

## **TITLE XV: LAND USE**

### Chapter

**150. GENERAL PROVISIONS**

**151. ZONING CODE**

**152. SUBDIVISION REGULATIONS**

**153. SHORELAND MANAGEMENT AREA**

**154. FLOODPLAIN**

**155. BUILDING CODE**

## CHAPTER 150: GENERAL PROVISIONS

Section

### *Telecommunications Tower and Antennas*

150.001 Title  
150.002 Purpose  
150.003 Definitions  
150.004 Location Requirements  
150.005 Permits Required  
150.006 Maximum Height  
150.007 Setback Requirements  
150.008 Other Requirements

### *Swimming Pools and Spas*

150.009 Definitions  
150.010 Permit required  
150.011 Application for permit  
150.012 Construction setback requirements  
150.013 Safety fence required  
150.014 Miscellaneous requirements  
150.015 Nuisance

## TELECOMMUNICATIONS TOWER AND ANTENNAS

### **§ 150.001 TITLE.**

This subchapter regulating the location, construction, screening, and use of a telecommunications tower and antennas within the City of Lakeland Shores shall hereafter be known, cited, and referenced to as the Subchapter Governing the Placement and Erection of Antenna Towers Within the City of Lakeland Shores, except as referred to herein, where it shall be known as this subchapter.

### **§ 150.002 PURPOSE.**

In order to accommodate the communications needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the Council finds that these regulations are necessary in order to:

**A.** Provide for the appropriate location and development of a telecommunications tower and antennas within the City;

**B.** Maximize the use of an existing tower, structures, or buildings to accommodate new telecommunications antennas in the City; and

**C.** Minimize adverse visual effects of structures and buildings through careful design, siting, and screening.

**§ 150.003 DEFINITIONS.**

**A. Communication Tower.** Communication Tower is a tower of any size which supports communication (broadcast or receiving) equipment utilized by commercial, governmental or other public or quasi-public users. This does not include private home use of satellite dishes and television antennas or amateur radio operators as licensed by the Federal Communications Commission.

**§ 150.004 LOCATION REQUIREMENTS.**

A communication tower may be located in the commercial zone of the City of Lakeland Shores. An amateur radio antenna tower may be located in the commercial or the residential zones provided it meets the requirements of this subchapter and the other Chapters of the City Code.

**§ 150.005 PERMITS REQUIRED.**

The erection of a communication tower or amateur radio antenna shall require a building permit and a conditional use permit. The City Council may authorize the issuance of a conditional use permit if, in addition to the requirements of the subchapter governing conditional uses, it finds that:

- (a) The proposed structure will not endanger the health and safety of residents, employees and travelers, including, but not limited to, the event of failure of such structure.
- (b) The proposed structure will not impair the use of or be detrimental to neighboring properties.
- (c) The proposed tower does not substantially detract from aesthetics and character of the neighborhood:
  - i. A proposed communications tower is necessary to provide a service that benefits the surrounding community.

**§ 150.006 MAXIMUM HEIGHT.**

The maximum height of an antenna tower may not exceed thirty five (35) feet and may not exceed the distance to the nearest overhead electric power line, less five (5) feet.

**§ 150.007 SETBACK.**

The maximum setback from any property line shall be equal to the height of the tower.

**§ 150.008 OTHER REQUIREMENTS**

**A.** No parts or anchors which are part of the antenna tower shall extend across any property line, public street or sidewalk.

**B.** The antenna tower must be properly grounded with at least an eight foot (8') ground rod at the base of the tower and connected with a No.6 or larger wire between the ground rod and tower base.

**C.** No lights, flashers or reflectors shall be affixed to the tower unless required by law.

**SWIMMING POOLS AND SPAS**

**§ 150.009 DEFINITIONS.**

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

**A. PRIVATE SWIMMING POOLS.** Are regulated by this subchapter and are defined as any enclosure, designed or intended or used for the containment of water, whether constructed below ground level or above ground level, having a surface area exceeding 100 square feet and a depth exceeding 18 inches which is designed, intended, or used for swimming, wading, or other recreational use by the owner or tenant of the property upon which the pool is constructed, or by their family or invited guests.

**B. SPAS.** Are regulated by this subchapter and are defined as a unit primarily designed for therapeutic use which is not drained, cleaned, or refilled for each individual use. It may include, but not be limited to, hydrojet circulation, hot water, cold water mineral baths, air induction bubbles, or any combination thereof. Industry terminology for a **SPA** includes but is not limited to therapeutic pool, hydrotherapy pool, whirlpool, hot spa, hot tub, and the like.

**§ 150.010 PERMIT REQUIRED.**

No swimming pool shall be constructed or established and no pool construction shall be commenced in the City of Lakeland Shores without first obtaining a permit from the Building Official.

**§ 150.011 APPLICATION FOR PERMIT.**

**A.** Applications for a swimming pool permit shall be made to the City Clerk. A fee shall be collected commensurate with the estimated value of the construction to cover the costs of inspection.

**B.** The application for the permit shall include, without limitation, the following information:

- (1) Complete plans and specifications for the construction of the pool;
- (2) A site plan showing the location of all structures on the lot, including the house, garage, fences, trees, overhead or underground wiring, utility easements, sewage systems, and other significant improvements or natural features;
- (3) The proposed location of pumps, filters, electrical power source (if applicable), flushing and drainage outlets, and other operational features; and
- (4) Location and specifications of protective fencing.

**§ 150.012 CONSTRUCTION SETBACK REQUIREMENTS.**

**A.** Generally. Private swimming pools shall be constructed so as to avoid hazard or damage to the occupants of the subject property or the occupants of adjacent property and shall meet the following minimum requirements.

**B.** Minimum requirements.

- (1) Underground or overhead utilities shall be located in conformance with the National Electrical Code.
- (2) No pool shall be located within any private easement, public or private utility easement, ingress or egress easement, drainage way, marsh, or other location in which it will represent a threat to the natural environment.
- (3) (a) In areas zoned or used for single-family residential

purposes, pools are prohibited in the front yard and shall not be located within 30 feet of any lot line, nor within 10 feet of any principal structure or accessory buildings except accessory buildings without frost footings.

- (b) No mechanical equipment, fence, or accessory building shall be located closer than 30 feet to any lot line.
- (4) (a) In areas zoned or used for multiple-family residential purposes, pools are prohibited in the front yard and shall not be located within 30 feet of any lot line, nor within 30 feet of any side lot line, nor within 30 feet of any principal structure or accessory buildings except accessory buildings without frost footings.
- (b) No mechanical equipment shall be located closer than 30 feet to any lot line.
- (5) No portion of any swimming pool or appurtenances thereto shall be located less than 10 feet to any portion of a sewage disposal line or sewage treatment system, nor shall any water supply line for a swimming pool be less than 15 feet to any portion of the sewage treatment system.

**§ 150.013 SAFETY FENCE REQUIRED.**

- A.**
  - (1) A safety fence of at least 5 feet in height shall completely enclose the pool.
  - (2) All openings or points of entry into the pool area shall be equipped with self-closing and self-latching gates or doors.
  - (3) All gates and doors shall have a latch which is no less than 4 feet above the ground level and which shall be so constructed and so placed as to be inaccessible to small children.
  - (4) All gates and doors shall be latched when the pool is not in use or is unattended by an adult with demonstrated swimming ability.
  - (5) Any opening between the bottom of the fence and the ground level shall not exceed 3 inches.
- B.**
  - (1) Safety fences shall be constructed of materials with minimum spaces between the materials and shall be constructed so as to inhibit the climbing thereof by any person.

- (2) If a safety fence is located within an area subject to and covered by a homeowners association, and if the homeowners association has an architectural review committee, then the architectural review committee shall approve the location and style of the fence.

**C.** (1) Above-ground pools of 4 feet or more in wall height shall be exempt from complete closure by a type of fence resistant to being climbed, however, above ground pools shall be equipped with a fence and gate system at all points of entry to the pool.

- (2) The fence and gate system shall effectively control access to the pool and shall be constructed pursuant to the specifications herein contained for underground pools.

**D.** No person shall introduce or cause to be introduced any water to a depth of more than 18 inches into the shallowest portion of any swimming pool newly constructed or being constructed until the time as the Building Official authorizes the filling of the pool with water. The authorization shall be withheld until, as a minimum, the permittee has caused the pool to be completely enclosed by a swimming pool construction fence. The construction fence shall:

- (1) Be of snow fence like or similar design and be securely anchored in place;
- (2) Be constructed with its base flush to the ground;
- (3) Be at least 4 feet in height and have supportive posts placed no more than 8 feet apart; and
- (4) Remain in place until a permanent fence completely enclosing the swimming pool is installed.

**E.** (1) All outdoor spas shall have either a fence as described in this section or a latchable cover.

- (2) The cover should be constructed of a material impenetrable by toddlers and subject to inspection by the Building Official.

**§ 150.014 MISCELLANEOUS REQUIREMENTS.**

**A.** All back-flushing water or pool drainage water shall be directed on to the property of the owner or on to approved drainage ways. Drainage onto public or private streets or other public or private drainage ways shall require a permit from the Building Official.

**B.** Any outdoor lighting of the pool shall not be permitted to spill or shine upon adjacent properties.

**C.** All electrical installations shall comply with the State Electrical Code.

**D.** Precautions during construction:

- (1) Avoid damage, hazards, or inconvenience to adjacent or nearby property;
- (2) Assure that proper care shall be taken in stockpiling excavating materials to avoid erosion, dust, or other infringements upon adjacent property; and
- (3) All access for construction shall be over the owner's land and due care shall be taken to avoid damage to streets and adjacent private or public property.

**§ 150.015 NUISANCE.**

The conduct of persons and the operation of pools shall be the responsibility of the owner and any tenant thereof and the conduct of persons and operation of the pool shall be done in a manner so as to avoid any nuisance or breach of the peace, and it shall be unlawful to allow loud noises to go beyond the boundaries of the property upon which the pool is located to adjacent property.

## CHAPTER 151: ZONING CODE

Section

### *General Provisions*

151.001 Title  
151.002 Intent and Purpose  
151.003 Interpretation and Construction  
151.004 Definitions  
151.005 General Provisions  
151.006 Administration

### *Districts*

151.007 Zoning Districts, Permitted Uses and Dimensional Standards  
151.008 Design and Performance Standards and Restrictions on Nuisance and Hazardous Activities  
151.009 Enforcement  
151.010 Separability, Supremacy and Effective Date

## GENERAL PROVISIONS

### **§ 151.001 TITLE.**

This chapter shall hereafter be known, cited, and referred to as the Zoning Code of the City of Lakeland Shores, except as referred to herein, where it shall be known as this chapter, and is adopted pursuant to the authorization of M.S. § 462.357, as it may be amended from time to time.

### **§ 151.002 INTENT AND PURPOSE.**

**A. General Purposes.** The general purposes of this subchapter are to provide for the orderly growth and renewal of the community, to protect and conserve its natural resources, its ecological systems and its economic stability by fostering appropriate land use, so as to preserve and promote the public health, safety and general welfare.

**B. Specific Purposes.** It is hereby determined by the City Council of the City of Lakeland Shores that in order to accomplish the general purposes of this subchapter, as set forth in Section 150.001 above, it is necessary and proper to establish and enforce the regulations contained in this subchapter for the following specific purposes:

- (1) To stage development and redevelopment to coincide with the

availability of necessary public services.

- (2) To divide the community into districts, providing for and regulating therein the location, construction, reconstruction, alteration and use of buildings, structures and land for residential, business, commercial, industrial and other specified uses.
- (3) To protect the character and maintain the stability of residential, business, commercial and industrial areas within the community, and prohibit uses, buildings or structures which are incompatible with the character of development in such areas.
- (4) To provide adequate light, air, privacy and convenience of access to property.
- (5) To limit congestion in public streets and to foster public safety and convenience in travel and transportation.
- (6) To provide protection against fire, explosions, obnoxious fumes and other hazards in the interest of public health, safety and comfort.
- (7) To prevent environmental pollution.
- (8) To prevent the destruction or improvident exploitation of community resources.
- (9) To preserve the value of land and buildings throughout the community.
- (10) To provide for the gradual and equitable elimination of those uses of land, buildings and structures, and of those buildings and structures which do not conform to the standards for the area in which they are located and which may adversely affect the development and the value of property in such areas.
- (11) To provide for the condemnation of such non-conforming buildings or structures and of land as is necessary or appropriate for the rehabilitation of the area blighted thereby.
- (12) To provide for the enforcement of this Chapter and to define and limit the powers and duties of the administrative officers and bodies responsible.
- (13) To protect and preserve economically viable agricultural land.

