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CHAPTER 150: ZONING

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§ 150.01 TITLE, PURPOSE, APPLICATION.

(A) *Title.* This chapter shall be known as the Waterville Zoning Ordinance except as referred to herein, where it shall be known as this chapter.

(B) *Comprehensive plan.* This chapter is intended to carry out the policies and goals of the comprehensive plan as allowed by the enabling legislation.

(C) *Application.* This chapter shall apply to all land uses, to all constructing, enlarging or moving of structures and to certain construction standards within the corporate limits of Waterville. Where the conditions of this chapter are comparable with conditions imposed by other law, ordinance, statute or regulation, the regulations that are more restrictive shall prevail.

(D) *Minimum requirements.* In their interpretation and application, the provisions of this chapter shall be held to the minimum requirements for the promotion of the public health, safety and welfare.

(E) *Repeal.* The previous Waterville Zoning Ordinance, City Code, Chapter XIII, dated January 10, 1992 as amended is hereby repealed and replaced by this chapter.

(F) *Purpose.* For the purposes as stated previously, this chapter provides:

- (1) Definitions for clarification of terms used.
- (2) General provisions for all areas of the city.
- (3) Zoning districts setting forth different uses and standards applicable to each district.
- (4) Administrative procedures identifying zoning permit requirements and city responsibilities.
- (5) Flexibility measures (variance, conditional use, amendments and Planned Unit Developments.)
- (6) Enforcement and penalty rules.
- (7) Zoning Map.

(Ord. passed 6-3-1997)

§ 150.02 DEFINITIONS.

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

ACCESSORY STRUCTURES. A structure for uses relating to, but subordinate to the main use of the property and located on the same lot as the main use and which can meet the minimum setback requirements unless excepted herein, including, but not limited to: private garages, sheds, antennas, walls, loading docks, gazebos, pools, outbuildings, storage facilities, private greenhouses and fences. This chapter treats signs as a separate use.

ACCESSORY USE. A use that is subordinate and incidental to the principal use of the lot. Including, but not limited to: parking areas, drive ways, personal storage, and home occupations.

AGRICULTURE. The cultivation of the soil and activities incidental thereto, the growing of soil crops, greenhouses and the raising of livestock, including selling of products raised on the premises but not other retail selling or processing.

ALLEY. A public right-of-way less than 30 feet in width which affords secondary access to abutting property.

ASSISTED LIVING. Apartment living with individualized services which may include 24-hour oversight, transportation, meals and personal attendance.

AWNING. A temporary hood or cover which projects from the wall of a building, and of a type which can be retracted, folded or collapsed against the face of a supporting building.

BALCONY. A landing or porch projecting from the wall of a building and which serves as a means of egress.

BANNERS. Attention getting devices which resemble flags and are of a paper, cloth or plastic-like consistency.

BASEMENT. A portion of a building located partially underground, but having less than one-half its floor to ceiling height below the average land grade.

BED AND BREAKFAST FACILITY. A dwelling in which the owner or manager resides which contains six or less guest rooms in which lodging is provided for compensation, which is open for temporary guests and in which no provision is made for cooking in the guest rooms.

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

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

BOARDING. The renting out of rooms of a single-family dwelling people, with no separate cooking facilities, access or extra garage.

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

BUILDABLE AREA. The portion of a lot remaining after required yards have been provided.

BUILDING. Any structure used or intended for supporting or sheltering any use or occupancy.

BUILDING HEIGHT. A distance to be measured from the mean ground level to the top of a flat roof, to the mean distance of the highest gable on a pitched or hip roof to the deck line of a mansard roof, to the uppermost point on all other roof types.

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

CAMPGROUND. An area used on a daily, nightly or weekly basis for the accommodation of three or more occupied tents, expandable camp trailers, motor homes, travel trailers and converted buses or trucks; whether privately or publicly owned; and whether use of such accommodation is granted free of charge or for compensation.

CARPORT. A canopy constructed of metal or other materials supported by posts either ornamental or solid and completely open on three sides.

CELLAR. That portion of a building having more than one-half of the floor to ceiling height below the average land grade.

CHANNEL. A natural or artificial depression of a perceptible extent, with definite bed and banks to confine and conduct water either continuously or periodically.

CHURCH.

CITY. The incorporated City of Waterville, LeSueur County, State of Minnesota.

CLUB or LODGE. A club or lodge is a non-profit association of persons who are bonafide members paying annual dues, uses of premises being restricted to members and their guests.

COUNCIL. The City Council of Waterville, Minnesota.

CROWDING POTENTIAL. The ratio of total acreage to shore miles.

DAY CARE FACILITY. Any facility, public or private, which for gain or otherwise, regularly provides one or more persons with care, training, supervision, habitation, rehabilitation, or development guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. **DAY CARE FACILITIES** include, but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, daytime activity centers, day treatment programs and day services.

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

DIVERSION. A channel that intercepts surface water run-off and that changes the accustomed course of all or part of a stream.

DOG KENNEL. Any place where three dogs or more, over six months of age, are boarded, bred and/or offered for sale except as a veterinary clinic.

DRAINING. The removal of surface water or ground water from land.

DREDGING. To enlarge or clean-out a waterbody, watercourse, or wetland.

DUPLEX, TRIPLEX and QUAD. A multi-family dwelling structure on a single lot, having two, three and four dwelling units, respectively.

DWELLING. A structure used for living quarters.

DWELLING, MULTI-FAMILY. A dwelling containing more than one dwelling unit.

DWELLING, SINGLE-FAMILY. A dwelling containing one dwelling unit.

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

DWELLING UNIT. A dwelling, or portion thereof, designed with its own kitchen, access and/or other features which make it livable separately from other dwellings or portions thereof.

EARTH SHELTERED DWELLING UNIT. A structure which complies with applicable building standards and which is constructed so that:

(1) Eighty percent or more of the roof area is covered with a minimum depth of 12 inches of earth; and

(2) Fifty percent or more of the wall area is covered with a minimum depth of 12 inches of earth.

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

EFFICIENCY APARTMENT. A dwelling unit that is part of and subordinate to a principal single-family dwelling and designed for three or less people and with no extra driveway or garage and no additional outside appearance than found in single family residential areas.

ESSENTIAL SERVICES. The erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems by public utilities, municipal or other governmental agencies, but not including buildings other than directly needed for the essential service.

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

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

FENCE. A fence is defined for the purpose of this chapter as any partition, structure, wall or gate erected as a dividing marker, barrier, or enclosure.

FILLING. The act of depositing any rock, soil, gravel, sand or other material so as to fill or partly fill a waterbody, watercourse, or wetland.

FLOOD PLAIN. The areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.

GARAGE, DETACHED. Any garage that is not structurally incorporated into the dwelling structure with common wall and roof. Just a connection such as a breezeway or overhang would be characterized as detached.

GARAGE, PRIVATE. Any accessory building or accessory portion of the principal building which is intended for and used for personal vehicles or storage and that is greater than 200 square feet in floor area. (See **STORAGE SHED**.)

GRADE (ADJACENT GROUND ELEVATION). The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five feet from the building, between the building and a line five feet from the building.

GRADING. Changing the natural or existing topography of land.

GROUP CARE FACILITY. A facility which provides resident services to seven or more individuals of whom one or more are unrelated. These individuals are physically challenged, aged, or disabled, are undergoing rehabilitation, and are provided services to meet their needs. This category includes uses such as homes for the physically challenged, mentally challenged, chemically dependent, maternity shelters and half-way houses.

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

HARDSHIP. Hardship means that a property in question regarding a variance cannot be put to reasonable use if used under conditions allowed by official contracts.

HOME OCCUPATION. An occupation taking place as subordinate to a principle residential use and operated by an occupant of the dwelling.

HOTELS. Any building or portion thereof where lodging is offered to transient guests for compensation.

IMPERVIOUS SURFACE. An artificial or natural surface through which water, air, or roots cannot penetrate.

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

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

JUNK YARD. Land or buildings where waste, discarded or salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled or handled, including, but not limited to: scrap metal, rags, paper, hides, rubber products, glass products, lumber products, and products resulting from the wrecking of automobiles or other vehicles.

KENNEL. Any structure or premises on which five or more domestic animals over four months of age are kept.

LAND ALTERATION. The altering of land, including mining, excavating, reclaiming, grading and filling.

LOADING SPACE or BERTH. A space accessible from a street, alley, or way, in a building or on a lot for the use of vehicles while loading and unloading merchandise, materials or passengers.

LODGING HOUSE. A building other than a hotel, where for compensation for definite periods, lodging is provided for three or more persons not of the principal family, but not including a building providing this service for more than ten persons.

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

LOT, DEPTH. The shortest horizontal distance between the front lot line and the rear lot line measured from a 90-degree angle from the street right-of-way within the lot boundaries.

LOT, DOUBLE FRONTAGE. An interior lot having frontage on two streets.

LOT, FRONTAGE. The front of a lot shall be, for purposes of complying with this chapter, that boundary abutting a public right-of-way having the least width.

LOT, INTERIOR. A lot other than a corner lot, including through lots.

LOT, LINE. A property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way.

LOT OF RECORD. A parcel of land that has been split and legally recorded with the County Recorder.

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

MANUFACTURED HOME. A **MANUFACTURED SINGLE-FAMILY DWELLING** is a structure transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling for one family, with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure to which the manufacturer voluntarily files a certification required by the Secretary (US-HUD) and complies with the building code as evidenced by a seal displayed on the manufactured home.

MANUFACTURED HOME PARK. Any lot or part thereof, or any parcel of land which is used or offered as a location for two or more manufactured homes.

MOTEL/MOTOR HOTEL. A building or group of detached, semi-detached or attached buildings containing guests rooms or units, each of which has a separate entrance directly from the outside of the building, or corridor, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of transient guests traveling by automobile.

MOTOR FUEL STATION. A place where gasoline is stored only in underground tanks, kerosene or motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the public on the premises, and including minor accessories and services for automobiles, but not including major repairs and rebuilding.

NATURAL DRAINAGE SYSTEM. All land surface areas which by nature of their contour, configuration, collect, store and channel surface water run-off.

NATURAL OBSTRUCTION. Any rock, tree, gravel or analogous natural matter that is an obstruction and has been located within a waterbody, watercourse, or wetland by a non-human cause.

NONCONFORMING. A use, structure or lot of record that does not conform to the requirements of this chapter. It is legally nonconforming if meeting applicable city ordinance requirements when created or started.

NURSING HOME (REST HOME). A building having accommodations where care is provided for two or more invalids, infirm, aged, convalescent or physically challenged persons that are not of immediate family; but not including hospitals, clinics, sanitariums, or similar institutions.

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

OPEN SALES LOT. Any open land used or occupied for the purpose of buying, selling, and/or renting merchandise and for the storing of same prior to sale.

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

PARKS and PLAYGROUNDS. Public land and open space in the city dedicated or reserved for recreational purposes.

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

PERSON. An individual, firm, partnership, association, corporation, or organization of any kind.

PLANNED UNIT DEVELOPMENT (PUD). A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density

increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels and conversions of structures and land uses to these uses.

PLANNED UNIT DEVELOPMENT, COMMERCIAL. *PUDs* that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

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

PLANNING COMMISSION. The **PLANNING COMMISSION** of Waterville, Minnesota.

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

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

PUBLIC USES. Uses owned or operated by municipal, school districts, county, state, or other governmental units.

PUBLIC WATERS. Any waters as defined in M.S. § 103G.005, as it may be amended from time to time.

RECREATION VEHICLE. A self-propelled vehicle which is used primarily for recreational purposes.

REGULATORY FLOOD PROTECTION ELEVATION. A point not less than one foot above the elevation of the flood plain, plus any increases in flood heights attributable to encroachment on the flood plain. It is the elevation to which uses regulated by this chapter are required to be elevated or flood-proofed.

RENTAL CABINS. A group of cabins on a single parcel in which temporary or seasonal recreational lodging is provided for compensation.

RESIDENTIAL FACILITY. Any facility, public or private, which for gain or otherwise, regularly provides one or more persons with a 24-hour per day substitute for care, food, lodging, training, education, supervision, habitation, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the person's own home. **RESIDENTIAL FACILITIES** include, but are not limited to: state institutions under the control of the commissioner of public welfare, foster homes, residential treatment centers, maternity shelters, group homes, residential programs, or schools for physically challenged children.

ROOF LINE. The top of the coping or, when the building has a pitched roof, as the intersection of the outside wall with the roof.

SCREENING. The presence of an artificial barrier, vegetation, or topography which makes any structure on any property visually inconspicuous.

SEMI-PUBLIC USE. The use of land by a private organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization, including but not limited to: schools and churches.

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

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

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

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

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

SHORELAND. Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.

SIGN. The use of displaying any words, numerals, figures, devices or trademarks by which anything is made known and is visible to the general public.

SIGN, DAY. A moveable sign for announcing something at the site of a business use. These would typically include signs announcing name, hours of operation, meal specials, merchandise sales and service specials.

SIGN, DIRECTIONAL. For directing the public and displaying no more than the direction (arrow or other method), the distance, the facility (name and/or logo).

SIGN, IDENTIFICATION. For identifying a use at the site where it is located. This includes signs for multi-family, business, institutions, recreation and home occupation uses.

SIGN, RESIDENTIAL. For displaying house number and name of occupants.

SIGN, TEMPORARY. For events, real estate advertising, construction projects and elections.

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

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

STORAGE SHED. Any accessory building that is not over 200 square feet in floor area.

STRUCTURAL ALTERATIONS. Any change in the outside dimensions of a structure relative to height or ground dimensions.

STRUCTURE. Anything constructed or erected, the use of which requires permanent location on the ground, including signs, fences, storage sheds, antennas, and other construction with special function, but not including at-grade walks, driveways, and patios.

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

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

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

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

UPLAND. All lands at an elevation above the normal high water mark.

USABLE OPEN SPACE. A required ground area or terrace area on a lot which is graded, developed, and equipped and intended and maintained for either active or passive recreation or both, available and accessible to and usable by all persons occupying a dwelling unit or rooming unit on the lot and their guests. Such areas shall be grassed and landscaped or covered only for a recreational purpose. Roofs, driveways, and parking areas shall not constitute ***USABLE OPEN SPACE***.

USE. The purpose or activity for which the land or building thereon is designated, arranged, or intended, or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by the performance standards of this chapter.

VARIANCE. Relief from the dimensional or bulk regulations of this chapter where its strict enforcement would cause undo hardship.

WATERBODY. A body of water (lake, pond) in a depression of land or expanded part of a river, or an enclosed basin that holds water and is surrounded by land.

WATERCOURSE. A channel or depression through which water flows, such as rivers, streams or creeks, and may flow year 'round or intermittently.

WATERSHED. The area drained by the natural and artificial drainage system, bounded peripherally by a bridge or stretch of high land dividing drainage areas.

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

WETLAND. A surface water feature classified as wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).

YARD. The open space between the dwelling and the lot lines.

YARD, FRONT. A yard lying between the street line(s) of the lot and the nearest line of the building.

YARD, REAR. The yard on the opposite side of the lot from the street that the buildings are facing.

YARD, SIDE. The yards that are not front or rear yards.
(Ord. passed 6-3-1997)

§ 150.03 GENERAL PROVISIONS.

(A) *Purpose.* To provide regulations that apply to all areas of the city regardless of the specific zones.

(B) *Lots, dwellings, living arrangements.*

(1) Except for as provided for otherwise herein, each lot is eligible for one dwelling only.

(2) A lot or parcel may be subdivided to more lots if this chapter and Chapter 151 are complied with.

(3) Boarding rooms are considered in the category of people simply living, sharing rent, etc. This use will not be regulated by this chapter.

(4) Efficiency apartments, where allowed as a conditional use, must be determined as a finding to comply with the definition herein as opposed to a duplex.

(5) No cellar, basement or accessory building shall be used as a permanent dwelling.

(6) All dwellings must be at least 20 feet in width and on a permanent foundation unless in a manufactured home park or the AH District.

(7) Tents and camper trailers not in established campgrounds may be used as temporary dwelling for up to 21 days per year by permit only. The Zoning Administrator shall issue a permit upon showing of adequate provision for garbage and wastewater collection.

(C) *Non-conforming uses, structures, and lots of record.*

(1) Any legal non-conforming use or structure may be continued if the non-conforming feature(s) are not intensified, except as provided in this chapter.

(2) Needed maintenance and safety provisions are not considered as intensification. Also, the addition of new space that is structurally conforming to enable legal non-conforming use to keep operating at basically the same level is not considered as intensification.

(3) If a non-conforming use is transformed to an allowable use or discontinued, further use of the property shall conform to this chapter. If a non-conforming structure or nonconforming portion thereof is removed, further building shall conform to this chapter.

(4) Legal non-conforming lots of record will be allowed as building sites without variances from lot size if the use is permitted and if the lot has been in separate same ownership will have to combine as needed to meet applicable current minimum lot size requirements. This exception is for lot size only.

(5) Non-conforming structures can be added to if the addition does not create further nonconformity.

(D) *Accessory structures.*

(1) All accessory private garages, either attached or detached, shall be comparable in design, material, general character and be architecturally harmonious to the principal structure.

(2) No accessory use such as air conditioning, condensers or generators which create noise may be located in a side yard except for side yards abutting streets where equipment is fully screened from view.

(3) On lots less than 10,000 square feet in area, accessory buildings shall be at least five feet away from other buildings.

(4) On all lots that are 10,000 square feet and more in area, all accessory buildings shall be at least ten feet away from other buildings.

(5) Accessory structures are not to occupy more than 30% of the required rear or side yard.

(6) When granting a conditional use permit for a private garage over 1,200 square feet in floor area or for a second private garage on the lot, in addition to the normal considerations, the garage's use shall be verified as being accessory and attached to the permit as a condition.

(E) *Drainage plans.* In the case of all development, except single family dwellings, a drainage plan shall be submitted to the city engineer for review and a written approval is required.

(F) *Fences.*

(1) Fences may be placed with zero property line setback provided no damage results to abutting property and provided the abutting property side is at least equal in appearance and materials to the installer's side.

(2) No fence in any district may be higher than 42 inches as measured from the street's centerline if it is within the minimum setback distance on the street side(s) of the lot or if it is within five feet of an alley right-of-way.

(3) The maximum height allowed in other areas is six feet except for industrial and business areas where it can be eight feet if set back ten feet from property lines where the adjoining use is residential.

(G) *Traffic visibility.* On corner lots in all districts, no structure or planting in excess of 30 inches above the street center line grade shall be permitted within a triangular area defined as follows: beginning at the intersection of the projected property lines of two intersecting streets, thence 30 feet along one property line, thence diagonally to a point 30 feet from the point of beginning.

(H) *Glare.* Any lighting used to illuminate an off-street parking area, sign or other structure shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky reflected glare, where from floodlights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way.

(I) *Emissions.* Smoke, dust, odor, noise, electrical and radiation emissions in excess of what is normal in residential uses is not allowed in the residential zones. In all other zones, emissions shall be regulated by applicable state and federal regulations.

(J) *Refuse, junk, waste material.*

(1) The placing of junk or refuse in yards is not permitted except in the I2 Zone.

(2) Inoperable vehicles are considered as junk.

(3) All waste material shall be disposed of in compliance with local, state and federal regulations.

(K) *Exterior storage.* All materials and equipment except as provided for in this chapter shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following:

(1) Clothes line poles and wires.

(2) Stationary recreational equipment.

(3) Storage of one self-propelled recreational vehicle per dwelling.

(4) Construction and landscaping materials currently being used on the premises.

(5) Off-street parking of passenger vehicles and trucks not exceeding gross capacity of 12,000 pounds as an accessory use.

(L) Setback and height exemptions.

(1) The following shall not be considered as encroachments on required yard setbacks, except for ordinary high water setback requirements which shall adhere to the shoreland regulations.

(a) Chimney, flues, belt courses, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters and the like provided they do not project more than two feet into a required yard.

(b) Terraces, steps, uncovered porches, stoops, landings or similar features in front or rear yards provided they don't extend above the entrance floor level of the building or more than six feet into the required yard.

(c) Laundry drying and recreational equipment, arbors, trellises, air conditioning or heating equipment in rear yards to a point no closer than five feet from any lot line.

(d) One detached storage shed not exceeding eight feet in height nor 100 square feet in area in the rear yard to a point no closer than five feet from any lot line.

(e) Ornamental structures, whose purpose and intent is of a purely decorative nature and does not act as a wall or enclosure, block vision or light, shall be considered a permitted encroachment on yard setback requirements as long as such structures are located entirely upon the private property of the applicant.

(f) For signs, see division (P).

(g) For fences, see division (F).

