Short Elliot & Hendrickson, City Engineers, it appears the proposed building/shed would penetrate Zone A. Based on current information available, it was the recommendation of SEH, that the propose building location be moved an additional 20' to the east in Zone B.

Whereas, at the Regular Meeting of the Olivia City Council on October 16, 2000, the Council moved to recommend Renville County Planning & Zoning grant a building permit to Gary McRell based on our City Engineers recommendation to move the building 20' straight to the east in Zone B; providing Renville County verify the final location of the building which would bring the new structure in compliance with the City's Airport Layout Plan.

Therefore Be It Resolved, that based on the new revised site plan submitted by Gary McRell dated October 25, 2000, the City of Olivia recommends that Renville County approve the permit. Because based on the site plan, the building is clearly to be constructed/located in Zone B, which allows for structures.

Therefore Be It Further Resolved, that said Resolution No. 2000-74 shall be recorded with the Gary McRell property and the Olivia Airport Layout Plan.

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Said Resolution No. 2000-74 was passed and adopted this 6th day of November 2000.

Zoning Code

§ 152.527 EXHIBIT E

LEGAL DESCRIPTION

That part of the East Half of the East Half of the Northeast Quarter (E1/2 of E1/2 of NE 1/4) of Section 14, Township 115, Range 35, described as follows: Commencing at the Northeast Corner of said Section 14; thence South 00 degrees 22 minutes 51 seconds East, an assumed bearing, along the east side of said Northeast Quarter (NE1/4) a distance of 444.50 feet; thence South 88 degrees 40 minutes 50 seconds West 490.14 feet; thence North 00 degrees 21 minutes 45 seconds West 444.50 feet to the north line of said Northeast Quarter (NE1/4) of section 14; thence North 88 degrees 40 minutes 50 seconds East along said north line 490.00 feet to the point of beginning; containing 5.0 acres, more or less.

(Ord. 166, passed 11-21-1978; Ord. 280, passed 7-21-2005)

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MISCELLANEOUS

§ 152.640 COMPLIANCE REQUIRED.

It shall be the duty of all architects, contractors, subcontractors, builders and other persons having charge of the erecting, altering, changing or remodeling of any building or structure including mobile homes, before beginning or undertaking any such work, to see that such work does not conflict with and is not a violation of the terms of this chapter. Any such architect, builder, contractor or other person doing or performing any such work of erecting, repairing, altering, changing or remodeling and in violation of, or in conflict with the terms of this chapter, shall be deemed guilty of a violation hereof in the manner and to the same extent as the owner of the premises or the person or persons for whom such buildings are erected, repaired, altered, changed or remodeled in violation hereof and shall be held accountable for such violation. (Ord. 280, passed 7-21-2005)

§ 152.641 RELIEF FROM PERSONAL RESPONSIBILITY.

Any claim based upon an act or omission of an officer or employee exercising due care in the execution of any valid or invalid portions of this chapter and any claim based upon the performance of the failure to exercise or perform a discretionary function or duty whether or not the discretion is abused, are hereby enumerated as exceptions to M.S. § 466.02, as it may be amended from time to time, and said section does not apply. The city shall defend, save harmless and indemnify any of its officers or employees whether elective or appointed, against any tort claim or demand whether groundless or otherwise arising out of an alleged act or omission occurring in the performance of duty in the enforcement and administration of this chapter except as provided in M.S. § 466.07, as it may be amended from time to time.

(Ord. 280, passed 7-21-2005)

§ 152.998 VIOLATIONS.

Any building or structure being erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or site hereafter erected or maintained, or land use made or permitted in violation of this chapter, is hereby declared unlawful. In the event of violation or threatened violation of this chapter or other official control adopted under M.S. §§ 394.21 to 394.37, as they may be amended from time to time, in addition to other remedies, the City Council or any member thereof may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violation or threatened violations and it is the duty of the City Attorney to institute such actions.

(Ord. 280, passed 7-21-2005)

§ 152.999 PENALTY.

Zoning Code

Any person, firm, corporation or entity who violates any of the provisions of this chapter or any order of the Zoning Administrator issued in accordance with this chapter, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine and/or imprisonment as defined by law for each offense, plus the costs of prosecution. Each day that a violation is committed, or permitted to exist, shall constitute a separate offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this chapter, and the city may pursue, by appropriate actions or proceedings, any or all additional remedies.

(Ord. 280, passed 7-21-2005)

(Title 15 Amended by Ordinance 2018-03, passed 02-05-2018)