(14) To provide for the wise use and conservation of energy resources.

**§ 151.003 INTERPRETATION AND CONSTRUCTION.**

**A. Interpretation.** In the application of this Chapter, the provisions thereof shall be interpreted to be the minimum requirements necessary to accomplish the general and specific purposes of the Chapter.

**B. Rules of Construction.** The words and phrases herein this Chapter shall be construed in their plain ordinary and usual sense, except that technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

**C. Masculine, Feminine or Neuter.** Unless the context clearly requires otherwise, the use of either masculine, feminine or neuter gender shall include the other genders.

**D. Singular or Plural.** Unless the context clearly requires otherwise, the use of either singular or plural numbers shall include the other number.

**E. Past, Present or Future.** Unless the context clearly requires otherwise, the use of either past, present or future tense shall include the other tenses.

**F. Joint Authority.** Words importing joint authority to three or more persons shall be construed as authority to a majority of such persons.

**G. Computation of Time.** The time within which an act shall be done shall be computed by excluding the first and including the last day. If the last day is a Sunday or legal holiday, such date shall be excluded.

**H. Deputies.** Whenever this Chapter requires an act to be done, which act may legally be done by an agent or employee as well as by the principal, such requirement shall be satisfied by the performance of such act by an authorized agent or employee.

**I. Conjunctions.** The words "or" and "and" may be read interchangeably in situations where the context requires it.

**J. Minnesota Rules of Construction to Apply.** Unless clearly in conflict with the provisions of this Chapter, or otherwise clearly inapplicable, rules of construction established for the State of Minnesota by statute or case law shall apply in the construction of this Chapter.

**K.** Nothing contained in this Chapter shall be deemed to be a consent, license or permit to use any property or to locate, construct or maintain any building, structure or facility, or to carry on any trade, industry, occupation or activity.

**L.** Except as herein provided, the provisions of this Chapter are cumulative and in addition to the provisions of other laws and ordinances, heretofore passed or which may be passed hereafter, governing the same subject matter as this Chapter.

**§ 151.004 DEFINITIONS.**

**A.** For the purpose of this Chapter, certain words and phrases are defined as follows:

1. **Accessory Building.** A subordinate building, or a portion of the main building, which is located on the same lot as the main building and the purpose of which is clearly incidental to that of the principal building. (See Section 151.008(D))
2. **Accessory Use.** A use incidental or subordinate to the principal use of the same land.
3. **Administrator.** The Community Zoning Administrator.
4. **Agricultural Building.** A structure on agricultural land as defined in "Farm/Rural" of this section, designed, constructed and used to house farm implements, livestock or agricultural produce or products used by the owner, lessee or sublessee of the building and members of their immediate families, their employees and persons engaged in the pickup or delivery of agricultural produce or products.
5. **Animals, Domestic Pets.** Dogs, cats, birds and similar animals commonly kept in a residence. Animals considered wild, exotic or non-domestic, such as bears, lions, wolves, ocelots and similar animals shall not be considered domestic pets.
6. **Animals, Domestic Farm.** Cattle, hogs, horses, bees, sheep, goats, chickens and other animals commonly kept for commercial food producing purposes.
7. **Animal Unit.** A unit of measure used to compare differences in the production of animal wastes which has a standard as the amount of waste produced on a regular basis by a slaughter steer or heifer.
8. **Apartment.** A room or suite of rooms with cooking facilities designed to be occupied as a residency by a single family.
9. **Area, Net Developable.** Those lands within a development parcel remaining after the deletion of flood plains, wetlands, slopes greater than twelve percent (12%) and unbuildable easements or rights-of-way.

10. Attorney. The City Attorney.
11. Automobile Service Station - (Gas Station). A place where any motor fuel, lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles. This definition includes greasing, oiling or sale of automobile accessories on the premises. This definition also includes minor repairs and replacement of parts and motor services to passenger automobiles and trucks not exceeding one and one-half (1-1/2) tons City. This definition shall not include major repair, rebuilding or reconditioning of engines, motor vehicles or trailers, collision service, including body, frame or fender straightening or repair; overhaul, painting or paint job, vehicle steam cleaning or automatic car or vehicle washing devices.
12. Automobile Service Uses. Those uses catering to the traveling public. These include auto and truck laundry, drive-in business, service station, repair garage, public garage, motel, hotel, seasonal produce sales, motor vehicle sales, trailer sales and rental, boat sales, rental services and restaurants.
13. Automobile Repair. The replacement of any part or repair of any part which does not require the removal of the engine head or pan, engine, transmission or differential; incidental body and fender work, minor-painting and upholstering service when said service above stated is applied to passenger automobiles and trucks not in excess of seven thousand (7,000) pounds gross vehicle weight.
14. Auto or Motor Vehicle Reduction Yard. A lot or yard where one (1) or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale as scrap, storage or abandonment. (See also Junk Yard.)
15. Basement. A portion of a building between floor and ceiling, located partly above and partly below grade, and having one half (1/2) or less of its floor to ceiling height below the average grade of the adjoining ground. Earth sheltered houses that meet all other requirements of the Building Code shall not be considered basements.
16. Boarding House. A building other than a motel or hotel where, for compensation and by pre-arrangement for definite periods, meals or lodging are provided for three (3) or more unrelated persons, but not to exceed eight (8) persons.
17. Building Code. The Minnesota State Building Code.

18. Building Height. The vertical distance between the lowest grade level at the building line and the uppermost point on the roof.
19. Building Official. The officer or other designated authority, certified by the State of Minnesota under Minnesota Statutes 16.861, charged with the administration and enforcement of the State Building Code, or his duly authorized representative.
20. Building Setback. The minimum horizontal distance between the building and the lot line.
21. Building Setback Line. A line within a lot parallel to a public right-of-way line, a side or rear lot line, a bluffline or a high water mark or line, behind which buildings or structures must be placed.
22. Business. Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.
23. Carport. An automobile shelter having one (1) or more sides open.
24. Cellar. That portion of the building having more than one half (1/2) of the clear floor to ceiling height below the average grade of the adjoining ground. Underground buildings that meet all other requirements of the Building Code shall not be considered cellars.
25. Certificate of Compliance. See Section 151.006(F).
26. Certificate of Occupancy. See Section 151.006(J).
27. Channel. A natural or artificial watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water, including but not limited to streams, rivers, creeks, ditches, drainage ways, canals, conduits, culverts, waterways, gulleys, ravines or washes; and including any area adjacent thereto which is required to carry and discharge the regional flood. (See Chapter 154.)
28. Channel Flow. That water which is flowing within the limits of a channel.
29. Church. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

30. Club or Lodge. A non-profit association or persons who are bona fide members paying annual dues, use of premises being restricted to members and their guests.
31. Commercial. See Section 151.007 D(3) for permitted uses.
32. Community. The governmental unit which has adopted this Chapter, except where otherwise indicated.
33. Comprehensive Plan. The policies, statements, goals and interrelated plans for private and public land and water use, transportation and community facilities. including recommendations for planned execution, documented in texts, ordinance and maps which constitute the guide for the future development of the community or any portion of the community.
34. Condominium. See "Dwelling - Multiple or Apartment Building."
35. Conditional Use. A land use or development as defined by Code that may not be appropriate generally, but may be allowed with appropriate restrictions as provided by official controls upon a finding that (1) certain conditions as detailed in the Zoning Code exist, (2) the use or development conforms to the comprehensive land use plan of the community and (3) is compatible with the existing neighborhood.
36. Council. The governing body of the City.
37. Curb Level. The grade elevation of the curb in front of the center of a building. Where no curb has been established, the community engineer shall determine a curb level or its equivalent for the purpose of this Chapter.
38. Depth of Lot. The horizontal distance between the frontage right-of-way line and rear lot line. On a corner lot, the side with the largest frontage is its depth, and the side with the lesser frontage is its width.
39. Depth of Rear Yard. The horizontal distance between the rear building line and the rear lot line.
40. Disposal Area. On-Site Sewage Treatment.
41. Dredging. The process by which soils or other surface materials, normally transported by surface water erosion into a body of water, are removed for the purpose of deepening the body of water.

42. Drive-In. Any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where service to the automobile occupants is offered regardless of whether service is also provided within a building.
43. Dwelling. A building or one (1) or more portions thereof occupied exclusively for human habitation, but not including rooms in hotels, motels, nursing homes, boarding houses, nor trailers, tents, cabins or trailer coaches. (Also see Dwelling Unit.)
44. Dwelling - Attached. A dwelling which is joined to another dwelling at one (1) or more sides by a party wall or walls.
45. Dwelling - Detached. A dwelling which is entirely surrounded by open space on the same lot.
46. Dwelling - Duplex or Two Family. A residential building containing two (2) complete dwelling units.
47. Dwelling - Multiple or Apartment Building. A residential building, or portion of a building, containing three (3) or more dwelling units served by a common entrance.
48. Dwelling - Single. A residential building containing one (1) detached dwelling unit.
49. Dwelling - Seasonal. A residential building not capable of year-round occupancy due to non-winterized construction or inadequate non-conforming year-round on-site sewage treatment systems.
50. Dwelling - Townhouse. A residential building containing two (2) or more dwelling units with at least one (1) common wall, each unit so oriented as to have all exits directly to the out-of-doors.
51. Dwelling Unit. A residential accommodation including complete kitchen and bathroom facilities, permanently installed, which is arranged, designed, used or intended for use exclusively as living quarters for one (1) family.
52. Engineer. The Community Engineer.
53. Essential Services - Governmental Uses. Buildings and Storage. Governmental services such as office buildings, garages, temporary open space, open storage when not the principal use, fire and police stations, recreational areas, training centers, correctional facilities or other essential uses proposed by federal,

state, county, local, special districts and school districts, except that schools shall not be permitted under this provision.

54. Essential Services - (Public Utility Uses). Underground or overhead gas, electrical, steam or water distribution systems; collection, communication, supply or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants or other similar equipment and accessories; but not including buildings or transmission services.
55. Essential Services - (Public Utility Uses. Transmission Services, Buildings and Storage). Transmission service such as electrical power lines of a voltage of 35 kv or greater, or bulk gas or fuel being transferred from station to station and not intended for enroute consumption or other similar equipment and accessories.
56. Exterior Storage (Includes open Storage). The storage of goods, materials, equipment. manufactured products and similar items not fully enclosed by a building.
57. Family, an individual or two (2) or more persons each related by blood, marriage, adoption or foster care arrangement, living together as a single housekeeping unit; or a group of not more than four (4) persons not so related, maintaining a common household, exclusive of servants.
58. Farm, Rural. A rural farm is a commercial food producing use on ten (10) or more contiguous acres and is defined under a portion of Minnesota Agricultural Property Tax Law (Green Acres Law) Section 273.111 Agricultural Property Tax, Subdivision 6; to wit: Real Property shall be considered to be in agricultural use provided that annually it is devoted to the production for sale of livestock. dairy animals, dairy products, poultry and poultry products, fur bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, apiary products.
59. Farm, Suburban. A suburban farm is a non-commercial food producing use primarily intended for the use of the residents, and usually on less than ten (10) contiguous acres. Suburban agricultural uses may include production of crops such as fruit trees, shrubs, plants, flowers, vegetables and domestic pets.
60. Feed Lot. The place of housing or feeding of livestock or other animals for food, fur, pleasure or resale purposes in yards, lots, pens, buildings or other areas not normally used for pasture or

crops and in which substantial amounts of manure or related other wastes may originate by reason of such feeding of animals.