(2) Where adjacent structures within the same block have front yard setbacks less than those required, the front yard minimum setback shall be the average of the adjacent structures. If there is only one adjacent structure, the front yard minimum setback shall be the average of the required setback and the setback of the adjacent structure.

(3) (a) For height, the building height limits established herein for districts shall not apply to the following:

1. Belfries;
2. Chimneys or flues;
3. Church spires;
4. Cooling towers;
5. Cupolas and domes which do not contain usable space;
6. Elevator penthouse;
7. Flag poles;
8. Monuments;
9. Parapet walls extending not more than three feet above the limiting height of the building;
10. Water towers;
11. Poles, towers and other structures for essential services;
12. Television and radio antennas not exceeding 20 feet above roof.

(b) No excluded roof equipment or structural element extending beyond the limited height of a building may occupy more than 25% of the area of such roof nor exceed ten feet unless otherwise noted.

(M) *Manufactured home parks and campgrounds.* All manufactured home parks and campgrounds will be designed and constructed in accordance with the standards as set by the Minnesota Department of Health.

(N) *Parking and loading.*

(1) Multi-family residential developments shall have at least one off-street parking stall per dwelling unit, in addition to what off-street parking is necessary for operations.

(2) All uses other than single-family dwellings shall have enough off-street parking and loading areas for the traffic generated by the use except for the B4, Central Business District zone.

(3) Off-street parking and loading are not required in the B4, Central Business District zone but no activities associated with the use other than customer parking and temporary loading shall take place in the public road right-of-way.

(4) Necessary parking and loading levels as will be determined through the conditional use process and be attached as a condition to the conditional use permit.

(O) *Land alteration.* When a conditional use permit is required, these shall be included:

(1) A finished grade plan which has been determined will not adversely affect other land.

(2) An operation plan showing materials to be moved, traffic movement, erosion control and all associated activities.

(P) *Signs.*

(1) Signs, unless specifically noted otherwise will be exempt from setback requirements of this chapter except from setback requirements from ordinary high water lines.

(2) No sign shall be permitted on rocks or trees.

(3) No sign will be permitted that gives off an intermittent or rotation beam of light.

(4) Signs shall be kept in a reasonable state of repair.

(5) No sign shall be allowed that obstructs driver's vision needed for safe driving or that detracts from the visibility of traffic control devices.

(6) Directional signs in road rights-of-way are regulated by the appropriate road authorization.

(7) Day signs can be placed in road rights-of-way, including sidewalks but they shall not be placed on any driving surface nor shall they inhibit normal pedestrian movement. They shall only be displayed while the use is open for business.

(8) Temporary signs must be removed within seven days of the end of the event.

(9) Unless otherwise noted, only one sign of each type will be allowed per lot.

(Q) *Home occupations.*

(1) *Level 1 - permitted use standards.*

(a) Maximum floor use area: 1,000 square feet (except with uses such as day care where the whole dwelling may be used as a home);

(b) No more than one person, other than the members of the family occupying the dwelling shall be employed in conjunction with the home occupation;

(c) No extra traffic generated over an estimated four vehicle trips per day;

(d) No noise, vibration, glare, fumes, odors, or electrical interference detectable off premises;

(e) There shall be no change in the dwelling unit or premises, or other visible evidence of the conduct of such home occupation (including signs other than the district allows as a permitted use);

(f) No home occupation shall cause an increase in the use of any one or more utilities (water, sewer, electricity, garbage) so that the combined total use for the dwelling and home occupation purposes exceeds the average for the residences in the neighborhood; and

(g) No special or hazardous wastes generated.

(h) Note: level 1 home occupation does not have automatic right to expand to level 2 home occupation.

(2) *Level 2 - conditional use standards.*

(a) Level 2 category has a higher intensity of use than those indicated in level 1 permitted standards.

(b) Previous investments will not be used as a reason to override these standards or other valid concerns of conditional uses contained in this chapter.

(c) In considering conditional uses for home occupations (level 2), the outside appearance will be set and added as a condition.

(d) Subsequent non-compliance with any conditions will be cause for discontinuance of the conditional use permit.

(e) Additional conditions may include lighting, hours, buffers, setbacks, service road, signage, platting or other conditions deemed suitable.

(f) Level 2 uses are defined as those uses that don't qualify as level 1 but that:

1. Use less than 2,000 square feet of floor space (except with uses such as day care where the whole dwelling may be used as a home);

2. Employ less than four employees at the site at the same time (other than the occupants of the dwellings);

3. Produce extra traffic generation not more than 12 vehicle trips per day;
4. Produce no noise, vibration, glare, fume, odor or electrical interference detectable off the premises that can't be mitigated with special conditions;
5. Shall cause no increase in the use of any one or more utilities (water, sewer, electricity, garbage) that strain the utility's provision of services;
6. Produce no special or hazardous wastes that require special treatment; and
7. Need no more signage other than allowed in the district's conditional use section.

(3) *Accessory building.* A home occupation may be carried out in an accessory building, with all applicable standards for the designated home occupation level.

(4) *Non-conforming home occupations.* All non-conforming home occupations legally existing prior to the adoption of this chapter shall be allowed to continue, but shall not be allowed to expand, be rebuilt, relocated, replaced or altered without being brought into compliance with all the requirements of this division.

(R) *Sewer and water regulations.*

(1) All new construction and development shall be served by city water and sanitary sewer unless determined by the City Council to be in an area not feasible to extend services.

(2) All existing uses and all new uses in the AH Zone that are allowed to have private sewage treatment or water facilities shall do so in compliance with the regulations of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

(3) No stormwater run-off (including sump pumps in dwellings) shall be connected to the city sanitary sewer system.

(Ord. passed 6-3-1997)

§ 150.04 ESTABLISHMENT OF ZONING CLASSIFICATIONS.

(A) *Establishment of districts.* The following classifications are hereby established within the city:

(1) *Residential districts.*

(a) AH - Agriculture/Holding District;

(b) R1 - Single-Family Residential District;

- (c) R2 - Medium Density Residential District;
- (d) R3 - High Density Residential District;
- (e) RMN - Mobile Home Park District.

(2) *Business districts.*

- (a) B1 - Limited Business District;
- (b) B2 - Commercial Recreational Shoreland District;
- (c) B3 - General Business District;
- (d) B4 - Central Business District.

(3) *Industrial districts.*

- (a) I1 - Limited Industry District;
- (b) I2 - General Industry District.

(4) *Special districts.*

- (a) FP - Flood Plain District;
- (b) S Shoreland District Overlay.

(B) *Map.* The location and boundaries of the districts established by this chapter are hereby set forth on the zoning map entitled "Waterville Zoning Map." The map shall remain on file with the Zoning Administrator and hereinafter referred to as the zoning map, which map and all of the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this chapter by reference.

(C) *Zoning district boundaries.* Zoning district boundary lines of this chapter follow lot lines, railroad right-of-way lines, the center of water courses or the corporate limit lines, all as they exist upon the effective date of this chapter.

(1) Appeals concerning the exact location of a zoning district boundary line shall be heard by the City Council serving as the Board of Adjustments and Appeals.

(2) When any street, alley or other public right-of-way is vacated by official action of the city, the zoning district abutting the center line of said alley or other public right-of-way shall not be affected by such proceedings.

(3) When any street, alley or other public right-of-way is vacated by official action of the city, the zoning district abutting the center line of the alley or other public right-of-way shall not be affected by the proceedings.

(D) *Flood plain.* The flood plain zone has a separate city ordinance and is shown on the zoning map for informational purposes only.

(E) *Shoreland.* The shoreland zone is an overlay zone. The regulations which are more restrictive (either from the shoreland section or other) shall apply.

(F) *Uses.* Subject to the other regulations of this chapter, legal existing uses can continue as either permitted or non-conforming, new permitted uses listed can proceed and uses listed as conditional must successfully go through the conditional use process. All uses not expressly listed as either permitted or conditional within the district regulations shall be considered prohibited.

(Ord. passed 6-3-1997)

§ 150.05 AH - AGRICULTURE/HOLDING DISTRICT.

(A) *Purpose.* To allow suitable areas to be utilized for low density residential, open space and low intensity agricultural uses and holding back more dense development until city growth warrants more land needs and thereby providing economy in public expenditures for services.

(B) *Permitted uses.*

- (1) Agriculture, but not including feedlots.
- (2) Single-family dwellings;
- (3) Residential facilities serving six or fewer persons;
- (4) Daycare facilities serving ten or fewer persons;
- (5) Essential services;
- (6) Public parks, open space and wild life management;
- (7) One detached private garage per dwelling not over 1,200 square feet in floor area;
- (8) Accessory uses except private garages over 1,200 square feet in floor area;
- (9) Home occupations, level 1;
- (10) Identification, residential and temporary signs.

(C) *Conditional uses.*

- (1) Government and public related buildings and structures;
- (2) Public and semi-public recreational and institutional buildings;
- (3) Commercial recreation where the principal function is outdoor related;
- (4) Commercial riding stables, dog stables, animal hospitals and similar uses;
- (5) Cemeteries;
- (6) Bed and breakfast facilities;
- (7) New farm structures;
- (8) Home occupations, level 2;
- (9) Efficiency apartments;
- (10) Second private garage per dwelling;
- (11) Individual sewage treatment systems;
- (12) Directional signs;
- (13) Land alterations of 400 cubic yards or more;
- (14) Rental cabins.

(D) *Dimensional standards.*

- (1) Lot area: not less than one acre;
- (2) Lot width: not less than 100 feet;
- (3) Lot depth: not less than 150 feet;
- (4) Front yard setback: not less than 30 feet;
- (5) Side yard setback: not less than 20 feet;

(6) Rear yard setback: not less than 35 feet;

(7) Building height: not more than 35 feet;

(8) Accessory building height: not more than nine-foot side walls and the roof pitch shall be no greater than that of the principal dwelling except that new farm structures can have height as set through the conditional use process;

(9) Maximum sign sizes:

(a) Identification signs: 20 square feet;

(b) Residential signs: two square feet;

(c) Directional signs: six square feet;

(d) Temporary signs.

(Ord. passed 6-3-1997)

§ 150.06 R1 - SINGLE-FAMILY RESIDENTIAL DISTRICT.

(A) *Purpose.* The purpose of the R1 Single-Family District is to provide for low density single-family detached residential dwelling units and directly related, complimentary uses.

(B) *Permitted uses.*

(1) Single-family detached dwellings;

(2) Residential facilities serving six or fewer persons;

(3) Day care facilities serving ten or fewer persons;

(4) Essential services;

(5) Residential and temporary signs;

(6) Home occupations, level 1;

(7) Two private garages per dwelling not over 1,200 square feet in floor area;

(8) Accessory uses except private garages over 1,200 square feet in floor area;

(9) Public parks but no buildings other than toilets and storage sheds.

(C) *Conditional uses.*

- (1) Public buildings in connection with parks or neighborhood centers but not offices;
- (2) Schools (K-12) and churches;
- (3) One efficiency apartment per dwelling;
- (4) Land alterations of 400 cubic yards or more;
- (5) Bed and breakfast facilities;
- (6) Rental cabins;
- (7) Bowling alleys.

(D) *Dimensional standards.*

- (1) Lot area: not less than 12,000 square feet;
 - (2) Lot width: not less than 80 feet;
 - (3) Lot depth: not less than 130 feet;
 - (4) Front yard setback: not less than 30 feet;
 - (5) Side yard setback: not less than ten feet;
 - (6) Rear yard setback: not less than 25 feet;
 - (7) Building height: not more than two and one-half stories or 35 feet, whichever is lesser;
 - (8) Private garage height: sidewalls shall not be more than nine feet and the roof pitch shall be no greater than that of the principal dwelling structure;
 - (9) Maximum sign sizes: residential signs - two square feet;
 - (10) Dwellings shall be at least 20 feet in width and on a permanent foundation.
- (Ord. passed 6-3-1997)

§ 150.07 R2 - MEDIUM DENSITY RESIDENTIAL DISTRICT.

(A) *Purpose.* To provide a greater variety in housing types by allowing medium density residential development at an overall density ranging up to seven units per acre.

(B) *Permitted uses.*

- (1) Single-family detached dwellings;
- (2) Residential facilities serving six or fewer persons;
- (3) Day care facilities serving ten or fewer persons;
- (4) Essential services;
- (5) Residential and temporary signs;
- (6) Home occupations, level 1;
- (7) Two detached private garages per dwelling not over 1,200 square feet in floor area;
- (8) Accessory uses except private garages over 1,200 square feet in floor area;
- (9) Public parks but no buildings other than toilets and storage sheds;
- (10) Multi-family dwellings with four or less dwelling units.

(C) *Conditional uses.*

- (1) Public buildings in connection with parks or neighborhood centers but not offices;
- (2) Schools (K-12) and churches;
- (3) One efficiency apartment per dwelling;
- (4) Residential facilities, day care facilities and assisted living facilities;
- (5) Residential Planned Unit Developments, but no attached unit structures over four units;
- (6) Home occupations, level 2 (including identification sign);
- (7) Private garage over 1,200 square feet in floor area;
- (8) Public and semi-public buildings;

- (9) Medical facilities and nursing homes;
- (10) Funeral homes;
- (11) Directional and identifications;
- (12) Land alterations of 400 cubic yards or more;
- (13) Bed and breakfast facilities;
- (14) Rental cabins.

(D) *Dimensional standards.*

(1) *Lot area.*

- (a) Single-family dwelling: not less than 10,000 square feet;
- (b) Two-family dwelling: not less than 12,000 square feet;
- (c) Three- and four-family dwelling: not less than 15,000 square feet.

(2) *Lot width.*

- (a) Single-family dwelling: not less than 75 feet;
- (b) Duplex dwelling: not less than 90 feet;
- (c) Triplex and quad dwelling: not less than 100 feet.

(3) *Lot depth.* Not less than 130 feet.

(4) *Front yard setback.* Not less than 30 feet.

(5) *Side yard setback.* Not less than 10 feet.

(6) *Rear yard setback.* Not less than 25 feet.

(7) *Building height.* Not more 35 feet.

(8) *Private garage height.* Sidewalls shall not be more than ten feet and the roof pitch shall be no greater than that of the principal dwelling structure.

(9) *Maximum sign sizes.*

- (a) Residential signs: two square feet;
- (b) Identification signs: four square feet;
- (c) Directional signs: four square feet.

(Ord. passed 6-3-1997)

§ 150.08 R3 - HIGH DENSITY RESIDENTIAL DISTRICT.

(A) *Purpose.* To provide for areas in which higher density housing in multiple-family structures and directly related, complimentary uses may occur.

(B) *Permitted uses.*

- (1) Residential facilities serving six or fewer persons;
- (2) Day care facilities serving ten or fewer persons;
- (3) Temporary, residential, directional and identification signs;
- (4) Home occupations, level 1;
- (5) Essential services;
- (6) Accessory uses;
- (7) Single-family dwellings and multi-family dwellings with four or less dwelling units.

(C) *Conditional uses.*

- (1) Multi-family dwellings over four dwelling units;
- (2) Residential facilities, day care facilities and assisted living facilities;
- (3) Residential planned unit development;
- (4) Home occupation, level 2;
- (5) Additional identification signs;
- (6) Land alterations of 400 cubic yards or more;

(7) Bed and breakfast facilities;

(8) Rental cabins.

(D) *Dimensional standards.*

(1) Lot area: not less than 15,000 square feet;

(2) Lot width: not less than 100 feet;

(3) Lot depth: not less than 130 feet;

(4) Front yard setback: not less than 30 feet;

(5) Side yard setback: not less than 15 feet but not less than 30 feet where abutting district is a Residential District;

(6) Rear yard setback: not less than 30 feet;

(7) Maximum sign sizes:

(a) Identification signs: 20 square feet;

(b) Directional signs: six square feet;

(c) Residential signs: two square feet.

(Ord. passed 6-3-1997)

§ 150.09 R4 - MANUFACTURED HOME PARK DISTRICT.

(A) *Purpose.* To provide a special district for manufactured home parks, distinct from other residential areas.

(B) *Permitted uses.*

(1) Day care facilities serving six or fewer persons;

(2) Essential services;

(3) Public parks and playgrounds;

(4) Residential, temporary and directional and identification signs;

(C) *Conditional uses.*

- (1) Manufactured home parks and accessory uses including identification signs;
- (2) Land alterations of 400 cubic yards or more;
- (3) Additional identification signs;
- (4) Bed and breakfast facilities;
- (5) Rental cabins.

(D) *Dimensional standards.*

(1) These shall be as regulated by the Minnesota Department of Health regulations except that all yard setbacks abutting other property shall be not less than 50 feet and front yard setback shall not be less than 30 feet.

(2) The following are maximum sign sizes:

- (a) Directional signs: six square feet;
- (b) Identification signs: 32 square feet;
- (c) Residential signs: two square feet.

(Ord. passed 6-3-1997)

§ 150.10 10 B1 - LIMITED BUSINESS DISTRICT.

(A) *Purpose.* To provide for low intensity retail or service outlets which deal directly with the customer for whom the goods or services are furnished. The uses allowed in this district are to provide goods and services on a limited community market scale and are to be located only in areas which are well served by collector or arterial street facilities at the edge of residential districts.

(B) *Permitted uses.*

- (1) Essential services;
- (2) Accessory structures;
- (3) Identification, day, directional and temporary signs;
- (4) Single-family dwellings and multi-family dwellings with four or less dwelling units.

(C) *Permitted and conditional uses.* The following are permitted uses if only existing buildings are utilized. They are conditional uses if additions or new buildings are needed.

- (1) Antique or gift shop;
- (2) Art and school supplies;
- (3) Bakery goods and baking of goods for retail sales on the premises;
- (4) Bank, savings and loan, savings credit unions and other financial institutions;
- (5) Barber shops;
- (6) Beauty salons;
- (7) Bicycle sales and repair;
- (8) Candy, ice cream, popcorn, nuts, frozen deserts and soft drinks;
- (9) Camera and photographic supplies;
- (10) Commercial (leased) and professional offices;
- (11) Delicatessen;
- (12) Dry cleaning pick-up and laundry pick-up stations including incidental repair and assembly but not including processing;
- (13) Drug store;
- (14) Essential services;
- (15) Florist shop;
- (16) Frozen food store but not including a locker plant;
- (17) Gift or novelty store;
- (18) Grocery, fruit or vegetable store but not including sales from movable motorized vehicles;
- (19) Grocery, supermarket;
- (20) Hardware store;

(21) Hobby store, including handicraft classes but not to exceed 15 students;

(22) Ice sales with storage not to exceed five tons;

(23) Insurance sales;

(24) Laundromat, self-service washing and drying;

(25) Liquor, off-sale;

(26) Locksmith;

(27) Meat market but not including processing for a locker plant;

(28) Medical and dental offices and clinics;

(29) Paint and wallpaper sales;

(30) Plumbing, television, radio, electrical sales and such repair as are accessory use to the retail establishments permitted within this district;

(31) Public utility collection offices;

(32) Public garage;

(33) Real estate sales;

(34) Shoe repair;

(35) Funeral homes.

(D) *Conditional uses.*

(1) Additional identification signs;

(2) Land alterations of 400 cubic yards or more;

(3) Bed and breakfast facilities;

(4) Rental cabins;

(5) Multi-family dwellings with more than four dwelling units.

(E) *Dimensional standards.*

- (1) Lot area: none;
- (2) Lot width: not less than 100 feet;
- (3) Lot depth: not less than 120 feet;
- (4) Front yard setback: not less than 30 feet;
- (5) Side yard setback: not less than 15 feet;
- (6) Rear yard setback: not less than 30 feet;
- (7) All yard setbacks abutting Residential Districts: not less than 50 feet;
- (8) Maximum building height: three stories or 36 feet, whichever is least;
- (9) Maximum sign sizes:
 - (a) Day signs and identification signs: 12 square feet;
 - (b) Flush mounted identification signs: 32 square feet.

(Ord. passed 6-3-1997)

§ 150.11 B2 – COMMERCIAL RECREATIONAL SHORELAND DISTRICT.

(A) *Purpose.* To provide for the establishment of commercial recreational activities in those areas of Waterville that would serve the recreational needs of the residents and encourage tourism in the community.

(B) *Permitted uses.*

- (1) Essential services;
- (2) Accessory structures;
- (3) Identification, day, directional and temporary signs;
- (4) Single-family dwellings and multi-family dwellings with four or less dwelling units;

(C) *Conditional uses.*

- (1) Restaurants;
- (2) Taverns where the main function is serving a resort or recreational development;
- (3) Golf courses, nine- or 18-hole standard length, and clubhouses;
- (4) Sporting goods establishments, outfitters and suppliers and bait shops;
- (5) Service and storage marinas, harbor and docking facilities;
- (6) Auditoriums or dinner-dance establishments, etc. for public entertainment and use;
- (7) Campgrounds;
- (8) Parks, playgrounds, recreational areas, nature trails, snowmobile trails, ski trails and similar facilities;
- (9) Commercial Planned Unit Developments;
- (10) Resort facilities (to include lodges, cabins, guest houses, motels and the like);
- (11) Land alterations of 400 cubic yards or more;
- (12) Advertising signs and additional other signs.

(D) *Dimensional standards.*

- (1) Lot area: not less than 15,000 square feet;
- (2) Lot width: not less than 100 feet;
- (3) Lot depth: not less than 175 feet;
- (4) Front yard setback: not less than 30 feet;
- (5) Side yard setback: not less than 15 feet;
- (6) Rear yard setback: not less than 35 feet;
- (7) All yard setbacks abutting Residential Districts: not less than 50 feet;
- (8) Maximum building height: three stories or 36 feet, whichever is least;

(9) Maximum Sign Sizes:

- (a) Day signs and identification signs: two square feet;
- (b) Identification signs: 32 square feet;
- (c) Directional signs: six square feet;
- (d) Advertising signs: 32 square feet.

(Ord. passed 6-3-1997)

§ 150.12 B3 - GENERAL BUSINESS DISTRICT.

(A) *Purpose.* To provide for the establishment of commercial and service activities which draw from and serve customers from the entire community or region and are located in areas which are well served by collector or arterial street facilities outside the Central Business District.

(B) *Permitted uses.*

- (1) Essential services;
- (2) Accessory structures;
- (3) Identification, day, directional and temporary signs;
- (4) Single-family dwellings and multi-family dwellings with four or less dwelling units;

(C) *Permitted and conditional uses.* The following are permitted uses if only existing buildings are utilized. They are conditional uses if additions or new buildings are needed.

- (1) All of the uses in § 150.10(C), permitted and conditional uses;
- (2) Auto accessory stores;
- (3) Amusement places (such as dance halls or roller rinks);
- (4) Animal clinics (with no over night care);
- (5) Enclosed boat and marine sales;
- (6) Books, office supplies or stationary stores;
- (7) Bowling alleys;

- (8) Carpet, rugs and tile;
- (9) Coin and philatelic stores;
- (10) Commercial recreational stores;
- (11) Copy service and instant offset printing service;
- (12) Costume, clothes rental;
- (13) Department and discount stores;
- (14) Dry cleaning including plant accessory heretofore, pressing and repairing;
- (15) Dry goods store;
- (16) Electrical appliance stores including incidental repair and assembly, but not fabricating or manufacturing;
- (17) Employment agencies;
- (18) Finance companies;
- (19) Furniture stores;
- (20) Furriers when conducted only for retail trade on premises;
- (21) Garden supply stores;
- (22) Government and public utility buildings;
- (23) Haberdasheries and ladies ready-to-wear;
- (24) Insurance sales, claims and branch offices;
- (25) Jewelry stores and watch repair;
- (26) Leather goods and luggage stores;
- (27) Motor vehicles and recreation equipment sales and garages accessory thereto;
- (28) Motels, motor hotels, and hotels provided that the lot contains not less than 500 square feet of lot per unit.

(D) *Conditional uses.*

- (1) Additional signs and larger sign sizes;
- (2) Advertising signs;
- (3) Drive-in and convenience food establishments;
- (4) Car washes;
- (5) Motor fuel stations, auto repair and tire and battery stores;
- (6) Open or outdoor service, sale and rental;
- (7) Additional building height;
- (8) Land alterations of 400 cubic yards or more;
- (9) Bed and breakfast facilities;
- (10) Rental cabins.

(E) *Dimensional standards.*

- (1) Lot width: not less than 100 feet;
- (2) Lot depth: not less than 120 feet;
- (3) Front yard setback: not less than 30 feet;
- (4) Side yard setback: not less than 20 feet;
- (5) All yard setbacks abutting Residential Districts: not less than 50 feet;
- (6) Maximum building height: three stories or 36 feet, whichever is least;
- (7) Maximum sign sizes:
 - (a) Day signs: 12 square feet;
 - (b) Identification signs: 32 square feet;

(c) Directional signs: six square feet;

(d) Advertising signs: 32 square feet.

(Ord. passed 6-3-1997)

§ 150.13 B4 – CENTRAL BUSINESS DISTRICT.

(A) *Purpose.* To provide for the establishment of commercial and service activities which draw from and serve customers from the entire community or region within an area designated as the Central Business District.

(B) *Permitted uses.*

(1) Essential services;

(2) Accessory structures;

(3) Identification, day, directional and temporary signs;

(4) Single-family dwellings and multi-family dwellings with four or less dwelling units.

(C) *Permitted and conditional uses.* The following are permitted uses if only existing buildings are utilized; they are conditional uses if additions or new buildings are needed: All of the uses in § 150.12(C), permitted and conditional uses.

(D) *Conditional uses.*

(1) Additional signs and larger sign sizes;

(2) Advertising signs;

(3) Residential use of the floors above ground level where there is separate access to outside;

(4) Land alterations of 400 cubic yards or more;

(5) Bed and breakfast facilities;

(6) Rental cabins.

(E) *Dimensional standards.*

(1) All yard setbacks abutting or across from Residential Districts: not less than 20 feet;

(2) Maximum building height: three stories or 36 feet, whichever is least;

(3) Maximum sign sizes:

(a) Day signs: 12 square feet;

(b) Identification signs: 32 square feet except where hanging from building over sidewalk, then 12 square feet;

(c) Directional signs: six square feet.

(Ord. passed 6-3-1997)

§ 150.14 IL – LIMITED INDUSTRY DISTRICT.

(A) *Purpose.* To provide for the establishment of warehousing and light industrial development. The overall character of the II District is intended to be transitional in nature, thus industrial uses allowed in this District shall be limited to those which can compatibly exist adjacent to the commercial used, but require isolation from residential uses.

(B) *Permitted uses.*

(1) Essential services.

(2) Accessory structures;

(3) Identification, day, directional and temporary signs;

(4) Single-family dwellings and multi-family dwellings with four or less dwelling units.

(C) *Permitted and conditional uses.* The following are permitted uses if only existing buildings are utilized. They are conditional uses if additions or new buildings are needed.

(1) Assembly, manufacturing, fabricating or processing of the following:

(a) Apparel;

(b) Artificial limbs;

(c) Bakery goods, for sale or use off the premises;

(d) Batteries;

(e) Bed springs and mattresses;

- (f) Belting and chain conveyors;
- (g) Bicycles and toys;
- (h) Cabinets;
- (i) Cameras and photographic supplies;
- (j) Canvas and canvas goods;
- (k) Ceramic products;
- (l) Cork products;
- (m) Drugs, cosmetics, pharmaceuticals, toiletries;
- (n) Electrical motors, generators, transformers and controls;
- (o) Electrical and electronic products;
- (p) Felt products;
- (q) Musical instruments;
- (r) Packaging;
- (s) Products made of glass, cellophane, leather, plastic or wood;
- (t) Sporting equipment;
- (u) Televisions, radios and appliances;
- (v) Tobacco products;
- (2) Automobile major repair;
- (3) Building materials sales;
- (4) Canning, packaging and storage of food stuff;
- (5) Cartage and express facilities;
- (6) Cartography, blue printing and reproduction services;

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(7) Commercial printing and engraving;

(8) Contractors offices, shops and yards for plumbing, heating, glazing, painting, appearing, hanging, roofing, ventilating, air conditioning, masonry, electrical and refrigeration;

(9) Creamery, dairy plants and ice cream plants;

(10) Dry cleaning plants;

(11) Equipment storage interior;

(12) Electrical service shops;

(13) Equipment storage;

(14) Essential services;

(15) Farm implement and heavy equipment sales;

(16) Government and public utility buildings and structures;

(17) Jewelry manufacturing;

(18) Machine shops;

(19) Medical, dental and optical laboratories;

(20) Radio and television stations;

(21) Research laboratories and facilities;

(22) Trade schools;

(23) Transportation terminals;

(24) Warehouses;

(25) Wholesale business.

(D) Conditional uses.

(1) Open and outdoor storage as a principal or accessory use;

(2) Retail selling of products made on the premises;

- (3) Adding on to or rebuilding of a building for a legal non-conforming use;
- (4) Industrial planned unit development;
- (5) Additional building height;
- (6) Advertising signs;
- (7) Additional signs and larger sign size;
- (8) Land alterations of 400 cubic yards or more.

(E) *Dimensional standards.*

- (1) Lot area: not less than 20,000 square feet;
- (2) Lot width: not less than 100 feet;
- (3) Front yard setback: not less than 30 feet;
- (4) Side yard setback: not less than 20 feet;
- (5) Rear yard setback: not less than 30 feet;
- (6) All yard setbacks abutting Residential Districts: not less than 50 feet;
- (7) Maximum building height: three stories or 36 feet, whichever is least;
- (8) Maximum sign sizes:
 - (a) Day signs: 12 square feet;
 - (b) Identification signs: 50 square feet;
 - (c) Directional signs: six square feet;
 - (d) Advertising signs: 50 square feet.

(Ord. passed 6-3-1997)

§ 150.15 I2 – GENERAL INDUSTRY DISTRICT.

(A) *Purpose.* The I2 General Industry District is to provide for the establishment of heavy industrial manufacturing development and uses which because of the nature of the product or character of activity requires isolation from residential or commercial use.

(B) *Permitted uses.*

- (1) Essential services;
- (2) Accessory structures;
- (3) Identification, day, directional and temporary signs;
- (4) Single-family dwellings and multi-family dwellings with four or less dwelling units.

(C) *Permitted and conditional uses.* The following are permitted uses if only existing buildings are utilized. They are conditional uses if additions or new buildings are needed.

- (1) All of the uses in § 150.14(C), permitted and conditional uses;
- (2) The manufacturing, compounding, assembly, packaging, treatment or storage of products and materials;
- (3) Processing of building stone, marble or granite products not including extraction or quarrying;

(D) *Conditional uses.*

- (1) Open and outdoor storage as a principal use;
- (2) Retail selling of products made on the premises;
- (3) Adding on to or rebuilding a building for a legal non-conforming use;
- (4) Auto wrecking, junk yard, used auto parts (open storage) and similar uses;
- (5) Incineration or reduction of waste material other than customarily incidental to a principal use (recycling center);
- (6) Industrial planned unit development;
- (7) Additional building height;

- (8) Additional signs and larger sign size;
- (9) Advertising signs;
- (10) Storage, utilization or manufacturing of materials or products which could decompose by denotation;
- (11) Refuse and garbage disposal;
- (12) Crude oil, gasoline, or other liquid storage tanks;
- (13) Electric light or power generating station;
- (14) Extraction, quarrying, mining, processing, or storage of sand, gravel, building stone or other raw materials.

(E) *Dimensional standards.*

- (1) Lot area: not less than 22,000 square feet;
- (2) Lot width: not less than 100 feet;
- (3) Front yard setback: not less than 35 feet;
- (4) Side yard setback: not less than 20 feet;
- (5) Rear yard setback: not less than 20 feet;
- (6) All yard setbacks abutting Residential Districts: not less than 50 feet;
- (7) Maximum building height: three stories or 36 feet, whichever is least;
- (8) Maximum sign sizes:
 - (a) Day signs: 12 square feet;
 - (b) Identification signs: 50 square feet;
 - (c) Directional signs: 12 square feet;
 - (d) Advertising signs: 50 square feet.

(Ord. passed 6-3-1997)

§ 150.16 S - SHORELAND DISTRICT.

(A) *Shoreland Districts.* The shorelands within the city are hereby designated as Shoreland Districts and the requirements set forth in this chapter shall govern development and other activities within these districts.

(B) *District application.* The S Shoreland District shall be applied to and superimposed upon all zoning districts as contained herein as existing or amended by the text and map of this chapter. The regulations and requirements imposed by the S Shoreland District shall be in addition to those established for districts which jointly apply. With this overlay of districts, the more restrictive requirements shall apply.

(C) *Boundaries.* The boundaries of the Shoreland District are established within the following distances from the ordinary high water mark of the surface water:

<i>Surface Water</i>	<i>Distance</i>
Lakes	1,000 feet
Rivers and streams	300 feet

(D) *Shoreland classification.* The surface waters affected by this section and which require controlled development of their shoreland (Shoreland District) are shown on the map designated as the official "Shoreland Map of the City of Waterville" which is properly approved and made a part of the chapter and filed with the Zoning Administrator.

<i>Surface Water Distribution</i>		
<i>DNR Identification Number</i>	<i>Name</i>	<i>Classification</i>
40-2	Upper Sakatah	Recreation/Development
40-31	Tetonka	Recreation/Development
-	Waterville Creek	Tributary River
-	White Water Creek	Tributary River

(E) *Minimum lot size requirements (square feet).* The following are minimum lot size requirements.

Single	12,000
Duplex	20,000

Triplex	28,000
Quad	36,000

(F) *Minimum setback requirements (feet).* The following are minimum setback requirements.

(1) From ordinary high water line:

	<i>No Sewer (ft)</i>	<i>Sewer (ft)</i>
Recreational Dev.	100	75
Tributary River	100	50

(2) From highways:

Federal/State/County	50 ft.
Other	20 ft.

(3) (a) From top of bluff: 30 ft.;

(b) Also, no structure except stairways and landings may be placed in the bluff impact zone.

(4) From unplatted cemeteries: 50 ft.

(5) Sewage systems from ordinary high water level: 75 ft.

(G) *Structure height requirements.*

(1) The lowest floor level shall be at least three feet above the highest known water level or three feet above the ordinary high water level, whichever is greater;

(2) Structures in residential areas shall not exceed 25 feet in height.

(H) *Shoreland development standards.*

(1) *Individual septic systems and water supply.*

(a) Public sewer shall be used when possible.

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

(c) All septic systems not in conformity with this chapter and MPCA Rule Chapter 7080 shall be upgraded within two years of the passage of this chapter to conform to the provisions hereof and MPCA Rule Chapter 7080.

(d) a. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

b. Private wells must be located, constructed, maintained, and sealed in accordance with or in a more thorough manner than the Water Well Construction Code of the Minnesota Department of Health.

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) Facilities such as ramps, lifts, or mobility paths for physically challenged persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of division (H)(1) to (5) above are complied with in addition to the requirements of Minn. Rules Chapter 1340.

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

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

(6) *Vegetation alterations.*

(a) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by this chapter are exempt from the vegetation alteration standards that follow.

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

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

2. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water oriented accessory structures or facilities, provided that the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions is not substantially reduced along rivers; existing shading of water surface is preserved; and the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

3. Use of fertilizer and pesticides in the Shoreland Management District must be done in such a way as to minimize run-off into the shore impact zone or public water by the use of earth, vegetation, or both.

(7) Topographic alterations/grading and filling.

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

(b) Notwithstanding division (H)(7)(a) above, a zoning permit for grading and filling will be required for:

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

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

(c) The following considerations and conditions must be adhered to during the issuance of zoning permits, conditional use permits, variances and subdivision approvals:

1. Grading or filling in any type 2, 3, 4, 5, 6, 7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland: sediment and pollutant trapping and retention; storage of surface run-off to prevent or reduce

flood damage; fish and wildlife habitat; recreational use; shoreland or bank stabilization; and note worthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

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

3. Mulches or similar material must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.

4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.

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

6. Fill or excavated material must not be placed in a manner that creates an unstable slope.

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

8. Fill or excavated material must not be placed in bluff impact zones.

9. Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under M.S. § 103G.245, as it may be amended from time to time.

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

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

(8) Placement and design of roads, driveways and parking areas.

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

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

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

(9) *Stormwater management.* The following general and specific standards shall apply.

(a) *General standards.*

1. When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be to convey, store, filter, and retain stormwater run-off before discharge to public waters.

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

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

(b) *Specific standards.*

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

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

3. Newly constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(10) *Agricultural use standards.* General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan

(resource management systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

(I) *Conditional uses.* Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established community-wide. The following additional evaluation criteria and conditions apply with shoreland areas:

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

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

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

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

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

(2) *Conditions attached to conditional use permits.* The city, upon consideration of the criteria listed above and the purposes of this chapter, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:

(a) The increased setbacks from the ordinary high water level;

(b) Limitations on the natural vegetation to be removed or the requirements that additional vegetation be planted; and

(c) Special provisions for the location of design, and the use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

(J) *Subdivision/platting provisions.*

(1) *Land suitability.* Each lot created through subdivision, authorized under this chapter, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography,

inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

(2) *Consistency with other controls.* Subdivisions must conform to all official controls of this community. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with this chapter and MPCA Chapter 7080 can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements, including at least a minimum contiguous law area, that is free of limiting factors sufficient for the construction of two standard soil treatment systems where public sewer is unavailable. Lots that would require use of holding tanks must not be approved.

(3) *Information requirements.* Subdivision applications will include the following information:

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

(b) The surface water features required in M.S. § 505.02, Subd. 1, as it may be amended from time to time, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

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

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

(e) Location of 100-year flood plain areas from existing maps or data.

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

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

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

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

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

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

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

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

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

(L) *Extractive use standards.*

(1) Processing machinery must be located consistently with setback standards for structures from ordinary high water levels of public waters and from bluffs.

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

(Ord. passed 6-3-1997; Ord. passed 9-3-2002)

§ 150.17 PLANNED UNIT DEVELOPMENTS (PUDS) IN SHORELAND.

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

(B) *Processing of PUDs.* PUDs must be processed as a conditional use, except that an expansion to an existing commercial PUD involving six or less new dwelling units or sites since the date this chapter was adopted, is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures. Approval cannot occur until the environmental review process (EAW/EIS) is completed.

(C) *Application for a PUD.* The applicant for a PUD must submit the following documents prior to final action being taken on the application request:

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

(2) A property owners association agreement (for residential PUDs) with mandatory membership, and all in accordance with the requirements of this chapter.

(3) Deed restrictions, covenants, permanent easements or other instruments that:

(a) Properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and

(b) Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in this chapter.

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

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

(D) *Site "suitable area" evaluation.* Proposed new or expansion to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation.

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

<i>Shoreland Tier Dimensions</i>	
All river classes	300 feet
Recreation development lakes	267 feet

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

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

(1) Residential PUD base density evaluation: The suitable area within each tier is divided by 12,000 to yield a base density of dwelling units or sites for each tier. Proposed locations and number of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analysis herein and the design criteria.

(2) Commercial PUD base density evaluation:

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

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

<i>Commercial Planned Unit Development</i>		
<i>Floor Area Ratios*</i>		
<i>Public Water Classes</i>		
<i>*Average Unit Floor Area (sq. ft.)</i>	<i>Agricultural and Tributary River Segments</i>	<i>Recreational Development Lakes</i>
200	.040	.030
300	.048	.036
400	.056	.042
500	.065	.049
600	.072	.055
700	.082	.062
800	.091	.069
900	.099	.075
1,000	.018	.081
1,100	.116	.087
1,200	.125	.095
1,300	.133	.101
1,400	.142	.107
1,500	.150	.113

*For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ration equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

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

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

Density Evaluation Tiers

*Maximum Density Increase
Within Each Tier (Percent)*

First	50
Second	100
Third	200
Fourth	200
Fifth	200

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

d. Divide the total floor area by tier computed in Item C above by the average inside living area size determined in Item A above. This yields a base number of dwelling units and sites for each tier.

e. Proposed locations and numbers of dwelling units or sites for the commercial PUD are then compared with the tier, density and suitability analysis herein and the design criteria in § 150.17(F).

(F) *Maintenance and design criteria.*

(1) *Maintenance and administration requirements.*

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

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

1. Commercial uses prohibited (for residential PUDs);
2. Vegetation and topographic alterations other than routine maintenance prohibited;
3. Construction of additional buildings or storage of vehicles and other materials prohibited; and
4. Uncontrolled beaching of watercraft prohibited.

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

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

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

- (a) At least 50% of the total project area must be preserved as open space.
- (b) Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space.
- (c) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.
- (d) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public.
- (e) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.
- (f) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities.
- (g) The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means.

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

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

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

(b) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater run-off. Impervious surface coverage within any tier must not exceed 25% of the tier area, except that for commercial PUDs, 35% impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with this chapter.

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

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

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

(c) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for

continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

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

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

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

(G) *Conversions*. Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments. All of the following standards are met.

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

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

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

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

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

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

(4) Existing dwelling unit or dwelling site densities that exceed standards may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.
(Ord. passed 6-3-1997)

§ 150.18 ADMINISTRATION.