61. Fence. A partition, structure, wall or gate erected as a dividing marker, visual or physical barrier, or enclosure.
62. Fill. Any act by which soil, earth, sand, gravel, rock or any similar material is deposited, placed, pushed or transported and shall include the conditions resulting therefrom.
63. Final Plat. A drawing or map of an approved subdivision, meeting all requirements of the Subdivision Chapter, and in such form as required by the community for purposes of recording.
64. Floor Area. The gross area of the main floor of a residential building measured in square feet and not an attached garage, breezeway or similar attachment.
65. Floor Area – Gross. The sum or the gross area of the various floors of a building measured in square feet. The basement floor area shall not be included unless such area constitutes a story.
66. Floor Area Ratio. The numerical value obtained through dividing the gross floor area of a building or buildings by the net area of the lot or parcel of land on which such building or buildings are located.
67. Floor Plan – General. A graphic representation of the anticipated use of the floor area within a building or structure.
68. Frontage. That boundary of a lot which abuts a public street or private road.
69. Garage – Private. A detached one-story accessory building, or portion of the principal building, including a carport, which is used primarily for the storing of passenger vehicles, trailers or farm trucks.
70. Garage – Repair. A building or space for the repair or maintenance of motor vehicles, but not including factory assembly of such vehicles, auto wrecking establishments or junk yards.
71. Garage – Storage. Any premises, except those described as a private or public garage used exclusively for the storage of power-driven vehicles.
72. Governing Body. The City Council of Lakeland Shores.

73. Home Occupation. A gainful occupation carried on by members of a family in their dwelling unit or an accessory building. The occupation shall be clearly secondary to the use of the home and all the appurtenant structures for dwelling and residential purposes, and shall not change the character thereof.
74. Hotel. A building having provision for nine (9) or more guests in which lodging is provided with or without meals, for compensation, and which is open to transient or permanent guests or both, and where no provision is made for cooking in any guest room, and which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge.
75. Impervious Surface. Any structure or surface that interferes to any degree with the direct absorption of water into the ground, including, but not limited to, roots, sidewalks, paved driveways and parking areas, patios, tennis courts, swimming pools or any other similar surface.
76. Junk Vehicle. Any type of vehicle requiring a license to operate on any public highway or street, but without current license attached thereto. Any type of vehicle not in operable condition. Any type of vehicle that is partially dismantled and is used for sale of parts, or source for replacement parts for repair of other vehicles. Any type of vehicle that is kept for salvage or scrap of any sort.
77. Junk Yard. An area where discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber products, bottles and used building materials. Storage of such material in conjunction with a permitted manufacturing process when within an enclosed area or building shall not be included.
78. Kennel, Commercial. Any place where four (4) or more of any type of domestic pets, over four (4) months of age, are boarded, bred, trained or offered for sale.
79. Kennel Private. Any place where three (3) or more of any type of domestic pets, over six (6) months of age, are owned by any member or members of the household.
80. Land Alteration. The excavation or grading of land involving movement of earth and materials in excess of fifty (50) cubic yards.
81. Land Reclamation. The reclaiming of land by depositing material so as to elevate the grade. Depositing a total of more than fifty (50)

- cubic yards of material per lot or parcel, either by hauling in or regrading the area.
82. Landscaping. Planting trees, shrubs and turf covers such as grasses and shrubs.
  83. Loading Space. A space, accessible from a street, alley or way, in or outside of a building, for the use of trucks while loading and unloading merchandise or materials.
  84. Lodging Room. A room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one (1) lodging room.
  85. Lot. A parcel of land designated by metes and bounds, registered land survey, plat or other means, and which description is either recorded in the office of the Washington County Recorder or Registrar of Titles or used by the County Treasurer or County Assessor to separate such parcel from other lands for tax purposes.
  86. Lot Area. The area of a horizontal plane within the lot lines.
  87. Lot Area. Minimum Per Dwelling Unit. The minimum number of square feet or acres of lot area required per dwelling unit.
  88. Lot – Buildable. A lot which meets or exceeds all requirements of the community land use and development subchapters without the necessity of variances.
  89. Lot – Corner. A lot situated at the junction of and abutting two (2) or more intersecting streets; or a lot at the point of a deflection in alignment of a single street, the interior angle of which does not exceed one hundred thirty-five (135) degrees.
  90. Lot Depth. The mean horizontal distance between the front and rear lines of a lot.
  91. Lot – Interior. A lot other than a corner lot, including through lots.
  92. Lot Line. A lot line is the property line bounding a lot, except that where any portion of a lot extends into a public right-of-way or a proposed public right-of-way, the line of such public right-of-way shall be the lot line.
  93. Lot Line – Front. That boundary of a lot which abuts a public street or a private road. In the case of a corner lot, it shall be the shortest dimension of a public street. If the dimensions of a corner lot are

equal, the front lot line shall be designated by the owner. In the case of a corner lot in a non-residential area, the lot shall be deemed to have frontage on both streets.

94. Lot Line – Rear. That boundary of a lot which is opposite to the front lot line. If the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to, and at the maximum distance from the front lot line.
95. Lot Line – Side. Any boundary of a lot which is not a front lot line or a rear lot line.
96. Lot – Through. Any lot other than a corner lot which abuts more than one (1) street. On a through lot, all the street lines shall be considered the front lines for applying this Chapter.
97. Lot – Through or Double Frontage. As defined in Chapter 152, Subdivision Regulations, and referring to a lake or stream frontage lot having a public road as one lot line and a water body at the opposite lot line.
98. Lot Width. The horizontal distance between the side lot lines of a lot measured at the setback line.
99. Manufacturing – General. All manufacturing, compounding, processing, packaging, treatment or assembly of goods or materials which would involve a risk of offensive or dangerous noise, odor or pollution beyond the lot on which the use is located. Such uses include, but are not limited to the following: sawmill; refineries; commercial feedlots; acid, cement; explosives; flour, feed and grain milling or storage; meat packing; slaughter houses; coal or tar asphalt distillation; rendering of fat, grease, lard or tallow; alcoholic beverages; poisons; exterminating agents; glue; lime; gypsum; plaster of paris; tanneries; automobile parts; paper and paper products including storage; electric power generation facilities; vinegar works; junk yards, auto reduction yards; foundry; forge; casting of metal products; rock, stone and cement products.
100. Manufacturing – Limited. All compounding, processing, packaging, treatment or assembly of goods and materials, provided such use will not involve the risk of offensive odors, glare, smoke, dust, noise, vibrations or other pollution extending beyond the lot on which the use is located. Such uses include, but are not limited to the following: lumber yard, machine shops, products assembly, sheet metal shops, plastics, electronics, general vehicle repair

(repair garage), body work and painting, contractor shops and storage yard, food and non-alcoholic beverages, signs and displays, printing, publishing, fabricated metal parts, appliances, clothing, textiles and used auto parts.

101. Manure. Any solid or liquid containing animal excreta.
102. Medical Uses. Those uses concerned with the diagnosis, treatment and care of human beings. These include: hospitals, dental services, medical services or clinics, nursing or convalescent home, orphan's home, rest home and sanitarium.
103. Mean Flow Level. The average flow elevation of a stream or river computed as the mid-point between extreme low and extreme high water.
104. Milling. The extraction of sand, gravel, rock, soil or other material from the land and the removal thereof from the site. For the purposes of this Chapter, mining shall not include the removal of materials associated with the construction of a building, the removal of excess materials in accordance with approved plats or utility highway construction, minor agricultural and sod removal.
105. Mobile Home. A single family detached dwelling unit designed for year-round occupancy, constructed at a factory or assembly plant and drawn to the site on a permanently attached undercarriage and wheels. "Mobile Home" shall not include modular or prefabricated dwelling units which meet or exceed the requirements of the Minnesota Building Code.
106. Mobile Home Lot. A parcel of land for the placement of a single mobile home for the exclusive.
107. Mobile Home Park. Any site or tract of land designed, maintained or intended for the placement of two (2) or more occupied mobile homes. Mobile home park shall include any building, structure, vehicle or enclosure intended for use as part of equipment of such mobile home park.
108. Modular or Prefabricated Home. A non-mobile dwelling unit for year-round occupancy constructed or fabricated at a central factory and transported to a building site where final installations are made permanently affixing the dwelling unit to the site. Said dwelling unit shall be equivalent to a unit constructed on the site, meeting all requirements of the Minnesota Building Code.

109. Motor Courts, Motor Hotel or Motel. A building or group of buildings other than a hotel used primarily as a temporary residence of a motorist.
110. Motor Freight Terminal. A building or area in which freight brought by motor truck is transferred and/or stored for movement by motor truck.
111. Municipality. A City, village or borough, however organized.
112. Noise – Ambient. The all-encompassing noise associated with a given environment, being either a composite of sounds transmitted by any means from many sources near and far or a single predominant source.
113. Nominal Five (5) Acre Parcel. A five (5) acre parcel not reduced by more than ten percent (10%) due to road right-of-way dedication.
114. Non-Conforming Use or Lot. Any legal use or lot already in existence, recorded or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written. (See Section 151.005 B.)
115. Noxious Matter. Material which is capable of causing injury or is in any way harmful to living organisms or is capable of causing detrimental effect upon the physical or mental health of human beings.
116. Nursery – Day. A use where care is provided for three (3) or more children under kindergarten age for periods of four (4) hours or more per day for pay.
117. Nursery – Landscape. A business growing and selling trees, flowering and decorative plants, and shrubs which may be conducted within a building or without.
118. Nursing Home. A building with facilities for the care of children, the aged, infirm or place of rest for those suffering bodily disorder.
119. Official Control. Legislatively defined and enacted policies, standards, precise detailed maps, and other criteria, all of which control the physical development of a municipality or a county, or any part thereof, or any detail thereof, and the means of translating into ordinances all or any part of the general objectives of the comprehensive plan. Such official controls may include, but are not limited to ordinances establishing zoning, subdivision controls,

site plan regulations, sanitary codes, building codes, housing codes and official maps.

120. Official Map. A map adopted in accordance with the provisions of Minnesota State Statutes, 462.359.
121. Office Uses. Those commercial activities that take place in office buildings, where goods are not produced, sold or repaired. Including, but not limited to banks, professional offices, governmental offices, insurance offices, real estate offices, telephone exchanges, utility offices, radio broadcasting and similar uses.
122. Open Sales Lot. Lands devoted to the display of goods for sale, rent, lease or trade where such goods are not enclosed within a building.
123. Open Storage. Storage of any material outside of a building.
124. Owner. Includes all persons interested in a property as fee simple owner, life estate holder, encumbrance or otherwise.
125. Parking Space. A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one (1) standard automobile.
126. Pedestrian Way. A public or private right-of-way across or within a block or tract, to be used by pedestrians.
127. Performance Standards. The minimum development standards as adopted by the governing body and on file in the office of the building official.
128. Person. Any person, firm, corporation, association, company, organization, including governmental agencies and political entities.
129. Planning Advisory Commission or Planning Commission. The duly appointed planning and zoning advisory commission of the community.
130. Planning Agency. A planning commission or department. however created, or the office of the planning or zoning director or inspector or the office of any official designated as such planning or zoning director or inspector, together with any staff members, employees or consultants of such commission, department, director, inspector or official, and the board of adjustment and appeals and its employees or staff.

131. Principal Structure or Use. One that determines the predominant use as contrasted to accessory use or structure.
132. Protective or Restrictive Covenant. A contract entered into between private parties which constitutes a restriction of the use of a particular parcel of property.
133. Public Land. Land owned and/or operated by a governmental unit, including school districts.
134. Recreation Equipment. Play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding twenty-five (25) feet in length, picnic tables, lawn chairs, barbecue stands and similar equipment or structures, but not including tree houses, swimming pools, play houses exceeding twenty-five (25) square feet in floor area, or sheds utilized for storage of equipment.
135. Recreation Vehicle. Any vehicle or structure designed and used for temporary, seasonal human living quarters which meets all of the following qualifications: (a) is not used as the permanent residence of the owner or occupant; (b) is used for temporary living quarters by the owner or occupant while engaged in recreation or vacation activities; (c) is towed or self-propelled on public streets or highways incidental to such recreation or vacation activities; (d) examples of such vehicles include van campers, tent camping trailers, self-contained travel trailers, pick-up campers, camping buses, and self-contained self-propelled truck chassis mounted vehicles providing living accommodations.
136. Recreation Vehicle Parks. A park, court, campsite, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying the location or accommodations for any recreation vehicles as defined herein, and upon which said recreation vehicles are parked. The term "Recreation Vehicle Park" shall include all buildings used or intended for use as part of the equipment thereof, whether a charge is made for the use of the park and its facilities or not.
137. Residential District. See Section 151.007 D for permitted uses.
138. Research. Medical, chemical, electrical, metallurgical or other scientific research and quality control, conducted in accordance with the provisions of this Code.
139. Resort. Any structure or group of structures containing more than two (2) dwelling units or separate living quarters designed or intended to serve as seasonal or temporary dwellings on a rental or

lease basis for profit with the primary purpose of said structure or structures being recreational in nature. Uses may include a grocery for guests only, fish cleaning house, marine service, boat landing and rental, recreational area and equipment and similar uses normally associated with a resort operation.