(A) *Zoning administration.* This chapter shall be administered and enforced by the Zoning Administrator who is appointed by the City Council. The Zoning Administrator may institute, in the name of the city, any appropriate actions or proceedings against a violator as provided by statute, charter or ordinance.

(B) *Planning Commission.* The Planning Commission membership is appointed by the City Council. The duties include:

- (1) Engage in land use planning activities;
- (2) Prepare and recommend ordinances and amendments based on the planning;
- (3) Review and recommend on requests for amendments to ordinances and conditional use permits; and
- (4) Hold public hearings on the above.

(C) *Zoning permits.* Unless specifically exempted herein, zoning permits will be required for new structures, moved structures, outside dimensional alterations to structures, sewage systems, fences and certain cutting/fill as regulated by the Shoreland Section. Zoning permits will not be required for residing, reshingling, interior changes that do not affect the outside dimension of the structure or at grade walks, patios or driveways that don't violate lot coverage by impervious surface standards.

(D) *Application.* Application for a zoning permit shall be filed with the Zoning Administrator and within ten days a permit will be issued or delayed with reason stated. If the reason(s) for non-issuance can be mitigated by reconfiguration, variance, conditional use or amendment, the original application can continue. The application will be accompanied by a property description, site map and description of proposal. A fee will be established by the City Council by resolution.

(E) *Violations.* Any person who violates any of the provisions of this chapter shall, upon conviction thereof, be fined not more than the maximum penalty for misdemeanor prescribed under state law. Each day that a violation is permitted to exist shall constitute a separate offense.

(F) *Deadlines for city action regarding applications for variances, amendments, rezonings, and appeals.* When all application requirements have been complied with and the request is considered as officially submitted, the city must, except as otherwise provided herein and notwithstanding any other law to the contrary, approve or deny within 60 days. Failure to do so results in automatic approval of the request. A denial must include a written reason.

(1) In requesting additional information from the applicant, the city must do so in writing, within ten business days of the original application (or follow-up submittals) in order to start the 60-day limit over.

(2) If an action requires the approval of more than one state agency in the executive branch, the 60-day period begins to run for all executive branch agencies on the day a request containing all required information is received by one state agency. The agency receiving the request must forward copies to other state agencies whose approval is required.

(3) The time limit is extended if a state statute, federal law, or court order requires a process to occur before the agency acts on the request, and the time periods prescribed in the state statute, federal law, or court order make it impossible to act on the request within 60 days. In cases described in this paragraph, the deadline is extended to 60 days after completion of the last process required in the applicable statute, law, or order. Final approval of an agency receiving a request is not considered a process for purposes of this paragraph.

(4) The time limit is extended if:

(a) A request submitted to a state agency requires prior approval of a federal agency; or

(b) An application submitted to a city, county, town, school district, metropolitan, or regional entity, or other political subdivision requires prior approval of a state or federal agency. In cases described in this paragraph, the deadline for action is extended to 60 days after the required prior approval is granted.

(5) The city may extend the timeline before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant.

(Ord. passed 6-3-1997)

§ 150.19 AMENDMENTS AND CONDITIONAL USE PERMITS.**(A) Procedure.**

(1) *Application.* Requests for amendments or conditional use permits, as provided within this chapter, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as provided for by the City Council resolution. This fee shall not be refunded. Such application shall also be accompanied by a detailed written and graphic materials and site map necessary to fully explain the proposed change, development, or use.

(2) *Staff review/technical assistance reports.* Upon receipt of an application for an amendment or conditional use permit, the Zoning Administrator shall review, and when deemed necessary, refer the request to appropriate staff to ensure that informational requirements are complied with. If more information is required, the applicant will be notified in writing from the city of the additional information needed. When all informational requirements have been complied with, the request shall be considered officially submitted. Also, when deemed necessary, the Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports and/or provide general assistance in preparing a recommendation on the request to the Planning Commission and City Council.

(3) *Public hearing.* Upon official submission of the request, the Zoning Administrator shall set a public hearing on the request for the next Planning Commission meeting and have the hearing published in the official newspaper. Such notice shall contain a legal property description and description of the request and shall be published no less than ten days prior to the hearing. Written notification of the hearing shall also be mailed at least ten days prior to the date of the hearing to all owners of land within 350 feet of the boundary of the property in question, unless it is a city-wide text amendment, and to the Minnesota Department of Natural Resources if in Shoreland. Failure of a property owner to receive said notice shall not invalidate any such proceedings provided a bona fide effort by the city has been made and documented.

(4) *Planning commission action.* The Planning Commission shall conduct the public hearing at which time the applicant or a representative thereof shall appear to answer questions concerning the proposed request.

(a) The Planning Commission shall consider possible adverse effects of the proposed amendment or conditional use. Its judgment shall be based upon (but not limited to) the following factors:

1. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official city comprehensive plan;
2. The proposed use is or will be compatible with present and future land uses of the area.
3. The proposed use conforms with all standards contained herein.

4. The proposed use will not tend to or actually depreciate the area in which it is proposed.

5. The proposed use can be accommodated with existing public services and will not overburden the city's service capacity.

(b) The Planning Commission shall have the authority to request additional information from the applicant information from the applicant concerning operational factor or to retain expert testimony with the consent and at the expense of the applicant.

(c) The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of the chapter. Such recommendation shall be in writing and accompanied by any report and recommendation of the city staff. The written recommendation of the Planning Commission shall be forwarded by the Zoning Administrator for consideration by the City Council.

(5) *City Council action.* Upon receiving the request and any report and recommendation of the Planning Commission and the city staff, the City Council shall have the option to set and hold a public hearing if deemed necessary and shall make a recorded finding of fact.

(a) Approval of a request shall require passage by a four-fifths vote of the City Council.

(b) Whenever an application for an amendment or conditional use permit has been considered and denied by the City Council, a similar application for the amendment or conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or Council for an additional six months from the date of the second denial unless a decision to reconsider such matter is made by not less than four-fifths vote of the full City Council.

(c) Written notification of the City Council's decision regarding the conditional use or amendment request shall be mailed to the applicant (and the Minnesota Department of Natural Resources if in Shoreland) within ten days of the date of the action.

(B) *Amendments.*

(1) *Initiation.* The City Council or Planning Commission may, upon its own motion initiate a request to amend the text or the district boundaries of this chapter. Any person, owning real estate within the city may initiate a request to amend the district boundaries or text of this chapter so as to affect the real estate.

(2) Amendments shall not become effective until after the ordinance is published in the official newspaper.

(C) *Conditional use permit.*

(1) *Purpose.* The purpose of a conditional use permit is to provide the city with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. In making this determination, whether or not the conditional use is to be allowed, the city may consider the nature of the adjoining land or buildings, whether or not a similar use is already in existence and located on the same premises or on other lands immediately close by, the effect upon traffic into and from the premises, or on any adjoining roads, and all other or future factors as the city shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.

(2) *Council may impose conditions.* The Council may impose any condition it considers necessary to protect the public health, safety and welfare. These may include, but are not limited to: screening, additional setback for buffer, hours of operation, landscaping, service roads to limit access points, (lighting, limits on vegetation removal, erosion, control parking, outside appearance and storage).

(3) *Lapse of a conditional use permit by non-use.* Whenever within one year after granting a conditional use permit, the use as permitted by the permit shall not have been completed or utilized, then such permit shall become null and void unless a petition for a extension of time in which to complete or utilize the use that has been granted by the City Council. The extension shall be requested in writing and filed with the Zoning Administrator at least 30 days before the expiration of the original conditional use permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the conditional use permit. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

(Ord. passed 6-3-1997)

§ 150.20 VARIANCES AND APPEALS.

(A) *Purpose and board of adjustment creation.* The purpose of this section is to provide for: (1) an appeal process where it is alleged that there is an error in any order, requirement, decision or determination by an administrative officer in the enforcement of this chapter; and (2) variances from the literal provisions of the chapter in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be keeping with the spirit and intent of this chapter. The City Council will hereby be the Board of Adjustment.

(B) Conditions governing consideration of variance requests.

(1) In considering all requests for a variance and in taking subsequent action, the Board of Adjustment shall make a finding of fact that the proposed action will not:

- (a) Impair an adequate supply of light and air to adjacent property.
- (b) Unreasonably increase the congestion in the public street.
- (c) Increase the danger of fire or endanger the public safety.
- (d) Unreasonably diminish or impair established property values within the neighborhood, or in any other way be contrary to the intent of this chapter.
- (e) Continue or create a substandard sewage treatment system.
- (f) Violate the intent and purpose of the City Comprehensive Plan.
- (g) Allow a use that is prohibited in the zone in question.

(2) A variance from the terms of this chapter shall not be granted unless it can be demonstrated that:

(a) Special conditions and circumstances exist 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:

1. Special conditions may include exceptional topographic or water conditions or, in the case of an existing lot or parcel of record, narrowness, shallowness or shape of the property.

2. Special conditions and circumstances may not be exclusively economic in nature.

(b) 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) The special conditions and circumstances do not result from the actions of the applicant.

(d) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

(C) *Procedure.*

(1) *Application.* Appeals or requests for variances, as provided within this chapter, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by:

(a) The City Council Resolution. This fee shall not be refunded.

(b) The detailed written and graphic materials and site map necessary to fully explain the proposed change, development or use.

(c) Reasons that the variance is justified in order to make reasonable use of the land, structure or building, and that the variance is the minimum variance.

(2) *Staff review/technical assistance reports.* Upon receipt of an application for appeal or variance, the Zoning Administrator shall, when deemed necessary, refer the request to appropriate staff to ensure that informational requirements are complied with. When all informational requirements have been complied with, the request shall be considered officially submitted. Also, when deemed necessary, the Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports and/or provide general assistance in preparing a recommendation.

(3) *Public hearing.* Upon official submission of the request, the Zoning Administrator shall set a public hearing on the request for the next Board of Adjustment meeting and have the hearing published in the official newspaper. The notice shall contain a legal property description and description of the request, and shall be published no less than ten days prior to the hearing. Written notification of the hearing shall also be mailed to least ten days prior to the date of the hearing to all owners of land within 350 feet of the boundary of the property in question and to the Minnesota Department of Natural Resources if in Shoreland. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth in this chapter provided a bona fide effort by the city has been made and documented.

(4) *Board of Adjustment action.* The Board of Adjustment shall conduct the public hearing at which time the applicant or a representative thereof shall appear to answer questions concerning the proposed request.

(a) The Board of Adjustment shall consider possible adverse affects of the appeal or variance. In the case of a variance request, the Board of Adjustment judgment shall be based upon (but not limited to) the conditions set forth in division (B) above.

(b) The Board of Adjustment and City Staff shall have the authority to request any additional information from the applicant deemed necessary to establish conditions pertaining to the request.

(c) The Board of Adjustment shall make a finding of fact, and decide by majority vote of the full Board, such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of the chapter. Such decision shall be in writing and accompanied by any report and recommendation of the city staff and filed with the city and also sent to the applicant, and the Minnesota Department of Natural Resources if in Shoreland within ten days.

(d) Whenever an application for a variance has been considered and denied, a similar application for the variance affecting substantially the same property shall not be considered again for at least six months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again for an additional six months from the date of the second denial unless a decision to reconsider such matter is made by not less than four-fifths vote of the full City Council.

(e) Granted variances shall be filed with the County Recorder.

(f) The applicant shall have the right to appeal within 30 days of receipt of the decision to the District Court.

(D) *Lapse of variance or appeal.* Whenever within one year after granting a variance or appeal, the use as permitted by the variance or appeal shall not have been completed or utilized, then such variance or appeal shall become null and void unless a petition for extension of time in which to complete or to utilize the use has been granted by the City Council. The extension shall be requested in writing and filed with the Zoning Administrator at least 30 days before the expiration of the original variance or appeal. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the variance or appeal. Such petition shall be presented to the City Council for decision.

(E) *Property survey.* In those cases where a stipulated requirement of this chapter has been modified through the granting of a variance or appeal, a property survey prepared by a registered land surveyor shall be submitted, outlining lot dimensions, setbacks, and buildings. The survey shall be a condition of the variance or appeal and shall be submitted prior to the initiation of any improvement on the property in question.

(Ord. passed 6-3-1997)

§ 150.21 PLANNED UNIT DEVELOPMENTS (PUD) - NON-SHORELAND.

(A) *Purpose.* The purpose of a planned development is to enable imaginative and creative land uses to be developed in a manner which emphasizes flexibility and open space, yet preserves the overall density requirements for the district. The customary one lot - one building requirement is altered in an effort to accomplish the following:

- (1) To encourage a more creative and efficient approach to the use of land.

(2) To allow variety in the types of environment available to the residents of the community.

(3) To provide the means for greater creativity and flexibility in environmental design than is provided under the strict application of the zoning and subdivision ordinances while at the same time preserving the health, safety, order, convenience, prosperity and general welfare of the community and its inhabitants.

(B) Administrative procedure.

(1) An applicant for a planned development shall follow the procedure as outlined for a conditional use permit.

(2) The applicant for a planned development shall obtain the application for the conditional use permit at the office of the Zoning Administrator and simultaneously follow Chapter 151 to secure both preliminary and final design approval from the Planning Commission and City Council.

(C) General regulations.

(1) All other development regulations of the appropriate zoning district not specified in this chapter or specified as a condition to the conditional use permit shall apply to a planned development.

(2) It is the intent of this chapter that subdivision of the land involved (residential, commercial, or industrial) be carried out simultaneously with the review of a planned development.

(3) The application for a conditional use permit shall state precisely the reasons for requesting the consideration of the property for planned development.

(4) The land which is to be set aside as open space or common area shall be clearly indicated on the plan. Provisions for recreational area and for continual maintenance of that area and for continual maintenance of that area not dedicated and accepted by the city shall be required.

(5) All buildings shall be used only for those purposes and the customary accessory uses of the zoning district in which the planned development is located.

(D) Density of development. Permitted maximum residential densities in the planned development shall not exceed the permitted maximum densities in the original district by more than 125%. Minimum land area requirements for each use shall be provided as required in the original district.

(E) Modification of development standards. Deviation from the applicable requirements for lot area, lot dimensions, yards, setbacks, location of parking area, and public street frontage may be allowed only if such deviation is consistent with the total design of the planned development.

(F) *Private roadways.* Private roadways within the project shall be installed to city specifications for public roadways.

(Ord. passed 6-3-1997)

§ 150.22 ADULT ESTABLISHMENTS.

(A) Purpose and intent.

(1) (a) *Findings of the City Council.* Research conducted by the Minnesota Attorney General, the American Planning Association and cities such as St. Paul, Minnesota; Indianapolis, Indiana; Alexandria, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; and Seattle, Washington have studied the impacts that adult establishments have in those communities. These studies have concluded that adult establishments have adverse impact on the surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks. Based on these findings, the City Council concludes:

1. Adult establishments have adverse secondary impacts of the types set forth above.
2. The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by locational requirements, licensing requirements and health requirements.
3. It is not the intent of the City Council to prohibit adult establishments from having a reasonable opportunity to locate in the city.
4. M.S. § 462.357, as it may be amended from time to time, allows the city to adopt regulations to promote the public health, safety, morals, and general welfare.
5. The public health, safety, morals and general welfare will be promoted by the city adopting regulations governing adult establishments.

(b) The City Council of the city makes the following findings regarding the need to license sexually-oriented businesses. The findings are based upon the experiences of other cities where such businesses have located, as studied by city staff.

1. Sexually-oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located, taxing city crime-prevention programs and law enforcement services.
2. Sexually-oriented businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owner and operators of such facilities are regulated by licensing or other procedures.

3. Sexually-oriented businesses can increase the risk of exposure to communicable diseases including but not limited to Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishments but also the general public.

4. Sexually-oriented businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.

5. The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed herein.

(2) *Findings.* It is the purpose of this section to regulate adult oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the city and to establish reasonable and uniform regulations to:

(a) Prevent additional criminal activity within the city;

(b) Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;

(c) To locate adult oriented business away from residential areas, schools, churches, parks, playgrounds and day care services.

(d) Prevent concentration of adult oriented businesses within certain areas of the city.

(3) *Communicative materials.* The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult oriented materials. Similarly, it is not the intent nor effect of this section to restrict or deny access by adults to adult oriented materials protected by the First Amendment or to deny access by distributors and exhibitors of adult oriented entertainment to their intended market.

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

ADULT BOOK and/or MEDIA STORE. An establishment which excludes minors and which has a substantial portion of its stock in trade or stock on display books, magazines, films, videotape, or other media which are characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

ADULT CABARET. An establishment which provides dancing or other live entertainment, if the establishment excludes minors by virtue of age from all or part of the establishment and if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction or description of specified sexual activities or specified anatomical areas.

ADULT ESTABLISHMENT. Any business which offers its patrons services, entertainment, or the sale of merchandise characterized by an emphasis on matter depicting, exposing, describing, discussion, or relating to specified sexual activities or specified anatomical areas. Specifically included in the term, but without limitation, are adult book and media stores, adult cabarets, adult hotels or motels, adult mini-motion picture theaters, adult modeling studios, adult motion picture arcades, adult motion picture theaters, adult novelty businesses and other establishments.

ADULT HOTEL or MOTEL. A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

ADULT MINI-MOTION PICTURE THEATER.

(a) A theater in an enclosed building, from which minors are excluded from all or part of the establishment, with a capacity for less than 50 persons used for presenting motion pictures, including but not limited to film and videotape, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

(b) Any business which presents motion pictures, from which minors are excluded from all or part of the establishment, including films and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, for viewing on the premises, including but not limited to private booths, viewing by means of coin operated or other mechanical devices, and the viewing of excerpt of motion pictures offered for sale or rent.

ADULT MODELING STUDIO. An establishment, which excludes minors from all or part of the establishment, whose major business is the provision, to customers, or figure models who are so provided with the intent of providing sexual stimulation to sexual gratification to such customers and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

ADULT MOTION PICTURE ARCADE. Any place which excludes minors from all or part of the establishment wherein coin or token operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

ADULT MOTION PICTURE THEATER. A theater in an enclosed building, from which minors are excluded from all or part of the establishment, with a capacity of 50 or more persons used regularly and routinely for presenting live entertainment or motion pictures, including but not limited

to film and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons.

ADULT NOVELTY BUSINESS. A business, from which minors are excluded from all or part of the establishment, which sells, offers to sell, or displays devices which simulate human genitals or devices which are designated for sexual stimulation.

ADULT USE. Any of the activities and businesses described in this division (B) constitutes ***ADULT ORIENTED BUSINESSES*** which are subject to the regulation of this section.

SPECIFIED ANATOMICAL AREAS are any of the following conditions:

- (a) Less than completely and opaquely covered:
 - 1. Human genitals, pubic region, or pubic hair;
 - 2. Buttock, anus; and
 - 3. Female breast below a point immediately above the top of the areola; and
- (b) Human male genitals in a discernible turgid state, completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES are any of the following conditions:

- (a) An act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal.
- (b) Sadomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound, or otherwise physically restricted on the part of one so clothed.
- (c) Masturbation or lewd exhibitions of the genitals including any explicit, close-up representation of a human genital organ clothed or unclothed.
- (d) Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or breasts of a female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(C) *Application of this section.*

(1) Except as in this section specifically provided, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose not in any manner, which is not in conformity with this section.

(2) No adult oriented business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the city, the laws of the State of Minnesota, or the United States of America. Nothing in this section shall be construed as authorizing or permitting conduct which prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale, or distribution of specified materials to minors.

(D) *Location.*

(1) During the term of this section, adult oriented businesses shall be located only in zoning district B4, subject to the following limitations. Within any B4 zoning district, no adult oriented business shall be located less than:

- (a) Two hundred and fifty feet from any residential zoning district;
- (b) Two hundred and fifty feet from any public park;
- (c) Two hundred and fifty feet from any church or religious site;
- (d) Two hundred and fifty feet from any day care facility;
- (e) Five hundred feet from all school property;
- (f) Five hundred feet from another adult oriented business.

(2) For purposes of this section, the distance as measured in a straight line from the closest point of the property line of the building upon which the adult use is located.

(E) *Hours of operation.* No adult oriented business shall be open to the public from the hours of 11:00 p.m. to 9:00 a.m.

(F) *Operation.*

(1) *Off-site viewing.* An establishment operating as an adult oriented business shall prevent off-site viewing of its merchandise, which if viewed by a minor, would be in violation of M.S. Chapter 617, as it may be amended from time to time, or other applicable federal or state statutes or local ordinances.

(2) *Entrances.* All entrances to the business, with the exception of emergency fire exits, which are not useable by patrons to enter the business shall be visible from a public right-of-way, excluding alleyways.

(3) *Layout.* The layout of the display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including but not limited to books, magazines, photographs, video tapes, or any other material.

(4) *Illumination.* Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.

(5) *Signs.* Signs for adult oriented businesses shall comply with the city's ordinance for signs addressed in this chapter, and in addition signs for adult oriented businesses shall not contain representational depiction of an adult nature or graphic descriptions of the adult theme of the operation.

(G) *License required.* No person shall own or operate a sexually-oriented business within the City unless such person is currently licensed under this section.

(H) *License application.* This application for a license under this section shall be made on a form supplied by the issuing authority and shall require the following information:

(1) *All applicants.* For all applicants:

(a) Where the applicant is a natural person, corporation, partnership, or other form of organization.

(b) The legal description of the premises to be licensed, along with a floor plan of the premises. The floor plan of the premises shall detail all internal operations and activities, including a statement of the total floor space occupied by the business. The floor plan need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimension of the interior of the premises to an accuracy of plus or minus six inches.

(c) The name and street address of the business. If the business is to be conducted under a designated name, or style other than the name of the applicant, a certified copy of the certificate required by M.S. § 333.01, as it may be amended from time to time, shall be submitted.

(2) *Applicants who are natural persons.* If the applicant is a natural person:

(a) The name, place, and date of birth, street and city address, and phone number of the applicant.

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(b) Where the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places where used.

(c) The street and city addresses at which the applicant has lived during the preceding two years.

(d) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding two years and name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding two years.

(e) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a petty misdemeanor traffic ordinance. If so, the applicant shall furnish information as to the time, place and offense for which convictions were had.

(3) *Applicants that are partnerships.* If the applicant is a partnership:

(a) The name(s) and address(es) of all general partners and all of the information concerning each general partner that is required of applicants in division (H)(2) above.

(b) The name(s) of the managing partner(s) and the interest of each partner in the business.

(c) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to M.S. § 333.01, as it may be amended from time to time, a certified copy of such certificate shall be attached to the application.

(4) *Corporate or other applications.* If the applicant is a corporation or other organization:

(a) The name of the corporation or business form, and if incorporated, the state of incorporation.

(b) A true copy of the certificate of incorporation, articles of incorporation or association agreement and by-laws shall be attached to the application. If the applicant is a foreign corporation, a certificate of authority as required by M.S. § 303.06, as it may be amended from time to time, shall be attached.

(c) The name of the manager(s), or other agent(s) in charge of the business and all of the information concerning each manager, proprietor or agent is required of the applicants in division (H)(2) above.

(I) *License application execution.* If the application is that of a natural person, the application shall be signed and sworn to by that person; if of a corporation, by an officer thereof; if of a partnership, by one of the general partners; if of an incorporated association, by the manager or managing officer thereof.

(J) *License application verification.* Applications of licenses under this section shall be submitted to the City Council (hereinafter referred to as the issuing authority). Within twenty (45) calendar days of receipt of a complete application and payment of all license application fees, agents and/or employees of the issuing authority shall verify any and all of the information requested of the applicant in the application, including the ordering of criminal background checks, and conduct any necessary investigation to assure compliance with this section.

(K) *License application consideration.* No later than ten calendar days after the completion of the license application verification and investigation by the issuing authority or its agents or employees, as prescribed in division (J), the issuing authority shall accept or deny the license application in accordance with this section. If the application is denied, the issuing authority shall notify the applicant of the determination in writing. The notice shall be mailed by certified mail to the applicant at the address provided in the application form and it shall inform the applicant of the applicant's right within 20 calendar days of receipt of the notice by the applicant, to request an appeal of the determination for consideration by the City Council or to immediately challenge the determination in a court of law. If the appeal to the City Council is timely received, the hearing before the City Council shall take place within 20 calendar days of the receipt of the appeal. If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises. During the application consideration process prescribed herein an applicant operating a business not previously subject to the license provisions of this section may remain operating pending the outcome of the application consideration by the issuing authority.

(L) *License fees.*

(1) *Application fee.*

(a) The license application fee shall be \$1,000;

(b) The application license fee shall be paid in full before the application for a license is considered. All fees shall be paid to the issuing authority for deposit into the general fund of the city. Upon rejection of any application for a license or upon withdrawal of application before the issuing authority the license fee shall be refunded to the applicant.

(c) When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee of the initial license period shall be ninety (90) days after approval of the license by the issuing authority or upon the date an occupancy permit is issued for the building.

(2) *Investigation fee.* An application for any license under this division shall deposit with the Issuing Authority, at the time an original application is submitted, \$1,000 to cover the cost involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this division. The investigation fee shall be nonrefundable.

(M) *Persons and locations ineligible for a license.* The issuing authority shall issue a license under this division to an applicant unless one or more of the following conditions exists:

- (1) The applicant is not 18 years of age or older on the date the application is submitted to the issuing authority;
- (2) The applicant failed to supply all of the information on the license application;
- (3) The applicant gave false, fraudulent, or untruthful information on the license application;
- (4) The applicant has had a sexually-oriented license revoked from the city or any other jurisdiction within a one-year period immediately preceding the date the application was submitted;
- (5) The applicant has had a conviction of a felony or gross misdemeanor or misdemeanor relating to sex offenses, obscenity offenses or adult uses in the past five years;
- (6) The sexually-oriented business does not meet the zoning requirements prescribed in this section;
- (7) The premises to be licensed as a sexually-oriented business is currently licensed by the city as a tanning facility, tattoo establishment, pawnshop, therapeutic massage enterprise, or an establishment licensed to sell alcoholic beverages;
- (8) The applicant has not paid the license and investigation fees required in division (L).

(N) *License restrictions.*

- (1) *Posting of license.* A license issued under this section must be posted in a conspicuous place in the premises for which it is used.
- (2) *Effect of license.* A license issued under this section is only effective for the compact and contiguous space specified in the approved license application.
- (3) *Maintenance of order.* A licensee under this section shall be responsible for the conduct of the business being operated and shall not allow any illegal activity to take place on or near the licensed premises including but not limited to prostitution, public indecency, indecent exposure, disorderly conduct, or the sale or use of illegal drugs. Every act or omission by an employee or independent contractor of the licensee constituting a violation of this section shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee or as a result of the licensee's negligent failure to supervise the employee's or independent contractor's conduct.

(4) *Distance requirement for live adult entertainment.* All performers, dancers, and persons providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas in the licensed facility where such entertainment can be seen by patrons of the licensed facility shall remain at all times a minimum distance of ten feet from all patrons, customers, or spectators and shall dance or provide such entertainment on a platform intended for that purpose, which shall be raised at least two feet from the level of the floor on which patrons or spectators are located.

(5) *Interaction with patrons.* No dancer, performer, or person providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility where the entertainment can be seen by patrons of the licensed facility shall fondle or caress any spectator or patron.

(6) *Gratuity prohibition.* No customers, spectator, or patron of a licensed facility shall directly pay or give any gratuity to any dancer or performer and no dancer or performer shall solicit any pay or gratuity from any patron or spectator.

(7) *Adult car wash requirements.* Sexually-oriented businesses that are adult car washes shall meet all of the requirements of this section.

(O) *Restrictions regarding license transfer.*

(1) The license granted under this section is for the person and the and the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application.

(2) When a sexually-oriented business licensed under this section is sold or transferred, the existing licensee shall immediately notify the issuing authority of the sale or transfer. If the new owner or operator is to continue operating the sexually-oriented business, the new owner or operator must immediately apply for a license under this section.

(P) *Inspection.*

(1) *Access.* An applicant or licensee shall permit health officials, representatives of the police department, fire department, and building inspection division, to inspect the premises of an adult oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

(2) *Refusal to permit inspections.* A person who operates an adult oriented business or his or her agent or employee commits an offense if she or he refuses to permit a lawful inspection of the premises by health officials, representatives of the police department, fire department, and building inspection division at any time it is occupied or open for business. Refusal to permit inspections may result in the suspension of the license as provided in division (K).

(3) *Exceptions.* The provisions of this section do not apply to areas of an adult motel, which are currently being rented by a customer for use as a permanent or temporary habitation.

(Q) *Expiration and renewal.*

(1) *Expiration.* Each license shall expire at the end of the calendar year and may be renewed only by making application as provided in division (G). Application for renewal must be made at least 60 days before the expiration date, and when made less than 60 days before the expiration date, the expiration of the license will not be affected.

(2) *Denial of renewal.* When the city denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the city finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

(R) *Suspension.*

(1) *Causes of suspension.* The city may suspend a license for a period not to exceed 30 days if it determines that licensee or an employee of a licensee has:

(a) Violated or is not in compliance with any provision of this section.

(b) Engaged in the use of alcoholic beverages while on the adult oriented business premises other than at an adult hotel or motel.

(c) Refused to allow an inspection of the adult oriented business premises as authorized by this section.

(d) Knowingly permitted gambling by any person on the adult oriented business premises.

(e) Demonstrated inability to operate or manage an adult oriented business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

(2) *Notice.* A suspension by the city shall be proceeded by written notice to the licensee and a public hearing. The notice shall give at least ten-days' notice of the time and place of the hearing and shall state the nature of the charge(s) against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof.

(S) *Revocation.*

(1) *Suspended licenses.* The City may revoke a license if a cause of suspension in division (K) occurs and the license has been suspended within the preceding 12 months.

(2) *Causes of revocation.* The city shall revoke a license if it determines that:

(a) A licensee gave false or misleading information in the material submitted to the City during the application process;

(b) A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;

(c) A licensee or an employee has knowingly allowed prostitution on the premises;

(d) A licensee or an employee knowingly operated the adult oriented business during a period of time when the licensee's license was suspended;

(e) A licensee has been convicted of an offense listed in division (M), for which the time period required;

(f) On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in division (M), for which a conviction has been obtained, and the person or persons were employees of the adult oriented business at the time the offenses were committed.

(g) A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.

(3) *Appeals.* The fact that a conviction is being appealed shall have no effect on the revocation of the license.

(4) *Exceptions.* Division (S)(2)(g) above, does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.

(5) *Granting a license after revocation.* When the city revokes a license, the revocation shall continue for one year and the licensee shall not be issued an adult oriented business license for one year from the date revocation became effective. If subsequent to revocation, the city finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license was revoked under division (M), an applicant may not be granted another license until the appropriate number of years required under this division has elapsed.

(T) *Transfer of license.* A licensee shall not transfer this license to another, nor shall a licensee operate an adult oriented business under the authority of a license at any place other than the address designated in the application.

(Ord. passed 5-7-2002)

§ 150.23 BUILDING PERMIT SURCHARGE.

Any person or other legal entity, who violates the zoning chapter by failure to obtain a building permit prior to starting any construction project which requires a building permit shall be assessed a surcharge of \$75 in addition to the regular building permit fees. This surcharge shall be in addition to any other remedies for violation or noncompliance with the zoning chapter.

(Res. passed 6-7-1988)

Cross-reference:

Subdivisions and building permits, see Chapter 151

CHAPTER 151: SUBDIVISIONS

Section

- 151.01 General provisions
- 151.02 Rules
- 151.03 Definitions
- 151.04 Procedures for filing and review
- 151.05 Premature subdivisions
- 151.06 Plat and data requirements
- 151.07 Design standards
- 151.08 Park land dedication requirements
- 151.09 Required basic improvements
- 151.10 Non-platted subdivision
- 151.11 Variances, Planning Commission recommendations, standards
- 151.12 Violations

- 151.99 Penalty

Cross-reference:

Building permit surcharge, see § 150.23

§ 151.01 GENERAL PROVISIONS.

(A) *Short title.* This chapter shall be known as the Subdivision ordinance of the City of Waterville, and will be referred to herein as this chapter.

(B) *Purpose.* In order to safeguard the best interests of the city and to assist the subdivider in harmonizing his or her interests with those of the city at large, the following chapter is adopted so that the adherence to it will bring results beneficial to both parties. It is the purpose of this chapter to make certain regulations and requirements for the platting of land within the city pursuant to the authority contained in Minnesota Statutes Annotated, which regulations the City Council deems necessary for the health, safety and general welfare of this community.

(C) *Jurisdiction.* The regulations herein governing plats and the subdivision of land shall apply within the corporate limits of the city and the unincorporated area within two miles of its limits; provided that where a municipality lies less than four miles from the limits of the city, these regulations shall apply

only to a line equidistant from the city and the municipality; and provided further, that the governing body or bodies of unincorporated areas adjacent to the city have not adopted ordinances for the regulation of subdivision of land or platting. Copies of resolutions approving subdivision plats of land outside the city but not subject to its subdivision regulations shall be filed with the clerk of the town in which the land is situated.

(D) *Approvals necessary for acceptance of subdivision plats.* Before any plat shall be recorded or be of any validity, it shall be referred to the City Planning Commission and approved by the City Council as having fulfilled the requirements of this chapter.

(E) *Conditions for recording.* No plat of any subdivision shall be entitled to record in the LeSueur County Recorder's Office or have any validity until the plat thereof has been prepared, approved, and acknowledged in the manner prescribed by this chapter.

(F) *Building permits.* No building permits shall be considered for issuance by the city for the construction of any building, structure or improvement of the land, or to any lot in a subdivision as defined herein, until all requirements of this chapter have been fully complied with.

(G) *Exceptions.* When requesting a subdivision, if either of the following conditions exist, the City Administrator-Clerk shall bring the request to the attention of the City Council, whereupon the request shall be reviewed and the City Council may exempt the subdivider from complying with any procedural requirements that are deemed inappropriate.

(1) In the case of a request to divide a lot which is a part of a recorded plat where the division is to permit the adding of a parcel of land to an abutting lot or to create two lots and the newly created property line will not cause the other remaining portion of the lot or any structure to be in violation with this chapter or Chapter 150.

(2) In the case of a request to divide a base lot upon which a two-family dwelling or a quadraminium which is a part of a recorded plat where the division is to permit individual private ownership of a single dwelling unit within such a structure and the newly created property lines will not cause any of the unit lots or the structure to be in violation of this chapter or Chapter 150.

(H) *Separability.* If any section, subsection, sentence, clause or phrase of this chapter is for any reason found to be invalid, the decision shall not affect the validity of the remaining portions of this chapter.

(I) *Conflict.* Whenever there is a difference between minimum standards or dimensions specified herein and those contained in other official regulations, resolutions or ordinances of the city, the most restrictive standards shall apply.

(Ord. passed - -)

§ 151.02 RULES.

For the purpose of this chapter, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular; and the word shall, is mandatory and not discretionary.

(Ord. passed - -)

§ 151.03 DEFINITIONS.

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

ALLEY. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street.

APPLICANT. The owner of land proposed to be subdivided for his or her representation. Consent shall be required from the legal owner of the premises.

BASE LOT. A lot meeting all the specifications within its zoning district prior to being divided into a two-family or quadraminium subdivision.

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

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

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

CITY. The City of Waterville.

CITY COUNCIL. The governing body of the City of Waterville.

COMPREHENSIVE PLAN. The group of maps, charts and texts that make up the comprehensive long-range plan of the city.

DESIGN STANDARDS. The specifications to land owners or subdividers for the preparation of plats, both preliminary and final, indicating among other things, the optimum, minimum or maximum dimensions of such items as rights-of-way, blocks, easements and lots.

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

FINAL PLAT. A drawing or map of a subdivision, meeting all of the requirements of the city and in such a form as required by LeSueur County for the purpose of recording.

INDIVIDUAL SEWAGE DISPOSAL SYSTEM. A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device.

LOT. Land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of Chapter 150, having not less than the minimum area required by Chapter 150 for a building site in the district in which the lot is situated and having its principal frontage on a street.

LOT, CORNER. A lot situated at the intersection of two streets, the interior angle of the intersection not exceeding 135 degrees.

LOT IMPROVEMENT. Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly bonded as provided in these regulations.

OUTLOT. A lot remnant or parcel of land left over after platting, which is intended as open space or other use, for which no development is intended and for which no building permit shall be issued.

OWNER. Includes the plural as well as the singular, and where appropriate shall include a natural person, partnership, firm association, public or quasi-public corporation, private corporation, or a combination of them.

PARKS and PLAYGROUNDS. Public land and open spaces in the city dedicated or reserved for recreation purposes.

PERCENTAGE OF GRADE. On street center line, means the distance vertically from the horizontal, in feet and tenths of a foot for each 100 feet of horizontal distance.

PEDESTRIAN WAY. The public right-of-way or private easement across a block or within a block to provide access for pedestrians and which may be used for the installation of utility lines.

PLANNING COMMISSION. The Planning Commission of the city.

PRELIMINARY PLAT. A tentative drawing or map of a proposed subdivision meeting.

PROTECTIVE COVENANT. Contracts made between private parties as to the manner in which land may be used, with the view to protecting and preserving the physical and economic integrity of any given area.

PUBLIC IMPROVEMENT. Any drainage ditch, roadway, parkway, sidewalk, pedestrianway; tree, lawn, off-street parking area, lot improvement, or other facility for which the city may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

QUADRAMINIUMS. Are single structures which contain four subdivided dwelling units all of which have individually separate entrances from the exterior of the structure.

SETBACK. The distance between a building and the property line nearest thereto.

STREET. A public right-of-way affording primary access by pedestrian or vehicles or both, to abutting properties, whether designated as a street, highway, thoroughfare, parkway, road, avenue, or boulevard.

STREET WIDTH. The shortest distance between lines of lots delineating the street's right-of-way.

STREETS - COLLECTOR STREET. Those streets which carry traffic from local streets to the major system of arterials and highways. **COLLECTOR STREETS** primarily provide principal access to residential neighborhoods, including, to a lesser degree direct land access.

STREETS - CUL-DE-SAC. A local street with only one outlet end having an appropriate terminal for the safe and convenient reversal of traffic movement.

STREETS - LOCAL STREET. Those streets which are used primarily for access to abutting properties and for local traffic movement.

STREETS - MARGINAL ACCESS STREET. Those local streets which are parallel and adjacent to thoroughfares and highways; and which provide access to abutting properties and protection from through traffic.

STREETS - THOROUGHFARES, ARTERIAL STREETS. Those streets carrying larger volumes of traffic and serving as links between various subareas of the community. **THOROUGHFARES** or **ARTERIAL STREETS** are intended to provide for collection and distribution of traffic between highways and collector streets; hence regulation of direct access to property is critical.

SUBDIVIDER. Any individual, firm, association, syndicate, co-partners, corporation, trust or other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this chapter.

SUBDIVISION. The division of land resulting in a parcel of land less than two and one-half acres in area or less than 150 feet in width, for the purpose of transfer of ownership or building development or, if a new street is involved, any division of land. The term includes **RESUBDIVISION** and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

TANGENT. A straight line which is perpendicular to the radius of a curve where a tangent meets a curve.

TWO-FAMILY DWELLING. A dwelling designed exclusively for occupancy by two families living independently of each other.

UNIT LOTS. Lots created from the subdivision of a two-family dwelling or a quadraminium having different minimum lot size requirements than the conventional base lot within the zoning district.

VERTICAL CURVE. The surface curvature on a street, road and highway centerline located between lines of different percentage of grade.
(Ord. passed - -)

§ 151.04 PROCEDURES FOR FILING AND REVIEW.

(A) *Sketch plan.* In order to insure that all applicants are informed of the procedure requirements and minimum standards of this chapter and the requirements or limitations imposed by other city ordinances or plans, prior to the development of a preliminary plat, all applicants shall present a sketch plan to the City Administrator-Clerk prior to filing a preliminary plat.

(B) *Preliminary plat.*

(1) *Filing.* Five copies of the preliminary plat and a list of property owners located within 350 feet of the subject property obtained from and certified by LeSueur County, shall be submitted to the City Administrator-Clerk. The required filing fee as established by the City Council resolution shall be paid and any necessary applications for variances from the provisions of this chapter shall be submitted with the required fee. The proposed plat shall be placed on the agenda of the first possible Planning Commission meeting occurring after ten days from the date of submission. The plan shall be considered as being officially submitted when all the information requirements are complied with.

(2) *Hearing.* The Planning Commission upon receipt of the application shall instruct the City Administrator-Clerk to set a public hearing for public review of the preliminary plat. The hearing shall be established once adequate time has been allowed for staff and advisory body review of the plat. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council. Notice of the hearing shall consist of a legal property description, description of request and map detailing property location, and be published in the official newspaper at least ten days prior to the hearing and written notification of said hearing shall be mailed at least ten days prior to all owners of land within 350 feet of the boundary of the property in question.

(3) *Technical assistance reports.* After the public hearing has been set, the City Administrator-Clerk shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the City Council.

(4) *Review by other commissions or jurisdictions.* The City Administrator-Clerk shall refer copies of the preliminary plat to the Park and Recreation Committee, county, state or other public jurisdictions for their review and comment, where appropriate and when required.