140. Retail Business Uses. Stores and shops selling personal services or goods for final consumption.
141. Roadside Sales Stand. A structure used only for the display and sale of products with no space for customers within the structure, on a seasonal basis.
142. Runway. A surface of an airport landing strip.
143. Runway Instrument. A runway equipped with air navigation facilities suitable to permit the landing of aircraft by an instrument approach under restricted visibility conditions.
- (143A) Satellite Dish Antennas. Any dish antenna having a diameter in excess of thirty (30) inches utilized for the purpose of receiving or transmitting radio, telephone, television or satellite transmissions or communications.
144. Screening. Screening includes earth mounds, berms or ground forms; fences and walls; landscaping (plant materials) or landscaped fixtures (such as timbers); used in combination or singularly, so as to block direct visual access to an object throughout the year.
145. Setback. The minimum horizontal distance between a structure and lot line. Distances are to be measured perpendicularly from the property line to the most outwardly extended portion of the structure.
146. Shopping Center. Any grouping of two (2) or more principal retail uses whether on a single lot or on abutting lots under multiple or single ownership.
147. Sign. A display, illustration, structure or device which directs attention to an object. produce, place, activity, person, institution, organization or business. (Also See Section 151.008, AA)
148. Story. That portion of a building included between the surface of any floor and the surface of the floor next above. A basement shall be counted as a story and a cellar shall not be counted as a story.

149. Street. A public right-of-way which affords a primary means of access to abutting property.
150. Street – Collector. A street which serves or is designed to serve as a trafficway for a neighborhood or as a feeder to a major road.
151. Street – Intermediate or Minor Arterial. A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.
152. Street – Local. A street intended to serve primarily as an access to abutting properties.
153. Street Pavement. The wearing or exposed surface of the roadway used by vehicular traffic.
154. Street Width. The width of the right-of-way measured at right angles to the centerline of the street.
155. Structural Alteration. Any change, other than incidental repairs, which would affect the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.
156. Subdivision. A described tract of land which is to be or has been divided into two (2) or more lots or parcels for the purpose of transfer of ownership, building development, or for tax assessment purposes. The term includes resubdivision and where it is appropriate to the context, relates to either the process of subdividing, or to the land subdivided, or to the development for which it is being subdivided.
157. Substandard Structure. See Section 151.005B.
158. Tavern or Bar. A building with facilities for the serving of 3.2 beer, wine, liquor, set-ups and short order foods.
159. Truck Stop. A motor fuel station devoted principally to the needs of tractor trailer units and trucks, and which may include eating and/or sleeping facilities.
160. Use. See Section 151.005 A(3)
161. Use – Accessory. A use subordinate to and serving the principal use or structure on the same lot and customarily incidental to such principal use.
162. Use – Non-Conforming. See Section 155.005 B.

163. Use – Substandard. See Section 151.005 B.
164. Use – Open. The use of land without a building or including a building incidental to the open use.
165. Use – Conditional. See “Conditional”.
166. Use – Principal. See “Principal”.
167. Variance. A modification or variation of the strict provisions of this Chapter as applied to a specific piece of property in order to provide relief for a property owner because of undue hardship or particular difficulty imposed upon the property by this Chapter. A variance shall normally be limited to height, bulk, density and yard requirements. A modification in the allowable uses within a district shall not be considered a variance. (See Section 151.006 C(2)).
168. Vehicle Repair. General repair, rebuilding or reconditioning of engines, motor vehicles or trailers, including body work, framework, welding and major painting services.
169. Veterinary. Those uses concerned with the diagnosis, treatment and medical care of animals, including animal or pet hospitals.
170. Warehousing. The storage, packing and crating of materials or equipment within an enclosed building or structure.
171. Waterfront Uses (Residential). Boat docks and storage, fish house, fish cleaning, water recreation equipment and other uses normally incidental to a lakeshore residence, provided such uses are for the exclusive use of the occupants and nonpaying guests.
172. Wholesaling. The selling of goods, equipment and materials by bulk to another person who in turn sells the same to customers.
173. Yard. The open space on an occupied lot which is not covered by any structure.
174. Yard – Front. A yard extending across the front of the lot between the inner side yard lines and lying between the front line of the lot and the nearest building line.
175. Yard – Rear. A yard extending across the rear of the lot between the inner side yard lines and lying between the rear line of the lot and the nearest building line.

176. Yard – Required. A yard area which may not be built on or covered by structures because of the dimensional setbacks for said structures within the zoning district.
177. Yard – Side. A yard between the side lines of the lot and the nearest building line.
178. Zoning District. An area or areas within the community in which the regulations and requirements of this Chapter are uniform.

**§ 151.005. GENERAL PROVISIONS**

**A. Application of this Chapter.**

- (1) Application Generally. Except as hereinafter provided, no building or structure shall be erected, moved, altered or extended, and no land, building or structure, or part thereof, shall be occupied or used unless in conformity with regulations specified in this Chapter for the district in which it is located.
- (2) Application to Existing Structures. This Chapter shall not apply to existing buildings and structures, nor to the existing use of any building, structure or land to the extent of such use on the effective date of this Code. However, this Chapter shall apply to any change in use, alteration, extension or movement of a building or structure, and to any change in the use of land subsequent to the effective date of this Chapter.
- (3) "Use" Defined. For the purpose of this Chapter, the word "Use" shall mean:
  - (a) Any purpose of which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied; or
  - (b) Any activity, occupation, business or operation carried on or intended to be carried on, in a building or other structure, or on a tract of land.

**B. Non-conforming Uses, Buildings and Structures.**

- (1) Definitions of Non-Conforming Uses, Buildings and Structures:
  - (a) "**Non-Conforming Use**" means any lawful use of land or any lawful use of a building or structure existing on the effective date of this Chapter, or any amendment thereto, which use does not conform with the regulations for the

district in which it is located after the effective date of this Chapter or such amendment.

- (b) **“Substandard Building” or “Substandard Structure”** means any building or structure lawfully existing on the effective date of this Chapter or any amendment thereto which building or structure does not conform with the regulations, including dimensional standards, for the district in which it is located after the effective date of this Chapter or such amendment.
- (2) **Preservation of Non-Conforming Uses.** Except as hereinafter provided in this Section, the lawful use of land or the lawful use of a building or structure existing on the effective date of this Chapter or on the effective date of any amendment thereto may be continued although such use does not conform to the provisions of this Chapter, except as otherwise provided in this Section 151.004.
- (3) **Preservation of Dimensionally Substandard Buildings or Structures.** Except as hereinafter provided in this section, buildings or structures lawfully existing on the effective date of this Chapter or on the effective date of any amendment thereto may be maintained although such building or structure does not conform to the dimensional standards of this Chapter, but any such building or structure shall not be altered or improved beyond normal maintenance, except that any lawful dimensional substandard residential building, accessory building or structure may be altered or improved if the existing substandard dimension relates only to setback requirements and does not exceed ten percent (10%) of the minimum setback requirements, but such alteration or improvement shall conform to all of the provisions of this Chapter and shall not increase the existing substandard square footage.
- (4) **Unlawful Uses, Buildings and Structures.** No unlawful use of property existing on the effective date of this Chapter or any amendment thereto nor any building or structure which is unlawfully existing on such date shall be deemed a non-conforming use or a non-conforming building or structure.
- (5) **Permit Holders and Permit Applicants.** Any non-conforming structure that is ready for or under construction on the effective date of this Chapter or any amendment thereto may be completed and occupied in accordance with the requirements of any valid building permit issued prior to such effective date.

- (6) **Change From One Non-Conforming Use to Another.** A non-conforming use may be changed only to a use permitted in the district in which it is located; except that if no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or a more restrictive classification, and provided such change is approved by the Board of Adjustment and Appeals as hereinafter provided. Once changed to a conforming use, no building or land shall be permitted to revert to a non-conforming use.
- (7) **Change of Use With Approval of the Board of Adjustment.** A non-conforming use, all or partially conducted in a building or buildings, may be changed to another non-conforming use only upon determination by the Board of Adjustment, after a public hearing, that the proposed new use will be no more detrimental to its neighborhood and surroundings than is the use it is to replace. In determining relative "detriment," the Board of Adjustment shall take into consideration, among other things: traffic generated; nuisance characteristics, such as emission of noise, dust and smoke; fire hazards; and hours and manner of operation.
- (8) **Restoration of Non-Conforming Buildings or Structures.** A non-conforming building or structure which is damaged or destroyed by fire, flood, wind, earthquake or other calamity may be restored and the occupancy or use of such building, structure, or part thereof, which existing at the time of such partial destruction, may be continued or resumed, provided that the restoration is started within a period of one (1) year and is diligently prosecuted to completion, unless the damage to such building or structure is equal to fifty percent (50%) or more of the replacement cost thereof (as determined by the Building official), in which case, the reconstruction shall conform to the provisions of this subchapter, except by conditional use permit and not to exceed the gross square footage of the previous structure.
- (9) **Abandonment of Use.** When any non-conforming use of land or of a building or structure is abandoned for a period in excess of one (1) year, such land, building or structure shall, thereafter, be used only as provided by this Chapter.

#### **§ 151.006 ADMINISTRATION.**

**A. Administrator.** The Office of the Zoning Administrator is hereby established; the Zoning Administrator shall be appointed by the governing body and serve at its pleasure.

**B. Duties of the Zoning Administrator.**

- (1) The Zoning Administrator shall enforce the provisions of this Chapter as provided herein; in addition to the duties and powers of the Zoning Administrator under this Chapter, express or implied, he or she shall have the duty and power to:
  - (a) Issue permits required by this Chapter.
  - (b) Conduct inspections of land, buildings or structures at reasonable times, to determine compliance with and enforce the provisions of this Chapter.
  - (c) Maintain all records necessary for the enforcement of this Chapter; including, but not limited to all maps, amendments, and special use permits, variances, appeal notices, and applications.
  - (d) Receive, file and forward all appeals, notices, applications for variances, special use permits or other matters to the appropriate officials or boards.
  - (e) Institute in the name of the community, any appropriate actions or proceedings to enforce this Chapter.

**C. Appeals and Variances; Board of Adjustment and Appeals.**

- (1) There is hereby established a Board of Adjustment and Appeals. The Board of Adjustment and Appeals shall have the following powers with respect to this Chapter:
  - (a) The exclusive power to hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the enforcement of the Zoning Code.
  - (b) The exclusive power to hear requests for variance from the literal provisions of this 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 in keeping with the spirit and intent of this Chapter. The Board of Adjustment and Appeals may not permit as a variance any use that is not permitted under this Chapter for property in the zoning district where the land is located. The Board may permit as a variance the temporary use of a one family dwelling as a

two family dwelling. The Board may impose conditions in the granting of a variance to insure compliance and to protect adjacent properties.

Hardship means the proposed use of the property and associated structures in question cannot be established under the conditions allowed by this Chapter or its amendments and no other reasonable alternate use exists; however, the plight of the landowner must be due to physical conditions unique to the land, structure or building involved and are not applicable to other lands, structures or buildings in the same zoning district; these unique conditions of the site cannot be caused or accepted by the landowner after the effective date of this Chapter or its amendments.

Economic considerations alone shall not constitute a hardship.