(5) *Planning commission action.* The Planning Commission shall make a recommendation to the City Council immediately following the close of the public hearing. If the Planning Commission has not acted upon the preliminary plat within 60 days from the opening of the public hearing, the Council may act on the preliminary plat without the Planning Commission's recommendation.

(6) *City Council action.*

(a) If all requirements of this chapter and those additionally imposed by the Planning Commission are complied with, the Council shall act upon the preliminary plat and may impose conditions and restrictions which are deemed necessary within 60 days of the date of the close of the Planning Commission's public hearing.

(b) If the preliminary plat is not approved by the City Council, the reasons for that action shall be recorded in the proceedings of the Council and transmitted to the applicant. If the preliminary plat, is approved, that 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 require such revisions in the preliminary plat and final plat as it deems necessary for the health, safety, general welfare and convenience of the city.

(c) If the preliminary plat is approved by the City Council, the subdivider must submit the final plat within six months after the approval or approval of the preliminary plat shall be considered void, unless a request for time extension is submitted in writing and approved by the City Council. The subdivider may file a final plat limited to that portion of the preliminary plat which he or she proposes to record and develop at this time, provided that the portion must conform to all requirements of this chapter.

(C) *Final plat.*

(1) *Filing.* After the preliminary plat has been approved, final plat shall be submitted for review as set forth in the subdivisions which follow.

(2) *Approval of the Planning Commission.* Ten copies of the final plat shall be submitted to the City Administrator-Clerk for distribution to the Planning Commission, City Council and appropriate city staff ten days prior to a Commission meeting at which consideration is requested. During the ten days,

the city staff shall examine the final plat and prepare a recommendation to the Planning Commission. Nature of approval, disapproval, or any delay in decision of the final plot will be conveyed to the subdivider within ten days after the meeting of the City Planning Commission at which the plat was considered. In case the plat is disapproved, the subdivider shall be notified in writing of the requests for such action and what requirements shall be necessary to meet the approval of the Commission.

(3) *Approval of the Council.* After review of the final plat by the Planning Commission, the final plat, together with the recommendations of the Planning Commission shall be submitted to the City Council for approval. If accepted, the final plat shall be approved by resolution, which resolution shall provide for the acceptance of all agreements for basic improvements, public dedication and other requirements as indicated by the City Council. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the Council and reported to the person or persons applying for such approval.

(4) *Special assessments.* When any existing special assessments which have levied against the property described to be divided and allocated to the respective lots in the proposed plat, the City Administrator-Clerk shall estimate the clerical cost of preparing a revised assessment roll, filing the same with the County Auditor, and making such division and allocation, and upon approval by the Council of such cost the same shall be paid to the City Clerk before the final plat approval.

(5) *Street addresses.* With submission of the final plat, ten copies of the plat map showing all addresses correctly labeled in conformance with all applicable LeSueur County and city ordinances and policies shall be supplied to the City Administrator-Clerk for subsequent distribution to the utility companies and local school districts.

(6) *Recording final plat.* If the final plat is approved by the City Council, the subdivider shall record it with the LeSueur County Recorder within 100 days after the approval or approval of the final plat shall be considered void, unless a request for time extension is submitted in writing and approved by the City Council. The subdivider shall, immediately upon recording, furnish the City Clerk with a print and reproducible tracing of the final plat showing evidence of the recording. No building permits shall be let for construction of any structure on any lot in the plat until the city has received evidence of the plat being recorded by LeSueur County.

(Ord. passed - -)

§ 151.05 PREMATURE; SUBDIVISIONS.

Any preliminary plat of a proposed subdivision deemed premature for development shall be denied by the City Council.

(A) *Condition establishing premature subdivisions.* A subdivision may be deemed premature should any of the conditions, set forth in the provisions which follow, exist.

(1) *Lack of adequate drainage.* A condition of inadequate drainage shall be deemed to exist if:

(a) Surface or subsurface water retention and runoff is such that it constitutes a danger to the structural security of the proposed structures.

(b) The proposed subdivision will cause pollution of water sources or damage from erosion and siltation on downhill or downstream land.

(c) The proposed site grading and development will cause harmful and irreparable damage from erosion and siltation on downhill or downstream land.

(d) Factors to be considered in making these determinations may include: average rainfall for the area, the relation of the land to flood plains, the nature of soils and subsoils and their ability to adequately support surface water runoff and waste disposal systems, the slope of the land and its effect on effluents, and the presence of streams as related to effluent disposal.

(2) *Lack of adequate water supply.* A proposed subdivision shall be deemed to lack an adequate water supply if the proposed subdivision does not have adequate sources of water to serve the proposed subdivision if developed to its maximum permissible density without causing an unreasonable depreciation of existing water supplies for surrounding areas.

(3) *Lack of adequate roads or highways to serve the subdivision.* A proposed subdivision shall be deemed to lack adequate roads or highways to serve the subdivision when:

(a) Roads which serve the proposed subdivision are of such a width; grade, stability, vertical and horizontal alignment, site distance and surface condition that an increase in traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare, or seriously aggravate an already hazardous condition, and when, with due regard to the advice of LeSueur County and/or the Minnesota Department of Transportation, the roads are inadequate for the intended use.

(b) The traffic volume generated by the proposed subdivision would create unreasonable highway congestion or unsafe conditions on highways existing at the time of the application or proposed for completion within the next two years.

(4) *Lack of adequate waste disposal systems.* A proposed subdivision shall be deemed to lack adequate waste disposal systems if in subdivisions for which sewer lines are proposed, there is inadequate sewer capacity in the present system to support the subdivision if developed to its maximum permissible density after reasonable sewer capacity is reserved for schools, planned public facilities, and commercial and industrial development projected for the next five years; or if in subdivisions where sewer lines are neither available nor proposed, there is inadequate on-site sewer capacity potential to support the subdivision if developed to the maximum permissible density indicated in the Waterville comprehensive plan, as may be amended.

(5) *Inconsistency with comprehensive plan.* The proposed subdivision is inconsistent with the purposes, objectives, and recommendations of the duly adopted comprehensive plan as may be amended.

(6) *Providing public improvements.* If public improvements, such as recreational or other public facilities, reasonably necessitated by the subdivision, which must be provided at public expense, cannot be reasonably provided, for within the next two fiscal years.

(7) *MEQC policies.* The proposed subdivision is inconsistent with the policies of MEQC 25, as may be amended, and could adversely impact critical environmental areas or potentially disrupt or destroy historic areas which are designated or officially recognized by the City Council in violation of federal and state historical preservation laws.

(B) *Burden of establishing.* The burden shall be upon the applicant to show that the proposed subdivision is not premature.

(Ord. passed - -)

§ 151.06 PLAT AND DATA REQUIREMENTS.

(A) *Sketch plan.* Sketch plans shall contain, at a minimum, the following information:

- (1) Plat boundary;
- (2) North arrow;
- (3) Scale;
- (4) Street layout on and adjacent to plat;
- (5) Designation of land use and current or proposed zoning;
- (6) Significant topographical or physical features;
- (7) General lot locations and layout;

(8) Preliminary evaluation by the applicant that the subdivision is not classified as premature based upon criteria established in § 151.05 above.

(B) *Preliminary plat.* The subdivider shall prepare and submit a preliminary plat, together with any necessary supplementary information. The preliminary plat shall contain the information set forth in the subdivisions which follow.

(1) *General requirements.*

(a) Proposed name of subdivision; names shall not duplicate or too closely resemble names of existing subdivisions.

(b) Location of boundary lines in relation to a known section, quarter section or quarter-quarter section lines comprising a legal description of the property.

(c) Names and addresses of all persons having property interest, the developer, designer, and surveyor together with his or her registration number.

(d) Graphic scale or plat, not less than one inch to 100 feet.

(e) Data and north arrow.

(2) *Existing conditions.*

(a) Boundary line and total acreage of proposed plat, clearly indicated;

(b) Existing zoning classifications for land within and abutting the subdivision;

(c) Location, widths and names of all existing or previously plotted streets or other public ways, showing type, width and condition of improvements, if any, railroad and utility rights-of-way, parks, and other public open spaces, permanent buildings and structures, easements and section and corporate lines within the tract and to a distance of 350 feet beyond the tract;

(d) Location and size of existing sewers, water mains, culverts or other; underground facilities within the tract and to a distance of 100 feet beyond the tract. Such data as grades, invert elevations, and locations of catch basins, manholes and hydrants shall also be shown;

(e) Boundary lines of adjoining unsubdivided or subdivided land, within 350 feet; identified by name and ownership, including all contiguous land owned or controlled by, the subdivider;

(f) Topographic data, including contours at vertical intervals of not more than two feet. Water courses, wetlands, rock outcrops, power transmission poles and lines, and other significant features shall also be known;

(g) In plats where public water and sewer are not available, the subdivider shall file a report prepared by a registered civil engineer on the feasibility of individual on-site sewer and water systems on each lot, and shall include soils boring analysis and percolation tests to verify conclusions.

(3) *Proposed design features.*

(a) *Layout of proposed streets.* Layout of proposed streets showing the right-of-way widths, centerline gradients, typical cross sections, and proposed names of streets in conformance with city and county street identification policies. The name of any street heretofore used in the city or its environs shall not be used unless the proposed street is a logical extension of an already named street in which event the same name shall be used.

(b) *Alleys and pedestrian ways.* Locations and widths of proposed alleys and pedestrian ways.

(c) *Proposed sewer lines and water mains.* Locations and size of proposed sewer lines and water mains.

(d) *Easements.* Location, dimension and purpose of all easements.

(e) *Lots and blocks.* Layout, numbers, lot areas, and preliminary dimensions of lots and blocks.

(f) *Minimum setback lines.* Minimum front and side street building setback lines.

(g) *Lots located on a curve.* When lots are located on a curve, the width of the lot at the building setback line.

(h) *Areas for public use.* Areas, other than streets, alleys, pedestrian ways and utility easements, intended to be dedicated or reserved for public use including the size of that area or areas in acres.

(i) *Water supply.* Water mains shall be provided to serve the subdivision by extension of an existing community system wherever feasible. Service connections shall be stubbed into the property line and all necessary fire hydrants shall also be provided. Extensions of the public water supply system shall be designed so as to provide public water in accordance with the standards of the city. In areas where public water supply is not available, individual wells shall be provided on each lot, properly placed in relation to the individual sewage disposal facilities on the same and adjoining lots. Well plans must comply with the Minnesota State Well Code, as may be amended, and be submitted for the approval of the City Engineer.

(j) *Sewage disposal, public.* Sanitary sewer mains and service connections shall be installed in accordance with the standards of the city.

(k) *Sewage disposal, private.* All on-site septic systems shall be installed in accordance with all applicable State Pollution Control Agency regulations and city ordinances.

(4) *Supplementary information.*

(a) Any or all of the supplementary information requirements set forth in this subdivision shall be submitted when deemed necessary by the city staff, consultants, advisory bodies and/or City Council.

(b) Proposed protective covenants.

(c) An accurate soil survey of the subdivision prepared by a qualified person.

(d) A survey prepared by a qualified person identifying tree coverage in the proposed subdivision in terms of type, weakness, maturity, potential hazard, infestation, vigor, density, and spacing.

(e) Statement of the proposed use of lots stating type of buildings with number of proposed dwelling units or type of business or industry, so as to reveal the effect of the development on traffic, fire hazards, and congestion of population.

(f) If any zoning changes are contemplated; the proposed zoning plan for the' areas, including dimensions, shall be shown. The proposed zoning plan shall be for information only and shall not vest any rights in the applicant.

(g) Provision for surface water disposal, ponding, drainage, and flood control.

(h) Where the subdivider owns property adjacent to that which is being proposed for the subdivision, it shall be required that the subdivider submit a sketch plan of the remainder of the property so as to show the possible relationships between the proposed subdivision and the future subdivision. In any event, all subdivisions shall be required to relate well with existing or potential adjacent subdivisions.

(i) Where structures are to be placed on large or excessively deep lots which are subject to potential replat; the preliminary plat shall indicate a logical way in which the lots could possibly be resubdivided in the future.

(j) A plan for soil erosion and sediment control both during construction and after development has been completed. The plan shall include gradients of waterways, design of velocity and erosion control measures, design of sediment control measures, and landscaping of the erosion and sediment control system.

(k) A vegetation preservation and protection plan that shows those trees proposed to be removed, those to remain, the types and locations of trees and other vegetation that are to be planted.

(l) When the city has agreed to install improvements in a development, the developer shall furnish the city a financial statement satisfactory to the city. When the city has not undertaken to install improvements, the city may, at the city's option, require the developer to furnish a financial statement satisfactory to the city.

(m) Other information as may be required.

(C) *Final plat.* The owner or subdivider shall submit a final plat together with any necessary supplementary information. The final plat, prepared for recording purposes, shall be prepared in accordance with provisions of Minnesota State statutes and LeSueur County regulations, and that final plat shall contain the following information:

(1) Names of the subdivision, which shall not duplicate or too closely approximate the name of any existing subdivision.

(2) Location by section, township, range, county and state, and including descriptive boundaries of the subdivision, based on an accurate traverse, giving angular and linear dimensions which must mathematically close. The allowable error closure on any portion of a final plat shall be one foot in 7,500.

(3) The location of monuments shall be shown and described on the final plat. Locations of those monuments shall be shown in reference to existing official monuments on the nearest established street lines, including true angles and distances, to such reference points or monuments.

(4) Location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground shall be shown. Dimensions shall be shown from all angle points of curve to lot lines.

(5) Lots shall be numbered clearly. Blocks are to be numbered, with numbers shown clearly in the center of the block.

(6) The exact locations, widths, and names of all streets to be dedicated.

(7) Location and width of all easements to be dedicated.

(8) Name and address of surveyor making the plat.

(9) Scale of plat (the scale to be shown graphically on a bar scale), date a red north arrow.

(10) Statement indicating all easements as follows: "Easements for installation and maintenance of utilities and drainage facilities are reserved over, under and along the strips marked *utility easements*."

(11) Statement dedicating all streets, alleys and other public areas not previously dedicated as follows: Streets, alleys and other public areas shown on this plat and not heretofore dedicated to public use are hereby so dedicated.

(D) *Address map.* The address map shall be prepared in accordance with city and county policy and shall include all addresses of lots as platted.

(E) *Certification required.*

(1) Certification by registered surveyor in the Form required by M.S. § 505.03, as it may be amended from time to time.

(2) Execution by all owners of any interest in the land or any holders of a mortgage thereon of the certificates required by M.S. § 505.03, as it may be amended from time to time, and which certificate shall include a dedication of the utility easements and other public areas in such form as approved by the City Council.

(3) Space for certificates of approval and review to be filled in by the signatures, of the Mayor and City Administrator-Clerk. The form of approval of the City Council is as follows:
(Ord. passed - -)

§ 151.07 DESIGN STANDARDS.

(A) *Blocks.*

(1) *Block length.* In general, intersecting streets, determining block lengths shall be provided at such intervals so as to serve cross-traffic adequately and to meet existing streets. Where no existing plats control, the blocks in residential subdivisions should not exceed 1,800 feet nor be less than 600 feet in length, except where topography or other conditions justify a departure from this maximum. In blocks longer than 900 feet, pedestrian ways and/or easements through the block may be required near the center of the block.

(2) *Block width.* The width of the block shall normally be sufficient to allow two tiers of lots of appropriate depth. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries.

(B) *Lots.*

(1) *Area.* The minimum lot area, width and depth shall not be less than that established by Chapter 150 in effect at the time of adoption of the final plat.

(2) *Corner lots.* Corner lots for residential use shall have additional width to permit appropriate building setback from both streets as required in Chapter 150.

(3) *Side lot lines.* Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.

(4) *Frontage.* Every lot must have the minimum frontage on a city approved street other than an alley, as-required in Chapter 150.

(5) *Setback lines.* Setback or building lines shall be shown on all lots intended for residential use and shall not be less than the setback required by Chapter 150, as may be amended.

(6) *Water courses.* Lots abutting a water course, wetland, ponding area, or stream shall have additional depth and width, as required under the provisions of Chapter 150.

(7) *Features.* In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, water courses, historic spots or similar conditions which if preserved will add attractiveness and stability to the proposed development.

(8) *Lot remnants.* All remnants of lots below minimum size left over after the subdividing of a larger tract must be added to adjacent lots, rather than allowed to remain as unusable parcels.

(9) *Political boundaries.* No singular plat shall extend over a political boundary or school district line without document notification to affected units of government.

(10) *Frontage on two streets.* Double-frontage, or lots with frontage on two parallel streets, shall not be permitted except: where lots back on arterial streets or highways, or where topographic or other conditions render subdividing otherwise unreasonable. Such double-frontage lots shall have an additional depth of at least 20 feet in order to allow space for screen planting along the back lot line.

(11) *Turn around access.* Where proposed residential lots abut a collector or arterial street, they should be platted in such a manner as to encourage turn-around access and egress on each lot.

(C) *Streets and alleys.*

(1) *Streets, continuous.* Except for cul-de-sacs, streets shall connect with streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of streets in the nearest subdivided tracts. The arrangement of thoroughfares and collector streets shall be considered' in their relation to the reasonable circulation of traffic, to topographic conditions, to turn-off of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the area to be served.

(2) *Local streets and dead-end streets.* Local streets should be so planned as to discourage their use by non-local traffic. Dead-end streets are prohibited, but cul-de-sacs shall be permitted where topography or other physical conditions justify their use. Cul-de-sacs shall not be longer than 600 feet, including a terminal turn-around which shall be provided at the closed end, with a right-of-way radius of not less than 40 feet.

(3) *Street plans for future subdivisions.* Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided portion shall be prepared and submitted by the subdivider.

(4) *Temporary cul-de-sac.* In those instances where a street is terminated pending future extension in conjunction with future subdivision, a temporary turn around facility shall be provided at the closed end, in conformance with cul-de-sac requirements.

(5) *Provisions for resubdivision of large lots and parcels.* When a tract is subdivided into larger than normal building lots or parcels, the lots or parcels shall be so arranged as to permit the logical location and openings of future streets and appropriate resubdivision, with provision for adequate utility connections for resubdivision.

(6) *Street intersections.* Under normal conditions, streets shall be laid out so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. Under normal conditions, the minimum angle of intersection of streets shall be 80 degrees. Street intersection jogs with an offset of less than 125 feet shall be avoided.

(7) *Subdivisions abutting major rights-of-way.* Wherever the proposed subdivision contains or is adjacent to the right-of-way of a U.S. or state highway or thoroughfare, provision may be made for a marginal access street approximately parallel and adjacent to the boundary of the right-of-way, provided that due consideration is given to proper circulation design, or for a street at a distance suitable, for the appropriate use of land between the street and right-of-way. The distance shall be determined with due consideration of the minimum distance required for approach connections to future grade separations, or for lot depths.

(8) *Sidewalks.* In those cases where the City Council deems appropriate and necessary, sidewalks of not less than four feet in width shall be provided. Where a proposed plat abuts or includes an arterial street, sidewalks of not less than four feet in width on both sides of the paved surface shall be provided. Where the proposed plat abuts or includes a collector street, sidewalks of not less than four feet in width, shall be required on one side of the street. In all cases where sidewalks are provided provisions shall be made for handicapped access.

(9) *Service access, alleys.* Service access shall be provided in commercial and industrial, districts for off-street loading, unloading and parking consistent with and adequate for the uses proposed. Except where justified by special conditions, such as the continuation of an existing alley in the same

block, alleys will not be approved in residential districts. Alleys, where provided, shall not be less than 20 feet wide. Deadend alleys shall be avoided wherever possible, but if unavoidable, such deadend alleys may be approved if adequate turnaround facilities are provided at the closed end.

(10) *Half streets.* Dedication of half streets shall not be considered for approval except where it is essential to the reasonable development of the subdivision and in conformity with the other requirements of these regulations or where it is found that it will be practical to require the dedication of the other half when the adjoining property is subdivided.

(11) *Street grades.*

(a) The grades in all streets, arterial highways, collector streets, minor streets and alleys in any subdivision shall not be greater than the maximum grades for each classification as follows:

<i>Urban expressway</i>	<i>As required by the Minnesota State Highway Department</i>
Principal arterial highway	5%
Minor arterial highway	5%
Collector street	5%
Local street	8%
Alley	8%

(b) In addition, there shall be a minimum grade on all streets and arterial highways of not less than .05%.

(12) *Curb radius.* The minimum curb radii for thoroughfares, collector streets, local streets and alleys shall be as follows:

Arterial streets, collector and local streets	10 feet
Alleys	4 feet

(13) *Reverse curves.* Minimum design standards for collector and arterial streets shall comply to Minnesota State Aide Standards.