- (c) If an official map has been adopted by the community, to hear and decide on appeal by the owner of land who has been denied a permit to build within the limits of lands delineated on an official map which has been adopted and filed by the community as provided by Section 462.359 of the Minnesota Statutes and to grant a permit for building in such location in any case in which the Board finds, upon the evidence and the arguments presented to it:
  - (i) That the entire property of the appellant of which such area identified for public purposes forms a part that cannot yield a reasonable return to the owner unless such permit is granted, and that balancing the interest of the governing body in preserving the integrity of the official map and of the community comprehensive plan and the interest of the owner of the property in use of his property and in the benefits of ownership, the granting of such permit is required by considerations of justice and equity.
- (d) In addition to the notice of hearing required by this Chapter, a notice shall be published in the official newspaper once at least ten (10) days before the date of the hearing. If the Board of Adjustment authorizes the issuance of a permit, the council or other board or commission having jurisdiction shall have six (6) months from the date of the decision of the board to institute proceedings to acquire such land or interest therein, and if no such

proceedings are started within that time, the officer responsible for issuing building permits shall issue the permit if the application otherwise conforms to City Code. The Board shall specify the exact location, ground area, height and other details as to the extent and character of the building for which the permit is granted.

- (2) The Board of Adjustment and Appeals is the City Council.
- (3) Appeals. An appeal from any order, requirement, decision or determination of any administrative official may be taken by any person affected thereby, or by any officer, department, board or bureau of a town, municipality, county or state within thirty (30) days from the date of any such order, requirement, decision or determination by filing with the Zoning Administrator a written notice of appeal. The notice of appeal shall state:
  - (a) The particular order, requirement, decision or determination from which the appeal is taken.
  - (b) The name and address of the appellant.
  - (c) The grounds for the appeal.
  - (d) The relief requested by the appellant.

An appeal stays all proceedings in furtherance of the action appealed from unless the Board of Adjustment and Appeals, to whom the appeal is taken certifies that by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property.

The Board of Adjustment and Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appeals from and to that extent shall have all the powers of the officer from whom the appeal was taken, and may direct the issuance of a permit.

- (4) **Variations.** An application for a variance shall be filed with the Zoning Administrator; the application shall be accompanied by development plans showing such information as the Zoning Administrator may reasonably require for purposes of this Chapter.

The plans shall contain sufficient information for the Board of Adjustment and Appeals to determine whether the proposed variance will meet all applicable development standards if the variance is granted. In all cases, the application shall include:

- (a) Name and address of the applicant.
- (b) The legal description of the property involved in the request for variance. including the street address, if any, of the property.
- (c) Up to date survey of the real property involved.
- (d) The name and address of the owners of the property and any other persons having a legal interest therein.
- (e) A site plan drawn to scale showing the property dimensions.
- (f) Finished grading, drainage and erosion control plan.
- (g) Location of all existing and proposed buildings and their size, including square footage.
- (h) Curb cuts, driveways, access roads, parking spaces. off-street loading areas and sidewalks.
- (i) The variance requested and the reasons for the request.
- (j) An applicant's certificate showing the names and the addresses of the record owners of all property located within a minimum of five hundred (500) feet of all the contiguous property owned by the variance applicant.

The Zoning Administrator shall review the application and determine whether it contains the required information. If the Zoning Administrator determines the application is incomplete, the Zoning Administrator shall give the applicant, within ten (10) days of the application, written notice of what information is missing in order for the application to be complete.

The Board of Adjustment and Appeals may impose conditions in the granting of a variance which the Board may reasonably determine to be necessary to protect adjacent properties, preserve the public health, safety and welfare and comply with the intent and purposes of this Chapter.

The Board of Adjustment and Appeals may also impose such conditions and requirements as are necessary to insure compliance with the terms of the variance.

- (5) **Hearing Procedure.** The Zoning Administrator shall, upon the filing of a Notice of Appeal or a completed application for a variance, refer the matter to the Board of Adjustment and Appeals and establish a time for the hearing thereof by said Board no less than sixty (60) days after the filing of a complete application. The Zoning Administrator shall notify the appellant or applicant, the community building official and in the case of an appeal, the officer from whom the appeal is taken, of the time and place of the hearing.

Notice of the Purpose, time and place of such public hearing shall be published in the official newspaper of the community and mailed to each of the owners of all property located within a minimum of five hundred (500) feet of the property described in the application and such other persons as the City Council may direct, at least ten (10) days prior to the date of the hearing. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with the provisions of this section has been made.

The applicant or his or her representative may appear at the public hearing in order to answer questions concerning the proposed use.

The governing body may extend that time period by a maximum of sixty (60) days if it determines during the initial sixty (60) day time period that an additional sixty (60) days is necessary and informs the applicant in writing of its decision and the reasons for extending the first sixty-day period.

The Board of Adjustment and Appeals shall decide any appeal or any application for a variance and issue its order with respect thereto within the time period mandated by Minn. Stat. § 15.99.

- (6) The Board of Adjustment and Appeals shall make written findings in any case of an appeal or application for a variance and shall state therein the reasons for its decision; the order issued by the Board of Adjustment and Appeals shall include the legal description of the land involved. Any such order shall be filed with the Zoning Administrator who shall immediately mail a copy thereof, bearing the notation of the filing date, to the appellant or applicant.

- (7) All decisions of the Board of Adjustment and Appeals acting upon an appeal from an order, requirement, decision or determination by an administrative official or upon an application for a variance shall be final except that any aggrieved person may have any decision or order of said Board reviewed by an appropriate remedy in District Court as provided by law.

**D. Reserved.**

**E. Conditional Use Permits.**

- (1) **The Governing Body.** The Governing Body may grant a conditional use permit in any district provided the proposed use is designated in Section 151.007 of this Chapter as a conditional use for the district, upon finding that:

- (a) Certain conditions as detailed in the Zoning Code exist.
- (b) The use or development conforms to the comprehensive land use plan of the community.
- (c) Is compatible with existing neighborhood.
- (d) Meets conditions or standards adopted by the community not incorporated in this Chapter.

- (2) **Zoning Administrator.** The Zoning Administrator shall maintain a record of all applications for and all conditional use permits issued including information on the use, location, conditions imposed by the community, time limits review dates and such other information as may be appropriate.

- (3) **Application.** Application for a conditional use permit shall be filed with the Zoning Administrator. The application shall be accompanied by development plans for the proposed use showing such information as may be reasonably required by the administrator, including but not limited to those things listed below. Such plans shall contain sufficient information for the community to determine whether the proposed development will meet all applicable development standards.

- (a) Site plan drawn to scale showing parcel and building dimensions, including an up to date survey of the real property involved.
- (b) Location of all buildings and their size, including square footage.

- (c) Curb cuts, driveways, access roads, parking spaces, off-street loading areas and sidewalks.
- (d) Landscaping and screening plans including species and size of trees and shrubs proposed.
- (e) Finished grading, drainage and erosion control plan.
- (f) Type of business or activity and proposed number of employees.
- (g) Proposed floor plan and elevations of any building with use indicated.
- (h) Sanitary sewer and water plan with estimated flow rates.
- (i) Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practice or practices to be used to overcome said limitation shall be made part of the application.
- (j) A location map showing the general location of the proposed use within the community.
- (k) A map showing all principal land use within five hundred (500) feet of the parcel for which the application is being made.

The applicant shall supply proof of ownership of the property for which the conditional use permit is requested, consisting of an abstract of title or registered property certificate, certified by a licensed abstractor, together with any unrecorded documents whereby the petitioners acquired legal or equitable ownership.

The application form shall be accompanied by an accurate list showing the names and the mailing addresses of the record owners of all the property within a minimum of five hundred (500) feet of the property for which the conditional use permit is sought, verified as to accuracy by the applicant.

- (4) **Hearing.** The Zoning Administrator shall refer the application to the City Council for consideration at its next regular meeting, provided however, if the next regular meeting is within seven (7) days of the date of filing, then such consideration may be at the second regular meeting after said filing. At that meeting, the City Council shall set a date for a public hearing on said application. The public hearing shall be scheduled no more than sixty (60) days

after the date of filing of the application with the Zoning Administrator. The Zoning Administrator shall review the application and determine whether it contains the required information. If the Zoning Administrator determines the application is incomplete, the Zoning Administrator shall give the applicant, within ten (10) days of the application, written notice of what information is missing in order for the application to be complete.

Notice of the Purpose, time and place of such public hearing shall be published in the official newspaper of the community and mailed to each of the owners of all property located within a minimum of five hundred (500) feet of the property described in the application and such other persons as the City Council may direct, at least ten (10) days prior to the date of the hearing. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with the provisions of this section has been made.

The applicant or his or her representative may appear at the public hearing in order to answer questions concerning the proposed use.

- (5) **City Council Action on the Application.** The City Council shall make its decision on the application within sixty (60) days of the filing of a complete application with the Zoning Administrator. The City may extend that time period by a maximum of sixty (60) days if it determines during the initial sixty (60) day time period that an additional sixty (60) days is necessary and informs the applicant in writing of its decision and the reasons for extending the first sixty (60) day period. The City Council shall make written findings and shall state therein the reasons for its decision.

The City Council may impose such conditions and restrictions, including time limits on the conditional use or periodic review as appears to be necessary and proper to protect adjacent property and comply with the intent and purposes of this Code and the Comprehensive Plan.

- (6) **Re-Application.** No application for a conditional use permit shall be resubmitted for a period of six (6) months from the date of the denial of a previous application.

(7) **Periodic Review.** If a yearly periodic review is imposed as a condition of the granting of a conditional use permit, the conditional use permit shall be reviewed by the City Council at a public hearing at least thirty (30) days prior to the expiration of the permit, with notice of said hearing published in the official newspaper at least ten (10) days prior to the review. It shall be the responsibility of the Zoning Administrator to schedule such public hearing and notify the permit holder, by certified mail, at least ten (10) days prior to the hearing.

(8) **Compliance with Permit; Violation of Conditions.** Any use permitted under the terms of a conditional use permit shall be established and conducted in accordance with all of the terms, conditions and restrictions of such permit. The violation of any term, condition or restriction of a conditional use permit shall be a violation of this Chapter.

In the event of the violation of any term, condition or restriction of a conditional use permit, the community may institute an appropriate action or proceeding in District Court for such equitable relief as may be appropriate including cancellation of the permit or appropriate orders preventing, restraining, correcting or abating such violations or threatened violations.

(9) **Expiration and Suspension of Conditional Use Permit.** A conditional use permit shall expire one (1) year after it has been issued unless the City Council has set some other time limitation or unless the use for which the permit has been granted has commenced within such year, except that upon written application of the owner of the affected land for which the conditional use permit was granted prior to the end of such year, the City Council may extend the expiration date of such permit for an additional period, not to exceed one (1) year. If under said conditional use permit, building is commenced and subsequently determined by the Zoning Administrator to be abandoned for a period of one hundred twenty (120) days, the conditional use permit shall be suspended at the end of said one hundred twenty (120) days. Before said construction may be recommenced, a conditional use permit can be reinstated by the City Council provided that no changes or alterations in the original plan have been made. If the building permit for the construction that was determined to be abandoned became invalid prior to the recommencement of such construction, the suspended conditional use permit shall expire at the time said building permit became invalid.

(10) **Amended Conditional Use Permit Application.** An amended conditional use permit application may be administered in a

manner similar to that required for a new conditional use permit. Amended conditional use permits shall include reapplication for permits that have been denied or permits that have expired, requests for changes in conditions, and as otherwise described in this Chapter.

- (11) **Inclusion.** All uses permitted by this Chapter by conditional use permit in existence prior to the adoption date of this Chapter shall be automatically issued a conditional use permit by the Zoning Administrator. Any changes in the existing use after the adoption date of this Chapter shall require an amended conditional use permit.
  
- (12) **Interim Conditional Use Permit.**
  - (a) **Interim Use Defined.** A temporary use of property until a particular date, until the occurrence of a particular event or until the zoning regulations no longer permit it.
  
  - (b) **Limited Application.** The interim conditional use permit procedures are not to be construed to, in any way, modify the provisions for the issuance of conditional use permits (see Section 151.006 E above).
  
  - (c) **Permit.** The City council may grant an interim conditional use permit for the interim use of property if:
    - (i) The use conforms to the zoning regulations;
  
    - (ii) The date or event that will terminate the use can be identified with certainty;
  
    - (iii) Permitting the use will not impose additional costs on the City if it is necessary for the City to take the property in the future; and
  
    - (iv) The applicant agrees in writing to any conditions that the City Council deems appropriate for permission of the use.
  
  - (d) **Application Procedures, Exhibits and Criteria.** The procedures for applying for an interim conditional use permit, the required exhibit and the criteria for granting an interim conditional use permit shall be the same as for conditional use permits, as contained in Section 151.006 E–K above.