(14) *Reserve strips.* Reserve strips controlling access to streets shall be prohibited except under conditions accepted by the City Council.

(15) *Street right-of-way width.*

(a) For all public ways hereafter dedicated and accepted, the minimum right-of-way widths for streets and thoroughfares shall be shown in the comprehensive plan and where not shown therein, the minimum right-of-way width for streets, arterial highways or pedestrian ways included in any subdivision shall not be less than the minimum dimensions for each classification as follows:

<i>Classification</i>	<i>Desirable</i>	<i>Acceptable</i>
Principal arterial highway	104 feet	74 - 80 feet
Minor arterial highway		75 feet
Collector streets	75 feet	66 feet
Local streets		66 feet
Marginal service access roads		50 feet
Alley		20 feet
Pedestrian way		10 feet

(b) Where existing or anticipated traffic on principal, and minor arterial highways warrants greater widths of rights-of-way, these shall be required.

(16) *Street alignment.* The horizontal and vertical alignment standards on all streets shall be as follows:

(a) *Horizontal.*

1. Radii of center line:

	<i>Desirable</i>	<i>Minimum Acceptable</i>
Urban expressway	As required by the Minnesota State Highway Department	
Principal arterial highway	800 feet	500 feet
Minor arterial highway	800 feet	500 feet
Collector street	500 feet	300 feet
Local street	500 feet	100 feet

2. There shall be a tangent between all reversed curves of a minimum length as follows:

	<i>Minimum Acceptable</i>
Urban expressway	As required by the Minnesota Department
Principal Arterial Highway	100 feet
Minor Arterial Highway	100 feet
Collector Street	50 feet
Local Street	50 feet

(b) *Vertical*. All changes in street grades shall be connected by vertical parabolic curves of such length as follows:

Principal or minor	30 times the algebraic difference in the percent of grade of the two adjacent slopes
Collector or local street	20 times the algebraic difference in the percent of grade of the two adjacent slopes

(17) All proposed streets shall be offered for dedication on public streets. Except that private streets may be permitted, following approval of the variance application, within the boundaries of property under one ownership.

(D) *Easements*.

(1) *Width and location*. An easement for utilities at least ten feet wide, shall be provided along all lot lines. If necessary for the extension of main water or sewer lines or similar utilities, easements of greater width may be required along lot lines or across lots.

(2) *Continuous utility easement locations*. Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the City Council after a public hearing.

(3) *Guy wires*. Additional easements for pole guys should be provided, where appropriate, at the outside of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that pole guys will fall along side lot lines.

(E) *Erosion and sediment control*.

(1) The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.

(2) Erosion and siltation control measures shall be coordinated with the different stages of construction. Appropriate control measures shall be installed prior to development when necessary to control erosion.

(3) Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.

(4) When soil is exposed, the exposure shall be for the shortest feasible period of time as specified in the development agreement.

(5) Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the developed area. Top soil shall be restored or provided to a depth of four inches and shall be of a quality at least equal to the soil quality prior to development.

(6) Natural vegetation shall be protected wherever practical.

(7) Runoff water shall be diverted to a sedimentation basin before being allowed to enter the natural drainage system.

(F) *Storm drainage.* All subdivision designs shall incorporate adequate provisions for storm water runoff subject to review and approval of the City Engineer.

(G) *Protected areas.*

(1) Where land proposed for subdivision is deemed environmentally sensitive by the city, due to the existence of wetlands, drainageways, water courses, floodable areas or steep slopes, the design of the subdivision shall clearly reflect all necessary measures of protection to insure against adverse environmental impact.

(2) Based upon the necessity to control and maintain certain sensitive areas, the city shall determine whether the protection will be accomplished through lot enlargement and redesign or dedication of those sensitive areas in the form of outlots.

(3) In general, measures of protection shall include design solutions which allow for construction and grading involving a minimum of alteration to sensitive areas. Where these areas are to be incorporated into lots within the proposed subdivision, the subdivider shall be required to demonstrate that the proposed design will not require construction on slopes over 18%, or result in significant alteration to the natural drainage system such that adverse impacts cannot be contained within the plat boundary.

(Ord. passed - -)

§ 151.08 PARK LAND DEDICATION REQUIREMENTS.

(A) As a prerequisite to plat approval, subdividers shall dedicate land for parks, playground, public open spaces or trails and/or shall make a cash contribution to the city's park fund as provided by this chapter. The form of contribution, cash or land (or any combination), shall be decided by the city.

(B) Subdivision of land which has been previously platted and officially recorded and which contains less than one acre, shall be exempt from the dedication requirements of this section.

(C) Land to be dedicated shall be reasonably suitable for its intended use and shall be at a location convenient to the people to be served. Factors used in evaluating the adequacy of proposed park and recreation areas shall include size, shape, topography, geology, hydrology, tree cover, access and location.

(D) The Park Board, shall recommend to the City Council the location of the land and the amount of land to be conveyed or dedicated within a proposed subdivision.

(E) The Park and Recreation Committee shall recommend to the City Council the land dedication and cash contribution requirements for proposed subdivisions.

(F) Changes in density of plats shall be reviewed by the Park and Recreation Committee for reconsideration of park dedication and cash contribution requirements.

(G) Where a proposed park, playground or other recreational areas, proposed school site or other public ground that has been indicated in the official map and/or comprehensive plan is located in whole, or in part, within a proposed subdivision such proposed public site shall be designated as such and should be dedicated to the city, school district or other proper governmental unit. If the subdivider chooses not to dedicate an area in excess of the land required hereunder for such proposed public site, the city shall not be required to act to approve or disapprove the preliminary plat of the subdivision for a period of 60 days after the subdivider meets all the provisions of the subdivision ordinance in order to permit the Council, school board or other appropriate governmental unit to consider the proposed plat and to consider taking steps to acquire, through purchase or condemnation, all, or part of the public site proposed under the official map or master plan.

(H) Land area conveyed or dedicated to the city shall not be used in calculating density requirements of Chapter 150 and shall be in addition to and not in lieu of open space requirements for planned unit developments.

(I) Where private open space for park and recreation purposes is provided in a proposed subdivision and the space is to be privately owned and maintained by the future residents of the subdivision, the areas may be used for credit at the discretion of the City Council against the requirement of dedication for park and recreation purposes, provided the City Council finds it is in the public interest to do so and that the following standards are met:

(1) That yards, court areas, setbacks and other open space required to be maintained by the zoning and building regulations shall not be included in the computation of the private open space;

(2) That the private ownership and maintenance of the open space is adequately provided for by written agreement;

(3) That the private open space is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of property within the tract and which cannot be eliminated without the consent of the City Council;

(4) That the proposed private open space is reasonably adaptable for use for park and recreational purposes, taking into consideration factors as size, shape, topography, hydrological, geology, access and location of the private open space land;

(5) That facilities proposed for the open space are in substantial accordance with the provisions of the recreational element of the comprehensive plan, and ore approved by the City Council; and

(6) That where the credit is granted, the amount of credit shall not exceed 25% of the park land dedication requirements for the development.

(J) The city upon consideration of the particular type of development may require larger or lesser parcels of land to be dedicated if the city determines that present or future residents would require greater or lesser land for park and playground purposes. In addition, the City Council may also require lots within the subdivision be held in escrow for future sale or development. The monies derived from the sole of escrowed lots will be used to develop or to purchase park land in the future.

(K) In residential plats the Council may require up to one acre land be conveyed to the city as an outlot by warranty deed for 75 people the platted land could house based following population calculations:

Single-family detached dwelling lots	3.5 persons
Two-family dwelling logs	6.0 persons
Apartment, townhouses, condominiums, and other dwelling units	1 person per bedroom

(L) In lieu of a park land donation the city may require the following cash donations:

Single-family dwelling lots	\$300
Two-family dwelling lots	\$600
Apartments, townhouses, condominiums, and other dwelling units	\$150 per unit plus \$75 per bedroom above the first bedroom on each unit
Commercial and industrial	\$600 per acre

(M) The city may elect to receive a combination of cash, land and development of the land for park use. The fair market value of the land the city wants and the value of the development of the land shall be calculated. That amount shall be subtracted from the cash contribution required by § 151.08(L). The remainder shall be the cash contribution requirement.

(N) Fair market value shall be determined as of the time of filing the final plat in accordance with the following:

(1) The city and the developer may agree as to the fair market value, or

(2) The fair market value may be based upon a current appraisal submitted to the city by the subdivider at the subdivider's expense. The appraisal shall be made by appraisers who are approved members of the SREA or MAI, or equivalent real estate appraisal societies.

(3) If the city disputes the appraisal the city may, at the subdivider's expense, obtain an appraisal of the property by a qualified real estate appraiser, which appraisal shall be conclusive evidence of the fair market value of the land.

(O) Park cash contributions are to be calculated at the time of final plat approval. The Council may approve a delay in the payment of cash requirements provided that an agreement is executed guaranteeing the payment at the time of the final plat or development plan approval. Delayed payment shall include interest at the highest permitted by law.

(P) The City shall maintain a separate fund into which all cash contributions received from owners or developers in lieu of conveyance or dedication of land for park or playground, public open space or trail purposes shall be deposited and shall make, from time to time, appropriations from the fund for acquisition of land for park and playground purposes, for developing existing park and playground sites, for public open space and trails, or for debt retirement in connection with land previously acquired for parks and playgrounds, which will benefit the residents of the city.

(Q) If a subdivider is unwilling or unable to make a commitment to the city as to the type of building that will be constructed on lots in the proposed plat, then the land and cash contribution requirement will be a reasonable amount as determined by the City Council.

(R) Wetlands, ponding areas, and drainage ways accepted by the city shall not be considered in the park land and/or cash contribution to the city.

(Ord. passed - -)

§ 151.09 REQUIRED BASIC IMPROVEMENTS.

(A) *General provisions.*

(1) Before a final plat is delivered by the city to the subdivider, the subdivider of the land covered by the plat shall pay all applicable fees and execute and submit to the City Council a developer's agreement which shall be binding on his or her or their heirs, personal representatives and assigns, a part of which agreement shall be set forth that the subdivider will cause no private construction to be made on the lands within the plat, nor shall the subdivider file or cause to be filed any application for building permits for such construction until all improvements required under this chapter have been made or arranged for in the manner and, conforming to the requirements as set forth herein.

(2) Prior to the delivery of the approved final plat, the subdivider shall deposit with the City Treasurer an amount equal to a minimum of 150% of the City Engineer's estimated cost of the required improvements within the plat, either in a cash escrow fund performance and indemnity bond, or letter of credit. The surety involved in the financial guarantees shall be approved by the City. The cash escrow letter of credit or performance and indemnity bond shall be conditioned upon:

(a) The making and installing of all of the improvements required by the terms and conditions set forth by the city within one year.

(b) Satisfactory completion of the work and payment therefore, which work was undertaken by the subdivider in accordance with the developer's agreement referred to above.

(c) The payment by the subdivider to the city of all expenses incurred by the city, which expenses shall include but not be limited to expenses for engineering, fiscal, legal, construction and administration. In instances where a cash escrow is submitted in lieu of a letter of credit or performance and indemnity bond, there shall be a cash escrow agreement which shall provide that in the event the required improvements are not completed within one year, all amounts held under the cash escrow agreement shall be automatically turned over and delivered to the city and applied by the city to the cost of completing the required improvements. If the funds available within the cash escrow agreement are not sufficient to complete the required improvements, the necessary additional cost to the city shall be assessed against the subdivision. Any balance remaining in the cash escrow fund after the improvements have been made and all expenses therefor have been paid, shall be returned to the subdivider. In instances where a letter of credit is used in lieu of a cash escrow or performance and indemnity bond, the letter of credit shall be in a form satisfactory to the city and the terms thereof shall substantially

comply with the procedure as set forth for a cash escrow fund. In instances where a performance and indemnity bond is used in lieu of a cash escrow or letter of credit, the bond shall be in a form acceptable to the city and shall comply with all requirements as set forth in Minnesota Statutes as amended, which statutes relate to surety bonds.

(3) No final plat shall be approved by the Council without first receiving a report signed by the City Engineer and the City Attorney certifying that the improvements described therein together with the agreements and documents required under this section, meet the requirements of the city. The City Treasurer shall also certify that all fees required to be paid to the city in connection with the plat have been paid.

(4) The city shall, where appropriate, require of a subdivider submission of a warranty/maintenance bond in the amount equal to the original cost of the improvements, which shall be in force for one year following the final acceptance of any required improvements and shall guarantee satisfactory performance of the improvements.

(5) Reproducible as built drawings as required by the City Engineer shall be furnished to the city by the subdivider of all required improvements. The as built drawings shall be certified to be true and accurate by the registered engineer responsible for the installation of the improvements.

(6) All of the required improvements to be installed under the provisions of this chapter shall be approved by and subject to the inspection of the City Engineer. All of the city's expenses incurred as the result of the requirement improvements shall be paid either directly, indirectly or by reimbursement to the city by the subdivider.

(B) *Monuments.*

(1) Official monuments, as designated and adopted by the LeSueur County Surveyor's Office and approved by the LeSueur County District Court for use as judicial monuments, shall be set at each corner or angle on the outside boundary of the final plat or in accordance with a plan as approved by the City Engineer. The boundary line of the property to be included with the plat to be fully dimensioned; all angles of the boundary excepting the closing angle to be indicated; all monuments and surveyor's irons to be indicated, each angle point of the boundary perimeter to be so monumented.

(2) Pipes or steel rods shall be placed at each lot and at each intersection of street center lines. All United States, state, county or other official bench marks, monuments or triangular stations in or adjacent to the property shall be preserved in precise position and shall be recorded on the plat. All lot and block dimensions shall be shown on the plat and all necessary angles pertaining to the lots and blocks, as an aid to future surveys shall be shown on the plat. No ditto marks will be permitted in indicating dimensions.

(3) To insure that all irons and monuments are correctly in place following the final grading of a plat, a second monumentation shall be required. Proof of the second monumentation shall be in the form of a surveyor's certificate and this requirement shall additionally be a condition of certificate of occupancy as provided for in Chapter 150, as maybe amended.

(C) *Street improvements.*

(1) The full width of the right-of-way shall be graded, in accordance with the provisions for construction as outlined in § 151.07, Design Standards.

(2) All streets shall be improved in accordance with the standards and specifications for street construction as required by the City Council.

(3) All streets to be surfaced shall be of an overall width in accordance with the standards and specifications for construction as approved by the City Council. The portion of the right-of-way outside the area surfaced shall be sodded or ripped by the developer if deemed necessary.

(4) Where required, the curb and gutter shall be constructed in accordance to the standards and specifications for street construction as set forth and approved by the City Council.

(5) The grade and drainage requirements for each plat shall be approved by the City Engineer at the expense of the applicant. Every plat presented for final signature shall be accompanied by a certificate of the City Engineer that the grade and drainage requirements have been met. In an area not having municipal storm sewer trunk the applicant shall be responsible, before platting, to provide for a storm water disposal plan, without damage to properties outside the platted area, and said storm water disposal plan, shall be submitted to the City Engineer, who shall report to the City Council on the feasibility of the plan presented. No plat shall be approved before on adequate storm water disposal plan is presented and approved by the City Engineer and City Council. The use or dry wells for the purpose of storm water disposal is prohibited.

(6) Trees and boulevard sodding shall be planted in conformance with the standards and specifications as required by the City Council.

(7) Street signs of the design approved by the City Council shall be installed at each street intersection.

(8) Driveway approaches and sidewalks of standard design or pedestrian pathways as may be required by the City Council shall be installed.

(9) Street lighting fixtures as may be required by the City Council shall be installed.

(D) *Sanitary sewer and water distribution improvements.*

(1) Sanitary sewers and water facilities shall be installed in accordance with the standards and specifications as required by the City Council and subject to the approval of the City Engineer.

(2) Where city sewer and water facilities are not available for extension into proposed subdivision, the Council may permit the use of individual water and sewer systems in accordance with all appropriate state and local regulations.

(E) *Public utilities.*

(1) All new electric distribution lines (excluding main line feeders and high voltage transmission lines), telephone service lines, and services constructed within the confines of and providing service to customers in a newly platted residential area shall be buried underground; unless the Council specifically shall find, after study and recommendation by the Planning Commission, that:

(a) The placing of utilities underground would not be compatible with the development planned;

(b) Topographical, soil or any other conditions make the underground -installation unreasonable or impractical.

(2) All utility lines for telephone and electrical service shall be placed in rear line easements when carried on overhead poles. The Planning Commission may recommend, and the City Council require, that the type of overhead pole used be of a quality and durability aesthetically in conformance with the nature of the residential development.

(3) Where telephone, electric and/or gas service lines are to be placed underground entirely, conduits or cables shall be placed within easements or dedicated public ways, in such a manner so as not to conflict with other underground services.

(4) All drainage, and other underground utility installations which traverse privately owned property shall be protected by easements.

(5) The subdivider is responsible for complying with the requirements of this section, and shall submit to the Planning Commission a written record from the utilities showing that the necessary arrangements with the utility involved for the installation of said facilities have been made.

(F) *Election by city to install improvements.* In accordance with city policy, it is the subdivider's responsibility to install all required improvements except that the city reserves the right to elect to install all or any part of the improvements required under the provisions of this chapter in lieu of requiring the subdivider to install such improvements, pursuant to M.S. Chapter 429, as it may be amended from time to time.

(G) *Railroad crossings.* No street dedications will be accepted which require a crossing of a railroad unless sufficient land as determined by the City Council is dedicated to insure a safe view.

(H) *Storm sewer charges.* Subdividers shall pay to the city a storm sewer improvement charge in accordance with a rate schedule adopted by resolution of the City Council. The charge shall be paid in cash before the final plat is signed unless otherwise provided in the Development Agreement. The charge shall be based upon the number of square feet in the plat. The developer shall be given a dollar credit for oversizing and other improvements on the plat which are only necessary to service property outside the plat.

(Ord. passed - -)

§ 151.10 NON-PLATTED SUBDIVISION.

(A) *Registered land surveys.* It is the intention of this chapter that all registered land, surveys in the city should be presented to the Planning Commission in the form of a preliminary plat in accordance with the standards set forth in this chapter for preliminary plats and that the Planning Commission shall first approve the arrangement, sizes, and relationships or proposed tracts in the registered land surveys, and that tracts to be used as easements or roads should be so dedicated. Unless a recommendation and approval have been obtained from the Planning Commission and City Council respectively, in accordance with the standards set forth in this chapter building permits will be withheld for buildings on tracts which have been so subdivided by registered land surveys and the city may refuse to take over tracts as streets or roads or to improve, repair or maintain any tracts unless so approved.

(B) *Conveyance by metes and bounds.* No division of one or more parcels in which the land conveyed is described by metes and bounds shall be made or recorded if the parcels described in the conveyance are five acres or less in area and 300 feet or less in width unless the parcel was a separate parcel of record at the effective date of this chapter. Building permits will be withheld for buildings or tracts which have been subdivided and conveyed by this method and the city may refuse to take over tracts as streets or roads or to improve, repair or maintain any tracts.

(Ord. passed - -)

§ 151.11 VARIANCES, PLANNING COMMISSION RECOMMENDATIONS, STANDARDS.

(A) *Findings.* The Planning Commission may recommend a variance from the minimum standards of this chapter (not procedural provisions) when, in its opinion, undue hardship may result from strict compliance. In recommending any variance, the Commission shall prescribe, conditions that it deems necessary, to or desirable for the public interest. In making its recommendations, the Planning

Commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number, of persons to reside or work in the-proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. A variance shall only be recommended when the Planning Commission finds:

(1) That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his or her land.

(2) That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which the property is situated.

(3) That the variance is to correct inequities resulting from an extreme physical hardship such as topography, etc.

(4) After considerations of the Planning Commission recommendations, the City Council may grant variances, subject to division (A)(1), (2) and (3) above.

(B) *Procedures.*

(1) Requests for a variance or appeal shall be filed with the City Administrator-Clerk on an official Application form. Such application shall be accompanied, by a fee as established by City Council resolution. Such application shall also be accompanied by ten copies of detailed written and graphic materials necessary for the explanation of the request.

(2) Upon receiving said application, the City Administrator-Clerk shall refer the application, along with all related information, to the City Planning Commission for a report and recommendation to the City Council.

(3) The Planning Commission shall consider the variance at its next regular meeting unless the filing date falls within 15 days of the meeting in which case the request would be placed on the agenda and considered at the regular meeting following the next regular meeting. The City Administrator-Clerk shall refer the application, along with all related information to the City Planning Commission for consideration and a report and recommendation to the City Council.

(4) The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed variance request.