- (e) Permit Termination. An interim conditional use permit shall be terminated by:
  - (i) A change in zoning regulation which prohibits the use.
  - (ii) The date of event(s) stated in the permit.
  - (iii) Upon violation of the conditions under which the permit was issued.
  
- (f) Criteria for Termination. In establishing the date of event for the termination of the interim conditional use permit, the City Council shall consider the effect of the proposed use on the comprehensive plan and the health, safety, and general welfare of occupants of surrounding lands. The criteria for terminating the interim conditional use permit shall include, but are not limited to, the following:
  - (i) The assessment of the subject property for sanitary sewer and water.
  - (ii) If the interim use becomes in conflict with the comprehensive plan.
  - (iii) The platting of adjacent property.
  
- (g) Notice of Termination. Upon the occurrence of the date or of the criteria for the termination set forth in the interim conditional use permit, the City shall notify the holder of the permit in writing that the interim conditional use permit shall terminate not later than one (1) year after the date of such notice.
  
- (h) Permit Review. An interim conditional use permit shall be reviewed annually but may be reviewed at any time if the council is of the opinion that the terms and conditions of the permit have been violated or if one (1) of the criteria for termination has been met.
  
- (i) Permit Extension. The City Council shall have the right to extend the termination date for such additional periods consistent with the terms and conditions of the original permit.

**F. Certificate of Compliance.**

- (1) The Zoning Administrator shall issue a certificate of compliance in any district for a proposed use listed in Section 151.007 as a use which must obtain a certificate of compliance prior to construction or occupancy, if the proposed use will not be contrary to the provisions of this subchapter, and that other codes and ordinances have been fully complied with.
- (2) Conditions required by this subchapter shall be applied to the issuance of the certificate of compliance and a periodic review of the certificate and proposed use may be required. The certificate shall be granted for a particular use and not for a particular-person or firm.
- (3) The Zoning Administrator shall maintain a record of all certificates of compliance issued including information on the use, location and conditions imposed as part of the permit such as time limits, review dates and such other information as may be appropriate.
- (4) Whenever this subchapter requires a certificate of compliance, an application in writing, shall be filed with the Zoning Administrator.
- (5) The application shall be accompanied by development plans of the proposed use showing such information as may be reasonably required by the Zoning Administrator, including but not limited to those listed below. These plans shall contain adequate information upon which the Zoning Administrator can determine the proposed development will meet all development standards if the project proceeds in accordance with such plans.
  - (a) Site plan drawn to scale showing parcel and building dimensions.
  - (b) Location of all buildings and their square footage.
  - (c) Curb cuts, driveways, access roads, parking spaces, off-street loading areas and sidewalks.
  - (d) Landscaping and screening plans.
  - (e) Finished grading, drainage and erosion control plan.
  - (f) Sanitary and storm sewer plans with estimated use.

- (g) Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practice or practices to be used to overcome said limitation shall be made prior to the permit application.
  - (h) Any additional data reasonably requested by the Zoning Administrator.
- (6) The Zoning Administrator shall issue or deny the certificate of compliance within ten (10) days of the date on which all of the required information has been submitted. If the Zoning Administrator cannot determine whether the application meets the requirements for a certificate of compliance, the Zoning Administrator shall refer the matter to the City Council for review at its next regularly scheduled City Council Meeting.
  - (7) If no such action on the request for a certificate of compliance is taken within such time, the request for a certificate of compliance shall be considered denied.
  - (8) If the request for a certificate of compliance is denied or if conditions are imposed, the applicant may appeal the decision to the Board of Adjustment and Appeals. The procedures to be followed in this case shall be the same as those followed for an appeal to any administrative decision made by the Zoning Administrator.

**G. Reserved.**

**H. Amendments.**

- (1) An amendment to this Chapter may be initiated by the City Council, or by the petition of affected property owners as defined herein. If affected property owners initiated an amendment, the Zoning Administrator shall refer the property owner's petition to the City Council.
- (2) The Zoning Administrator shall maintain a record of all applications for amendments to this Chapter.
- (3) **Application.** Where an amendment to this ordinance is proposed by a property owner, an application shall be filed with the Zoning Administrator; said application shall be accompanied by development plans, if any, for the use which requires the rezoning. The development plans shall show such information as may be

reasonably required by the administrator, including but not limited to those things listed below.

Such plans shall contain sufficient information for the community to determine whether the proposed development is in keeping with the intent and purpose of this ordinance and the comprehensive plan.

- (a) Site plan drawn to scale showing parcel and building dimensions.
- (b) Location of all buildings and their size, including square footage.
- (c) Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks.
- (d) Landscaping and screening plans including species and size of trees and shrubs proposed.
- (e) Finished grading, drainage and erosion control plan.
- (f) Type of business or activity and proposed number of employees.
- (g) Proposed floor plan and elevations of any building with use indicated.
- (h) Sanitary sewer and water plan with estimated daily flow rates.
- (i) Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practice or practices to be used to overcome said limitation shall be made part of the application.
- (j) A location map showing the general location of the proposed use within the community.
- (k) A map showing all principal land use within five hundred (500) feet of the parcel for which application is being made.

The applicant shall supply proof of ownership of the property for which the amendment is requested consisting of an abstract of title or registered property certificate, certified by a licensed abstractor, together with any unrecorded documents whereby the petitioners

acquired legal or equitable ownership.

The application form shall be accompanied by an accurate list showing the names and the mailing addresses of the record owners of all the property within a minimum of five hundred (500) feet of the property for which the amendment is sought. verified as to accuracy by the applicant.

- (4) **Hearing.** The Zoning Administrator shall refer the application to the City Council for consideration at its next regular meeting; provided however, if the next regular meeting of the City Council is within seven (7) days of the date of filing, then such consideration may be at the second regular meeting after said filing. At that meeting, the City Council shall set a date for a public hearing on said application. The public hearing shall be no more than sixty (60) days after the date of filing a complete application with the Zoning Administrator.

Notice of the purpose, time and place of such public hearing shall be published in the official newspaper of the community and mailed to each of the owners of all property located within a minimum of five hundred (500) feet of the property described in the application, and such other person as the City Council may direct, at least ten (10) days prior to the date of the hearing. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in notice shall not invalidate the proceedings, provided a bona fide attempt to comply with the provisions of this section has been made.

The applicant or his representative may appear at the public hearing in order to answer questions concerning the proposed use.

- (5) **Council Action on Application.** The Council shall make its decision on the application within sixty (60) days of the filing of a complete application with the Zoning Administrator. The Council shall make written findings and shall state therein the reasons for its decision. Any such order shall be filed with the Zoning Administrator who shall immediately mail a copy thereof, bearing the notation of the filing date, to the applicant.

In the event such order directs amendment of this ordinance, the Zoning Administrator shall refer the order to the community attorney to prepare an amendment of the Zoning ordinance as provided by law.

- (6) **Re-Application.** No re-application for zoning amendment shall be resubmitted for a period of six (6) months from the date of the denial of a previous application.
- (7) **Zoning and the Comprehensive Plan.** Any amendment to this Chapter shall amend the comprehensive plan in accordance therewith.

Prior to approval of any zoning change not conforming to the comprehensive plan, a public hearing shall be conducted by the City Council and the results noted in the minutes of the official proceedings. The public hearing required for the zoning change or amendment may also serve as the public hearing for an amendment to the comprehensive plan.

In granting or recommending any rezoning provided for in this Chapter, the Zoning Administrator, or the City Council shall find that the proposed development conforms substantially to the policies, goals and standards of the comprehensive plan.

## **I. Permits.**

- (1) **Building Permits and the Building Codes.**
  - (a) No structure shall hereafter be erected or structurally altered until a building permit shall have been issued, indicating that the existing or proposed structure and the use of the land comply with this chapter and all Building Codes.
  - (b) Building permits shall not be issued unless the proposed improvement meets all of the requirements of the Building Code.
  - (c) No site preparation work, including rough grading, driveway construction, footing excavation, tree removal or other physical changes to the site shall occur prior to the issuance of a building permit and other zoning use permits.
  - (d) Applications for permits as required by this Section 151.006 I, shall be made to the Zoning Administrator or Building Official on forms to be furnished by him. The Zoning Administrator or Building official shall maintain a record of all applications for and all permits issued under this Section (509).

- (e) Application for a building permit shall be accompanied by a site plan drawn to scale showing the dimensions of the lot to be built upon, the size and location of the building, utilities including on-site septic systems and accessory buildings to be erected, the vegetation and major topographic changes and drawings of the improvement in sufficient detail to permit checking against the Building Code, and such other information as the Zoning Administrator or Building Official may reasonably require to determine compliance with this Zoning Code and the Building Code. In some cases, the Zoning Administrator may require a certificate of survey and/or a grading, drainage and erosion control plan before a building permit will be issued.
  - (f) No building permit shall be issued for any improvement which would result in a use, building or structure in violation of this Zoning Code, or the Subdivision, Shoreland Management, Flood Plain, Sanitary Sewer Disposal, Mining or other City Code.
  - (g) The work for which a building permit is issued shall commence within sixty (60) days after the date thereof unless an application for an extension of ninety (90) days has been submitted to the Building official and approved by him. The work shall be completed within one (1) year of the date of issuance.
  - (h) Permits issued by the Zoning Administrator or Building Official under the provisions of this subsection and the Building Code shall expire and be null and void if the work authorized by a permit is abandoned or suspended for a period of one hundred twenty (120) days or in the event that work is not commenced or completed within the time limitations of Section 151.006 I(1)(i) of this Chapter.
  - (i) **Suspension or Revocation.** The Building official may, in writing, suspend or revoke a permit issued under the provisions of this Chapter and the Building Code whenever such permit is issued in error or on the basis of incorrect information supplied, or in violation of any City regulation or code.
- (2) **Moving Permits.** No building or structure which has been wholly or partially erected shall be moved to any other location within the community unless a permit to move said building or structure has been obtained or provided herein. Any such building or structure

proposed to be moved shall meet all requirements of the Building Code applicable to a new building or structure.

This Section 151.006 I(2), shall not apply to construction sheds, agricultural buildings or temporary structures to be located on a lot for twelve (12) months or less.

- (3) **Septic Permits.** In areas without public sewer facilities, no building permit, for any use requiring on-site sewage treatment and disposal shall be issued until a septic permit has first been issued.

A septic permit shall be issued only after proof is furnished by the applicant that a suitable on-site sewage treatment and disposal system can be installed on the site. Such system shall conform to all of the requirements of the Community's Individual Sewage Treatment System Ordinance, including percolation tests and borings.

#### **J. Certificate of Occupancy.**

- (1) No person may change the use of any land (except for agricultural purposes or for construction of essential services and transmission lines), or occupy a new or structurally altered building used for non-agricultural use, after the effective date of this Chapter, unless he has first obtained a certificate of occupancy.
- (2) Application for a certificate of occupancy for a new building or for an existing building which has been so altered may be filed with the Building Official any time after the application for a building permit for such building. The certificate of occupancy shall be issued within ten (10) days after the construction or alteration of such building or part thereof has been completed in conformity with the provisions of this Chapter and the Building Code. Pending the issuance of said certificate, a temporary certificate of occupancy may be issued, subject to the provisions of the Building Code for a period not to exceed twelve (12) months during the completion of the erection or the alteration of such a building. The temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owners or of the community relating to the use or occupancy of the premises or any other matter except under such restrictions and provisions as will adequately insure the safety of the occupants. The use of any structure for which a building permit is required shall be considered a violation of this Chapter unless a certificate of occupancy has been issued.

- (3) Application for a certificate of occupancy for a new use of land shall be made to the Building official before any such land shall be so used. Such certificate of occupancy shall be issued within ten (10) days after this application if the use is in conformity with the provisions of this Chapter.
- (4) A record of all applications for and certificates of occupancy shall be kept on file.

**K. Fees.**

- (1) There shall be an application fee for all applications made pursuant to the provisions of this Chapter as set by resolution of the Governing Body from time to time.
- (2) Municipal corporations and governmental agencies shall be exempt from the fee requirements of Section 151.006 K of this Chapter.

**§ 151.007. ZONING DISTRICTS, PERMITTED USES AND DIMENSIONAL STANDARDS**

**A. Districts.**

Lakeland Shores shall be divided into zones lettered and described as follows:

**Zone A:** All that territory lying within Lakeland Shores and lying Easterly of the Chicago, Milwaukee, St. Paul & Pacific Railroad tracks, or Railroad right of way, and Southerly from the center line of 3<sup>rd</sup> Street North in the original plat of Lakeland City and Northerly from the Southerly line of Lakeland Shores.

**Zone B:** All that territory lying Northerly from 3<sup>rd</sup> Street North and Easterly of Quinnell Street in the original plat of Lakeland City within the limits of Lakeland Shores.

**Zone C:** All that territory lying East of the center line of Sixth Street in the original plat of Lakeland City and Blocks 17, 18, 19, 20, 28, 29, 30, 31, and portions of St. Croix, Court, Clark and 7th Streets appurtenant thereto in the original plat of Lakeland City known as Parcel 2 of the Schmig Minor Subdivision, excepting that from Zones A and B heretofore described.

**Zone D:** All that remaining territory lying West of the center line of Sixth Street in the original plat of Lakeland City, excepting that from Zone C heretofore described.

**Overlay Zoning Use Districts.** At the time of adoption of this Chapter or at some future date, the Governing Body may adopt overlay districts to promote specific orderly development or to protect some specific sensitive natural resource.

**B. Minimum Requirements.**

(1) The following chart sets out the minimum area, maximum height and other dimensional requirements of each zoning district.

<b>(1)</b>	<b>ZONE A</b>	
	(a) Min. Lot Size:	56,000 sq. ft.
	(b) Min. Floor Area*:	1,200 sq. ft.
	(c) Min. Front Yard Setback	40 ft.
	(d) Min. Side Yard Setback from Interior Lot Line	15 ft.
	(e) Min. Side Yard Setback from Street	40 ft.
	(f) Min. Rear Yard Setback for Principal Structure	30 ft.
	(g) Min. Rear Yard Setback for Detached Accessory Structure	15 ft.
	(h) Min. Lot Width at Front Lot Line	100 ft.
	(i) Min. Width per Dwelling **:	21 ft.
	(j) Max Building Height	35 ft.
	(k) Max. Impervious Surface***	25%
	(l) Min. Lot Depth	100 ft.
<b>(2)</b>	<b>ZONE B</b>	
	(a) Min. Lot Size	25,000 sq. ft.
	(b) Min. Floor Area*	1,200 sq. ft.
	(c) Min. Front Yard Setback	40 ft.
	(d) Min. Side Yard Setback from Interior Lot Line	15 ft.
	(e) Min. Side Yard Setback from Street	40 ft.
	(f) Min. Rear Yard Setback for Principal Structure	30 ft.
	(g) Min. Rear Yard Setback for Detached Accessory Structure	15 ft.
	(h) Min. Lot Width at Front Lot Line:	100 ft.
	(i) Min. Width per Dwelling **	21 ft.
	(j) Max Building Height	35 ft.
	(k) Max Impervious Surface ****	25%
	(l) Min. Lot Depth	100 ft.
<b>(3)</b>	<b>ZONE C</b>	
	(a) Min. Lot Size	****36,450 sq. ft.
	(b) Min. Floor Area*	1,200 sq. ft.
	(c) Min. Front Yard Setback	40 ft.
	(d) Min. Side Yard Setback from Interior Lot Line	15 ft.
	(e) Min. Side Yard Setback from Street	40 ft.
	(f) Min. Rear Yard Setback for Principal Structure	30 ft.
	(g) Min. Rear Yard Setback or Detached Accessory Structure	15 ft.
	(h) Min. Lot Width at Front Lot Line	100 ft.
	(i) Min. Width per Dwelling **	21 ft.

- (j) Max Building Height 35 ft.
- (k) Max Impervious Surface \*\*\* 25%
- (l) Min. Lot Depth 100 ft.

**(4) ZONE D**

All residential dwellings in Zone D shall comply with the conditions and restrictions applicable to Zone C.

All commercial uses shall comply with the following conditions and restrictions:

- (a) Min. Lot Size \*\*\*\*\*
- (b) Min. Floor Area\* 1,200 sq. ft.
- (c) Min. Front Yard Setback 40 ft.
- (d) Min. Side Yard Setback from Interior Lot Line 15 ft.
- (e) Min. Side Yard Setback from Street 40 ft.
- (f) Min. Rear Yard Setback for Principal Structure 30 ft.
- (g) Min. Rear Yard Setback for Detached Accessory Structure 15 ft.
- (h) Min. Lot Width at Front Lot Line 100 ft.
- (i) Min. Width per Dwelling \*\*
- (j) Max Building Height 35 ft.
- (k) Max Impervious Surface \*\*\* 65%
- (l) Min. Lot Depth 100 ft.

\* *Square footage on main floor of dwelling, excluding porches, decks, terraces, steps and/or garages.*

\*\* *With continuous roof*

\*\*\* *Includes buildings, parking and driveways*

\*\*\*\* *All lots used for residential purposes in Zones C or D shall have a minimum of 36,450 feet in platted areas, or shall have a minimum of 56,000 feet in unplatted areas including street.*

\*\*\*\*\* *All existing property is platted and cannot be subdivided any further*

**(2) Additions and Exceptions to Minimum Area, Height and Other Requirements.**

- (a) For the purpose of this Chapter, the term "existing lot" shall mean: A lot or parcel of land which was of record as a separate lot or parcel in the office of the Washington County Recorder or Registrar of Titles, on or before the date of adoption of this Chapter.
- (b) Any such lot or parcel created in accordance with the Community Subdivision Regulations and is at least two and one half (2-1/2) acres, shall be exempt from the requirements of Section 151.007 B2(c) & (d) and shall be considered buildable if the lot or parcel can comply with the remaining requirements of Section 151.007 B.

- (c) Any such lot or parcel of land less than two and one-half (2 1/2) acres which is in a residential or agricultural district may be used for single family detached dwelling purposes provided the area and width thereof are within sixty percent (60%) of the minimum requirements of this section; provided all setback requirements of this Chapter can be maintained; and provided it can be demonstrated that a safe and adequate sewage treatment system can be installed to serve such permanent dwelling.
- (d) If in a group of two or more contiguous lots or parcels of land owned or controlled by the same person, any individual lot or parcel does not meet the full width or area requirements of this Chapter, such individual lot or parcel cannot be considered as a separate parcel of land for purposes of sale or development, but must be combined with adjacent lots or parcels under the same ownership so that the combination of lots or parcels will equal one or more parcels of land each meeting the full lot width and area requirements of this Chapter.
- (e) **Subdivision of Lots.** Any lot or parcel of land subdivided by any means after the effective date of this Chapter for purposes of erecting a structure, must be approved as required by the Community Subdivision Chapter.
- (f) **Lake and Stream Frontage Lots.** All lots having frontage on a lake or stream shall be subject to the provisions of the Community Shoreland Management Chapter as well as the regulations provided by this chapter. All lots on unclassified bodies of water in the Shoreland Management Chapter shall meet the minimum setback requirements for a General Development Lake, except as provided in the Shoreland Management Chapter.
- (g) **Lots in the Floodplain.** All lots in a designated floodplain shall be subject to the Community Floodplain Chapters as well as the regulations provided by this chapter.
- (h) **Reduction of Required Yard of Lot Size Prohibited.** No yard shall be reduced in area or dimension so as to make it less than the minimum required by this Chapter, and if the existing yard is less than the minimum required, it shall not be further reduced. No required yard currently used for a building or dwelling group shall be used to satisfy minimum lot area requirements for any other building.

- (i) **Sloping or Erodible Building Sites.** On sites with slopes of greater than twenty-five percent (25%) or on easily erodible soils as defined on the community soils maps and compiled by the Washington County Soils Conservation District. no structure shall be constructed. (Also See Section 151.008 PP.)
  - (j) **Heavily Wooded Sites.** On any lot, clear cutting shall require a conditional use permit. A certificate of compliance shall be required for all cutting on all slopes in excess of eighteen percent (18%). On such slopes, a revegetation plan shall also be required prior to issuance of a building permit. (See Sections 151.008 QQ and VV)
  - (k) A building permit shall not be issued for a lot which either does not meet the minimum acres of acceptable soils for onsite sewage treatment: or does not have enough acceptable soils within the lot or under legal contract to construct at least two (2) complete septic/drainfield treatment systems.
- (3) **Permitted Encroachments on Required Yards.** The following shall be permitted encroachments into setback and height requirements, except as restricted by other sections of this Chapter:
- (a) In any yards: posts, off-street open parking, flues, leaders, sills, pilasters, lintels, cornices, eaves (up to three (3) feet), gutters, awnings. open terraces, steps, chimneys, flag poles, open fire escapes, sidewalks, fences, essential services, exposed ramps (wheelchair), uncovered porches, stoops or similar features provided they do not extend above the height of the ground floor level of the principal structure or to a distance less than three (3) feet from any lot line nor less than one (1) foot from any existing or proposed driveway; yard lights and nameplate signs; trees, shrubs, plants; floodlights or other sources of light illuminating authorized illuminated signs, or light standards for illuminating parking areas, loading areas or yards for safety and security reasons, provided the direct source of light is not visible from the public right-of-way or adjacent residential property.
  - (b) In side and rear yards: fences thirty percent (30%) open; walls and hedges six (6) feet in height or less; bays not to exceed a depth of three (3) feet or containing an area of more than thirty (30) square feet; fire escapes not to exceed a width of three (3) feet.

- (c) On a corner lot: nothing shall be placed or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 1/2) and ten (10) feet above the centerline grades of the intersecting streets within one hundred (100) feet of such intersection as measured along centerlines.
  - (d) In no event shall off-street parking, structures of any type, buildings or other improvements cover more than seventy-five percent (75%) of the lot areas. In no event shall the landscaped portion of the lot be less than twenty-five percent (25%) of the entire lot as a result of permitted encroachments.
- (4) **Setbacks.**
- (a) **Front Setbacks.** Where a vacant buildable lot is adjacent to structures existing at the time of adoption of this Chapter having a substandard setback from that required by this section, the Zoning Administrator shall determine a reasonable, average, calculated front yard setback to implement the requirements of this section and to fulfill its purpose and intent. However, in no case shall a building be required to be setback more than one hundred eighty (180) feet from the street centerline, except where an industrial district is adjacent to a residential district. In a residential district the front yard setback shall conform to the established setback line, unless the Zoning Administrator determines that another setback is more appropriate as provided herein.
  - (b) **Side and Rear Setbacks.** Subject to regulations contained in the Building Code and other applicable regulations, side and rear setback requirements may be waived provided party walls are used and the adjacent buildings are constructed as an integral unit and are part of an approved shopping center, townhouse development or other similar development. Such waiver shall only be by issuance of a conditional use permit.
  - (c) **Setbacks Adjacent to Residential Areas.** Where a commercial district is adjacent to a residential district, the minimum commercial building setback from the lot line shall be thirty-five (35) feet.

- (d) **Setbacks Along Arterials.** Along roads and streets designated as "Arterials" in the comprehensive plan, the minimum front setback for principal buildings shall be one hundred fifty (150) feet from the nearest plotted street centerline.
- (e) **Setbacks from Private Roads.** All setback requirements of this section shall also be applicable to private roads and easement access rights-of-way.

**C. Zoning District Map.**

- (1) The boundaries of the districts as established by this chapter are as shown on the map published herewith and made part of this Chapter, said map is designated as the Official Zoning Map of the City and shall be maintained as provided herein by the City Zoning Administrator. The district boundary lines on said map are intended to follow street right-of-way lines, street centerlines or lot lines unless such boundary line is otherwise indicated on the map. In the case of unsubdivided property or in any case where street or lot lines are not used as boundaries, the district boundary lines shall be determined by use of dimensions or the scale appearing on the map. All of the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and are hereby made a part of this Chapter by reference and incorporated herein as fully as if set forth herein at length. Whenever any street or other public way is vacated, any zoning district line following the centerline of said vacated street or way shall not be affected by such vacation.
- (2) When any permit is issued which affects any zoning district in a substantial way, said permit shall be coded and noted on the zoning district map by the Zoning Administrator so as to clearly indicate the use so permitted which may not otherwise be clearly evident from the map or text of this Chapter.
- (3) When uses in a district are listed as both permitted and as conditional uses, or when any other conflict appears in this chapter with respect to permitted uses within a district, the more restrictive portion shall be applied.