(5) The variance application shall be referred to the city staff for a report and recommendation to be presented to the Commission. A preliminary draft of the city staff's report and recommendations shall be given to the City Planning Commission at least seven days prior to the meeting of which the report and recommendations are to be presented. The final report and recommendations to the city staff is to be entered in and made part of the permanent written record of the Planning Commission meeting.

(6) The Planning Commission and city staff shall have the authority to request additional information from the applicant concerning the variance or to retain expert testimony with the consent and at the expense of the applicant concerning the variance where the information is declared necessary to insure preservation of health, safety and general welfare.

(7) The Planning Commission shall request the City Administrator-Clerk to set a date for a public hearing. Notice of the hearing shall be published in the official newspaper at least ten days prior to the hearing, and individual notices shall be mailed not less than ten days nor more than 30 days prior to the hearing to all owners of property within, 350 feet of the parcel included in the request.

(8) Failure of a property owner to receive the notice shall not invalidate any proceedings as set forth within this chapter.

(9) The Planning Commission shall make a finding of fact and recommend actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of this chapter. The recommendation shall be in writing and accompanied by the report and recommendation of the city staff.

(10) The City Council shall not grant a variance until they have received a report and from the Planning Commission and the city staff or, until 60 days after the first regular Planning Commission meeting at which the request was considered.

(11) Upon receiving the report and recommendation of the Planning Commission and city staff, the City Council shall place the report and recommendation on the agenda for the next regular meeting. The reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.

(12) Upon receiving the report and recommendation of the Planning Commission and city staff, the City Council shall make a recorded finding of fact and impose any condition it considers necessary to protect the public health, safety and welfare.

(13) The City Council shall decide whether to approve or deny a request for a variance or an appeal within 30 days after the public hearing on said request.

(14) A variance of this chapter or grant of an appeal shall be by a majority vote of the full City Council.

(15) The City Administrator-Clerk shall notify the originator of the variance request or appeal of the City Council's decision in writing.

(Ord. passed - -)

§ 151.12 VIOLATIONS.

(A) *Sale of lots from unrecorded plats.* It shall be unlawful to sell, trade, or otherwise convey any lot or parcel of land as a part of, or in conformity with any plan, plat or replat of any subdivision or area located within the jurisdiction of this chapter unless the plan, plat or replat shall have first been recorded in the Office of the Recorder of LeSueur County.

(B) *Receiving or recording unapproved plats.* It shall be unlawful for a private individual to receive or record in any public office any plans, plats of land laid out in building lots and streets, alleys, or other portions of the same intended to be dedicated to public or private use, or for the use of purchasers or owners of lots fronting on or adjacent thereto, and located within the jurisdiction of this chapter, unless the same shall bear thereon, by endorsement or otherwise, the approval of the City Council.

(C) *Misrepresentation as to construction, supervision, or inspection of improvements.* It shall be unlawful for any person, firm or corporation owning an addition or subdivision of land within the city to represent that any improvement upon any of the streets, alleys or avenues of the addition or subdivision or any sewer in the addition or subdivision has been constructed according to the plans and specifications approved by the City Council, or has been supervised or inspected by the city, when the improvements have not been so constructed, supervised or inspected.

(Ord. passed - -) Penalty, see § 151.99

§ 151.99 PENALTY.

Any person who violates any of the provisions of this chapter shall, upon conviction thereof, be fined not more than the maximum penalty for a misdemeanor prescribed under state law. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ord. passed - -)

CHAPTER 152: FLOOD PLAIN MANAGEMENT

Section

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STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

§ 152.001 STATUTORY AUTHORIZATION.

The legislature of the State of Minnesota has, in M.S. Chapters 103F and 462, as they may be amended from time to time, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Waterville, Minnesota does ordain as follows.

(Ord. passed 6-1-1999)

§ 152.002 FINDINGS OF FACT.

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

(Ord. passed 6-1-1999)

§ 152.003 METHODS USED TO ANALYZE FLOOD HAZARDS.

This chapter is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

(Ord. passed 6-1-1999)

§ 154.004 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize those losses described in § 152.002 by provisions contained herein.

(Ord. passed 6-1-1999)

GENERAL PROVISIONS**§ 152.015 LANDS TO WHICH CHAPTER APPLIES.**

This chapter shall apply to all lands within the jurisdiction of Waterville shown on the official zoning map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts.

(Ord. passed 6-1-1999)

§ 152.016 ESTABLISHMENT OF OFFICIAL ZONING MAP.

The official zoning map together with all material attached thereto is hereby adopted by reference and declared to be a part of this chapter. The attached material shall include the Flood Insurance Study for LeSueur County, Minnesota and Incorporated Areas, dated July 21, 1999, and Flood Insurance Rate Map Panels therein dated July 21, 1999 that are numbered 427 of 435, 429 of 435, 431 of 435, and 433 of 435, as prepared by the Federal Emergency Management Agency. The official zoning map shall be on file in the office of the City Administrator-Clerk.

(Ord. passed 6-1-1999)

§ 152.017 REGULATORY FLOOD PROTECTION ELEVATION.

The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of floodway.

(Ord. passed 6-1-1999)

§ 152.018 INTERPRETATION.

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

(B) The boundaries of the zoning districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning

Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.

(Ord. passed 6-1-1999)

§ 152.019 WARNING AND DISCLAIMER OF LIABILITY.

This chapter does not imply that areas outside the flood plain districts or land uses permitted within the districts will be free from flooding or flood damages. This chapter shall not create liability on the part of Waterville or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. passed 6-1-1999)

§ 152.020 DEFINITIONS.

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

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

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

CONDITIONAL USE. A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that: (1) certain conditions as detailed in the zoning ordinance exist and (2) the structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

EQUAL DEGREE OF ENCROACHMENT. A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

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

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

FLOOD FRINGE. That portion of the flood plain outside the floodway. **FLOOD FRINGE** is synonymous with the term **FLOODWAY FRINGE** used in the Flood Insurance Study for Waterville.

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

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

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

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

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

REACH. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a **REACH**.

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. **REGIONAL FLOOD** is synonymous with the term **BASE FLOOD** used in the Flood Insurance Study.

REGULATORY FLOOD PROTECTION ELEVATION. The **REGULATORY FLOOD PROTECTION ELEVATION** shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in § 152.122 and other similar items.

VARIANCE. A modification of a specific permitted development standard required in an official control including this ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborate upon in a community's respective planning and zoning enabling legislation.
(Ord. passed 6-1-1999)

ESTABLISHING OF ZONING DISTRICTS

§ 152.030 DISTRICTS.

(A) *Floodway District.* The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map Panels adopted in § 152.016.

(B) *Flood Fringe District.* The Flood Fringe District shall include those areas designated as Zone AE on the Flood Insurance Rate Map Panels adopted in § 152.016 that are located outside of the Floodway District.

(C) *General Flood Plain District:* The General Flood Plain District shall include those areas designated as A-O Zone, unnumbered A Zone, and Zone AE for Waterville Creek outside of the Floodway District, all as shown on the Flood Insurance Rate Map Panels adopted in § 152.016.
(Ord. passed 6-1-1999)

§ 152.031 COMPLIANCE.

No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter. Within the Floodway, Flood Fringe and General Flood Plain Districts, all uses not listed as permitted uses or conditional uses in 152.045 through 152.048, 152.060 through 152.064, 152.075 and 152.076 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

(A) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this chapter and specifically §§ 152.120 through 152.122;

(B) Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this chapter and specifically § 152.150; and

(C) As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this chapter and specifically as stated in §§ 152.135 through 152.138.

(Ord. passed 6-1-1999)

FLOODWAY DISTRICT (FW)

§ 152.045 PERMITTED USES.

The following are permitted uses:

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

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

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

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

(Ord. passed 6-1-1999)

§ 152.046 STANDARDS FOR FLOODWAY PERMITTED USES.

(A) The use shall have a low flood damage potential.

(B) The use shall be permissible in the underlying zoning district if one exists.

(C) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

(Ord. passed 6-1-1999)

§ 152.047 CONDITIONAL USES.

(A) Structures accessory to the uses listed in § 152.045 above and the uses listed in divisions (B) through (H) below.

(B) Extraction and storage of sand, gravel, and other materials.

(C) Marinas, boat rentals, docks, piers, wharves, and water control structures.

(D) Railroads, streets, bridges, utility transmission lines, and pipelines.

(E) Storage yards for equipment, machinery, or materials.

(F) Placement of fill.

(G) Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject the exemptions and provisions of § 152.122.

(H) Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event. (Ord. passed 6-1-1999)

§ 152.048 STANDARDS FOR FLOODWAY CONDITIONAL USES.

(A) *All uses.* No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

(B) *Subject to § 152.138.* All floodway conditional uses shall be subject to the procedures and standards contained in § 152.138.

(C) *Permissible in underlying zoning district.* The conditional use shall be permissible in the underlying zoning district if one exists.

(D) *Fill.*

(1) Fill, dredge spoil and all other similar materials deposited or stored in the flood plan shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

(2) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

(3) As an alternative, and consistent with division (D)(2) above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the governing body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the Office of the County Recorder.

(E) *Accessory structures.*

(1) Accessory structures shall not be designed for human habitation.

(2) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.

(a) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and

(b) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(3) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the state building code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the state building code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:

(a) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and

(b) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or property flood proofed.

(F) *Storage of materials and equipment.*

(1) The storage or processing of materials that are in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

(G) *Structural works subject to M.S. Chapter 105.* Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of M.S. Chapter 105, as it may be amended from time to time. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

(H) *Levee, dike or floodwall.* A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal-conveyance or storage loss on both sides of a stream.

(Ord. passed 6-1-1999)

FLOOD FRINGE DISTRICT (FF)

§ 152.060 PERMITTED USES.

Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non residential structure or use of a structure or land shall be a permitted use in the flood fringe provided that use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe permitted uses listed in § 152.061 below and the standards for all Flood Fringe uses listed in § 152.063.

(Ord. passed 6-1-1999)

§ 152.061 STANDARDS FOR FLOOD FRINGE PERMITTED USES.

(A) All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot below the Regulatory flood protection elevation and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon.

(B) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood proofed in accordance with § 154.048(E)(3).

(C) The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with division (A) above.

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

(E) The provisions of § 152.064 shall apply.
(Ord. passed 6-1-1999)

§ 152.062 CONDITIONAL USES.

Any structure that is not elevated on fill or flood proofed in accordance with § 152.061(A) and (B) above or any use of land that does not comply with the standards in § 152.061(C) and (D) shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in §§ 152.063 and 152.064.
(Ord. passed 6-1-1999)

§ 152.063 STANDARDS FOR FLOOD FRINGE CONDITIONAL USES.

(A) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, buildings access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

(1) *Design and certification.* The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the state building code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

(2) *Specific standards for above-grade, enclosed areas.* Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

(a) The minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one-foot above grade. Openings may be quipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(b) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the state building code and shall be used solely for building access, parking of vehicles or storage.

(B) Basements, as defined by § 152.020, shall be subject to the following:

(1) Residential basement construction shall not be allowed below the regulatory flood protection elevation.

(2) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with division (C) below.

(C) All areas of non residential structures including basements to be placed below the regulatory flood protection elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the state building code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the state building code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.

(D) When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the governing body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

(E) (1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

(F) The provisions of § 152.064 shall also apply.
(Ord. passed 6-1-1999)

§ 152.064 STANDARDS FOR ALL FLOOD FRINGE USES.

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

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

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

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

(D) Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain for any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the official zoning map.

(E) Standards for travel trailers and travel vehicles are contained in § 152.122.

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

(Ord. passed 6-1-1999)

GENERAL FLOOD PLAIN DISTRICT

§ 152.075 PERMISSIBLE USES.

(A) The uses listed in § 152.045 shall be permitted uses.

(B) All other uses shall be subject to the Floodway/Flood Fringe evaluation criteria pursuant to § 152.076 below. Sections 152.045 through 152.048 shall apply if the proposed use is in the Floodway District and §§ 152.060 through 152.064 shall apply if the proposed use is in the Flood Fringe District. (Ord. passed 6-1-1999)

§ 152.076 PROCEDURES FOR FLOODWAY AND FLOOD FRINGE DETERMINATIONS.

(A) Upon receipt of an application for a conditional use permit for a use within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway or Flood Fringe District.

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

(2) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.

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

(B) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the regulatory flood protection elevation. Procedures consistent with Minn. Rules Parts 6120.5000 to 6120.6200 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

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

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

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

(C) The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the governing body. The governing body must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The governing body, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe Boundaries have been determined, the governing body shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of §§ 152.045 through 152.048 and 152.060 through 152.064.
(Ord. passed 6-1-1999)

SUBDIVISIONS

§ 152.090 REVIEW CRITERIA.

No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this chapter and have road access both to the subdivision and to the individual building sites no lower than two feet below the in flood plain, the Floodway and Flood Fringe boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

(Ord. passed 6-1-1999)

§ 152.091 REQUIREMENTS FOR FLOODWAY/FLOOD FRINGE DETERMINATIONS.

In the General Flood Plain District, applicants shall provide the information required in § 152.076 to determine the 100-year flood elevation, the Floodway and Flood Fringe District Boundaries and the Regulatory Flood Protection Elevation for the subdivision site.

(Ord. passed 6-1-1999)

§ 152.092 REMOVAL OF SPECIAL FLOOD HAZARD AREA DESIGNATION.

The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested. (Ord. passed 6-1-1999)

PUBLIC UTILITIES, RAILROADS, ROADS, BRIDGES**§ 152.105 PUBLIC UTILITIES.**

All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood-proofed in accordance with the state building code or elevated to above the regulatory flood protection elevation. (Ord. passed 6-1-1999)

§ 152.106 PUBLIC TRANSPORTATION FACILITIES.

Railroad tracks, roads, and bridges to be located within the flood plain shall comply with §§ 152.045 through 152.048 and 152.060 through 152.064 . Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety. (Ord. passed 6-1-1999)

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

Where public utilities are not provided:

(A) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and

(B) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during time of flooding. Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this section.

(Ord. passed 6-1-1999)

MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES

§ 152.120 NEW MANUFACTURED HOME PARKS AND EXPANSIONS TO EXISTING MANUFACTURED HOME PARKS.

New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by §§ 152.090 through 152.092.

(Ord. passed 6-1-1999)

§ 152.121 PLACEMENT OF NEW OR REPLACEMENT OF MANUFACTURED HOMES IN EXISTING HOME PARKS.

(A) The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with § 152.060 through 152.064. If vehicular road access for pre-existing manufactured home parks is not provided in accordance to § 152.064 above, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the governing body.

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

(Ord. passed 6-1-1999)

§ 152.122 TRAVEL TRAILERS.

Travel trailers and travel vehicles that do not meet the exemption criteria specified in division (B) below shall be subject to the provisions of this chapter and as specifically spelled out in divisions (C) and (D) below.

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

(1) Have current licenses required for highway use.

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

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

(B) *Areas exempted for placement of travel/recreational vehicles.*

(1) Individual lots or parcels of record.

(2) Existing commercial recreational vehicle parks or campgrounds.

(3) Existing condominium type associations.

(C) *Travel trailers and travel vehicles, loss of exemption.* Travel trailers and travel vehicles exempted in division (A) lose this exemption when development occurs on the parcel exceeding \$500 dollars for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in §§ 152.045 through 152.048 and 152.060 through 152.064 above.

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

(1) Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided the trailer or vehicle and its contents are placed on fill above the regulatory flood protection elevation and on fill above The regulatory flood protection elevation and

proper elevated road access to the site exists in accordance with § 152.064 above. No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100-year or regional flood.

(b) All new or replacement travel trailers or travel vehicles not meeting the criteria of (a) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of § 152.138 below. The applicant must submit an emergency plan for the safe evacuation of all vehicle and people during the 100-year flood. The plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with § 152.107 above.
(Ord. passed 6-1-1999)

ADMINISTRATION

§ 152.135 ZONING ADMINISTRATOR.

A Zoning Administrator or other official designated by the governing body shall administer and enforce this chapter. If the Zoning Administrator finds a violation of the provisions of this chapter the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in § 152.999.
(Ord. passed 6-1-1999)

§ 152.136 PERMIT REQUIREMENTS.

(A) *Permit required.* A permit issued by the Zoning Administrator in conformity with the provisions of this chapter shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use of change or use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

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

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

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

(E) *Construction and use to be as provided on applications, plans, permits, variances and certificates of zoning compliance.* Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter, and punishable as provided by § 152.999.

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

(G) *Record of first floor elevation.* The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.
(Ord. passed 6-1-1999)

§ 152.137 BOARD OF ADJUSTMENT.

The City Council is designated as the Board of Adjustment for Waterville.

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

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

(C) *Variances.* The Board may authorize upon appeal in specific cases such relief or variance from, the terms of this chapter as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as

provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

(D) *Hearings.* Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten-days' notice of the hearing.

(E) *Decisions.* The Board shall arrive at a decision on such appeal or variance within 60 days. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board may prescribe appropriate conditions and safeguards such as those specified in § 152.168(F), which are in conformity with the purposes of this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter punishable under § 152.999. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten days of the action.

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

(G) *Flood insurance notice and record keeping.* The Zoning Administrator shall notify the applicant for a variance that:

(1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 or \$100 of insurance coverage;

(2) Construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the administrator of the National Flood Insurance Program.

(Ord. passed 6-1-1999)

§ 152.138 CONDITIONAL USES.

The Planning Commission shall hear and recommend to the City Council for final decision applications for conditional uses permissible under this chapter. Applications shall be submitted to the Zoning Administrator who shall forward the application to the Planning Commission for consideration.

(A) *Hearings.* Upon filing with the Zoning Administrator an application for a conditional use permit, the Zoning Administrator shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten-days' notice of the hearing.

(B) *Decisions.* The City Council shall arrive at a decision on a Conditional use within 60 days. In granting a conditional use permit the City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in division (F), which are in conformity with the purposes of this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this chapter punishable under § 152.999. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten days of such action.

(C) *Procedures to be followed by the City Council in passing on conditional use permit applications within all flood plain districts.*

(1) Require the applicant to furnish such of the following information and additional information as deemed necessary by the City Council for determining the suitability of the particular site for the proposed use:

(a) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel.

(b) Specifications for building construction and materials, flood-proofing, filling dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

(2) Transmit one copy of the information described in division (C)(1) above to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

(3) Based upon the technical evaluation of the designated engineer or expert, the City Council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

(D) *Factors upon which the decision of the city council shall be based.* In passing upon conditional use applications, the City Council shall consider all relevant factors specified in other sections of this chapter, and:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(2) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges culverts or other hydraulic structures.

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(5) The importance of the services provided by the proposed facility to the community.

(6) The requirements of the facility for a waterfront location.

(7) The availability of alternative locations not subject to flooding for the proposed use.

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

(10) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

(12) Such other factors which are relevant to the purposes of this chapter.

(E) *Time for acting on application.* The City Council shall act on an application in the manner described above within 60 days from receiving the application, except that where additional information is required pursuant to division (D) above. The City Council shall render a written decision within 60 days from the receipt of that additional information.

(F) *Conditions attached to conditional use permits.* Upon consideration of the factors listed above and the purpose of this chapter, the City Council shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this chapter. The conditions may include, but are not limited to, the following:

- (1) Modification of waste treatment and water supply facilities.
 - (2) Limitations on period of use, occupancy, and operation.
 - (3) Imposition of operational controls, sureties, and deed restrictions.
 - (4) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
 - (5) Flood-proofing measures, in accordance with the state building code and this chapter. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory flood protection elevation and associated flood factors for the particular area.
- (Ord. passed 6-1-1999)

NONCONFORMING USES

§152.150 NONCONFORMING USES.

A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions:

- (A) No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
- (B) Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or flood proofing techniques i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the state building code, except as further restricted in division (C) below.
- (C) The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50% of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions constructed since the adoption

of the community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50% of the current market value of the structure, then the structure must meet the standards of §§ 152.045 through 152.048 and 152.060 through 152.064 for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.

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

(E) If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50% or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter. The applicable provisions for establishing new uses or new structures in §§ 152.045 through 152.048, 152.060 through 152.064, 152.075 and 152.076 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

(Ord. passed 6-1-1999)

AMENDMENTS

§ 152.160 AMENDMENTS TO CHAPTER.

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

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

(Ord. passed 6-1-1999)

§ 152.999 PENALTY.

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

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

(1) In responding to a suspected ordinance violation, the Zoning Administrator and local government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

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

(3) The Zoning Administrator shall notify the suspected party of the requirements of this chapter and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the community. If the construction or development is already completed, then the Zoning Administrator may either:

(a) Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or

(b) Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.

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

(Ord. passed 6-1-1999)