Where any proposed use for any district is not listed in Section 604 herein but is determined by the City Council to be similar in character to a use listed in Section 151.007 D, the City Council may require the proponent of that use to proceed under provision of this Chapter applicable to that similar use. Where any proposed use for any district is not listed in Section 151.007 D and is

determined by the City Council not to be similar in character to any use listed therein. that proposed use shall not be allowed in any district. Such a determination by the City Council shall not preclude the proponent of the use from making immediate application to the City for Amendment of this Chapter pursuant to Section 151.006H of this Chapter.

**D. Residential Districts A, B & C**

(1) **Permitted Uses.** Permitted Uses are as follows:

(a) Single-family detached dwellings

(2) **Uses Permitted with a Conditional Use Permit.**

(a) Essential services, telephone, telecommunications lines, power lines under 35 kv and necessary appurtenant equipment and structures.

(b) Government Buildings, Storage and Uses.

(c) Utility Substation.

(3) **Commercial:**

The following uses are permitted with a Conditional use Permit:

(a) Arts and/or Crafts Studio

(b) Barbershop and Beauty Shops

(c) Bars & Taverns

(d) Broadcasting Studio

(e) Clubs/Lodges

(f) Essential Services for City Buildings

(g) Home Occupations

(h) Medical Clinic

(i) Office

(j) Restaurants

(k) Retail Sales

- (l) Veterinary Clinic
- (m) Motor Vehicle Repair
- (n) Conditional Use

**E. Floodplain Overlay District.**

- (1) **Permitted Uses.** As permitted and regulated under the Community Floodplain Regulations.
- (2) **Accessory Uses.** As permitted and regulated under the Community Floodplain Regulations.

**F. St. Croix Overlay District.**

- (1) **Permitted Uses.** As permitted and regulated under the Community St. Croix River District Regulations.
- (2) **Accessory Uses.** As permitted and regulated under the Community St. Croix River District Regulations.

**§ 151.008 DESIGN AND PERFORMANCE STANDARDS AND RESTRICTIONS ON NUISANCE AND HAZARDOUS ACTIVITIES**

**A. Minimum Standards; Purpose.**

- (1) All uses, buildings and structures permitted pursuant to this Chapter shall conform to the performance and design standards set forth in this section; said standards are determined to be the minimum standards necessary to comply with the intent and purposes of this code as set forth in this section.

**B. The Principal Building.**

- (1) Except as provided by a conditional use permit issued pursuant to this Chapter, there shall be no more than one (1) residential dwelling unit on any one (1) parcel of land as described in Section 151.007B, Lot Provisions.
- (2) **Certain Dwelling Units Prohibited.** No cellar, garage, recreational vehicle or trailer, basement with unfinished exterior structure above or accessory building shall be used at anytime as a dwelling unit.

- (a) Principal buildings with more than one (1) use, in which one (1) of those uses is a dwelling unit shall require a conditional use permit,
- (3) All principal buildings hereafter erected on unplatted land shall be so placed as to avoid obstruction of future street or utility extensions and shall be so placed as to permit reasonably anticipated future subdivisions and land use.
- (4) All principal buildings shall meet or exceed the minimum standard of the Minnesota State Building Code, the Minnesota State Uniform Fire Code, the Minnesota Department of Health, the Minnesota Pollution Control Agency and the Washington County On-Site Sewage Treatment Ordinance.
  - (a) The keeping of animals except for domesticated pets inside of the dwelling unit shall be prohibited.
- (5) All existing principal buildings in residential districts with non-winterized construction or inadequate non-conforming year-round on-site sewage treatment systems shall be considered a seasonal principal building. No building permit shall be issued for the improvement of a seasonal principal building to a continuous year-round (365 days) inhabitable dwelling unit unless the existing building conforms or the building after such improvement (including septic systems) will conform with all the requirements of the Washington County Development Code and any applicable State requirements.
- (6) Any alterations, modifications or enlargements of an existing seasonal principal building for the purpose of continuing the seasonal use shall require a conditional use permit.

**C. Accessory Buildings and Structures.** The purpose of these standards is to regulate the size, use and location of accessory structures.

- (1) **Required Permits.** A building permit is required for all accessory structures.
- (2) **Performance Standards.** The following standards apply in all districts:
  - (a) No accessory structure shall be constructed on a lot prior to construction of the principal structure.
  - (b) An accessory structure shall be considered attached to the principal building if it is within six (6) feet or less from the

principal building and is physically attached to the principal building.

- (c) All accessory structures over thirty-five (35) square feet in area shall have a foundation or concrete slab. Accessory buildings larger than two hundred (100) square feet shall require a building permit regardless of improvement value. Roof and wind loads shall conform to requirements as contained in the Building Code.
  - (d) **Compatibility.** The same or similar quality exterior material shall be used in the accessory building and in the principal building. All accessory buildings shall also be compatible with the principal building on the lot. "Compatible" means that the exterior appearance of the accessory building including roof pitch and style is not at variance with the principal building from an aesthetic and architectural standpoint as to cause:
    - (i) A difference to a degree to cause incongruity.
    - (ii) A depreciation of neighborhood values or adjacent property values.
    - (iii) A Nuisance. Types of nuisance characteristics include unsightly building exterior.
  - (e) No detached accessory structure shall be located closer to the road right of way than the principal building on a lot unless:
    - (i) City Council approves location, and
    - (ii) All setback requirements are met.
- (3) **Residential Districts.** The following additional standards apply to all land within these districts and residential dwellings in the commercial district:
- (a) On parcels less than two (2) acres, one accessory structure is allowed. On parcels greater than two (2) acres, a maximum of two (2) accessory structures are allowed.

On parcels greater than five (5) acres, a maximum of three (3) accessory structures are allowed. One (1) single story shed of two hundred (200) square feet or less is permitted in addition to the accessory structures. All accessory structures shall be limited to one story in height, and in no case, shall exceed the height of the principal structure.

(b) The permitted size of accessory structures are as follows:

	<b>LOT AREA</b>	<b>TOTAL SQUARE FOOTAGE</b>
(i)	Parcels less than 1 acre:	768 sq. ft.
(ii)	1 acre – 1.99 acres:	1,008 sq. ft.
(iii)	2 acres – 5 acres:	2,000 sq. ft.
(iv)	Over 5.01 acres:	2,500 sq. ft.

(c) All detached accessory structures are to be used for personal or agricultural use only. No commercial use or commercial related storage is allowed in these structures. No detached accessory structure shall be used as living quarters or as a personal residence of any person, including family members.

(d) No land shall be subdivided so as to have a larger structure and/or exceed the total number of structures permitted by this ordinance.

(4) **Commercial.** The following additional standards shall apply in this district to commercial uses:

(a) One accessory structure is allowed on a parcel in the Commercial District. provided it is used for storage related to the principal use of the property. No separate business is allowed in the accessory structure.

(b) The accessory structure must be placed to the rear of the principal building and conform with applicable setback requirements and lot coverage standards.

(c) The permitted size of accessory structures in the commercial district are governed by Chapter 151.008C3(b).

**D. Public Convenience Structures.**

(1) No public use or convenience structure shall be located within the public right-of-way except by a certificate of compliance issued by the Zoning Administrator. Such structure shall include, but not be limited to trash containers, institutional direction signs, bicycle racks, benches, planting boxes, awnings, flag poles, bus shelters, light standards, stairs, stoop, light wells, newspaper storage

containers, loading wells, signs and others. Such structures do not include utility facilities.

**E. Fences.**

(1) **Definitions.**

- (a) **Solid Wall.** A solid wall is defined as a fence that permits less than seventy-five percent (75%) visibility.
- (b) **Open Fence.** An open fence is defined as a fence that permits twenty-five percent (25%) or greater visibility.
- (c) **Front of House.** Space between the structure and address street extending to side property lines.

(2) **General Provisions.**

- (a) All fences shall require a building permit.
- (b) No fences shall be permitted on public rights way or within 10 feet of the edge of pavement on any publicly maintained roadway.
- (c) Fencing around swimming pools is covered by Section 151.008 D.
- (d) Fencing on non-residential property required for screening exterior storage may exceed the limitations herein but only by conditional use permit.
- (e) That unless otherwise agreed to in writing by adjacent property owners, all fence maintenance is the sole responsibility of the property owner who constructed same and his successors, heirs and assigns.

(3) **Location of Fencing.**

- (a) Fences may be placed along property lines, except where property line is closer than 10 feet to the edge of pavement on a publicly maintained roadway provided no physical damage of any kind results to abutting property.
- (b) Solid walls are prohibited in the front yard of the house of a lot on residential property. Open fences, as defined in Section 151.008E(1)(c) are permitted in the front yard of the house on residential property.

- (c) Should the rear lot line of a lot be common with the side lot line of an abutting lot, that portion of the rear lot line equal to the required front of the house of the abutting lot shall be fenced to a height of more than four (4) feet.
  - (d) On any corner lot, no fence shall be constructed in such a manner that would violate Section 151.007 B(2)(c).
  - (e) The maximum height of a fence permitted in the front yard is four (4) feet. The maximum height of a fence permitted in the rear yard is six (6) feet.
  - (f) Where the property line is not clearly defined, a certificate of survey may be required by the Zoning Administrator to establish the property line.
- (4) **Fences - Non-conforming Uses.** All fences as defined in Section 151.004 (61) of the Zoning Code shall be considered as structures for the purpose of application to Section 151.005 B(1)(a), et seq., of the Zoning Code, relating to non-conforming uses, buildings and structures.

**F. Exterior Storage.**

- (1) In all districts, all personal property shall be stored within a building or fully screened so as not to be visible from adjoining properties and public streets, except for the following: laundry drying and recreational equipment, construction and landscaping materials and equipment currently (within a period of twelve (12) months) being used on the premises, agricultural equipment and materials if these are used or intended for use on the premises, firewood piles, off-street parking of licensed passenger automobiles and pick-up trucks. Boats, unoccupied trailers, recreational vehicles and motor homes that are thirty-six (36) feet or less in length, are permissible if stored in their rear yard within all applicable set back requirements from any property line and displaying current licensing. Notwithstanding the foregoing, parcels having river frontage may store boats, docks and recreational equipment used on the premises in the front yard. Existing uses shall comply with this provision within twelve (12) months following enactment of this Chapter.
- (2) In non-residential districts, exterior storage of personal property may be permitted by conditional use permit provided any such property is so stored for purposes relating to a use of the property permitted by this Chapter and will not be contrary to the intent and purpose of this Chapter.

- (3) In all districts, all waste, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse and weeds. Existing uses shall comply with this provision within ninety (90) days following effective date of this Code.
- (4) Unlicensed passenger vehicles and trucks shall not be parked in residential district for a period exceeding thirty (30) days.
- (5) All exterior storage not included as a permitted accessory use, a permitted use or included as part of a conditional use permit or otherwise permitted by provisions of this Chapter, shall be considered as refuse.

**G. Environmental Pollution.**

- (1) All uses, buildings and structures shall conform to the regulations of the Minnesota Pollution Control Agency relating to air, water, noise and solid wastes.
- (2) Tributary Pollution. No use shall be permitted which will cause or result in the pollution of any tributary of the St. Croix River, Mississippi River, any lake, stream or other body of water in the community.
- (3) Chemical insecticides or herbicides shall be stored, handled and utilized as per the standards set forth by the Minnesota Pollution Control Agency.

**H. Landscaping.**

- (1) Landscaping on a lot shall consist of a finish grade and a soil retention cover such as sod, seed and mulch, plantings or as may be required by the Zoning Administrator to protect the soil and aesthetic values on the lot and adjacent property.
- (2) In all districts, all developed uses shall provide landscaping from the urban curb and gutter to the road right-of-way lines. This landscaped yard shall be kept clear of all structures, exterior storage and off-street parking.
- (3) Landscaping shall be provided and maintained on all required front and side yards in all developed districts except where pavement or crushed stone is used for walkways or driveways.

- (4) In all districts new construction on vacant building sites shall include a minimum of five deciduous/conifer trees of native variety within the front yard.

**I. Reasonable Maintenance Required.**

- (1) In all districts, all structures, landscaping and fences shall be reasonably maintained so as to avoid health and safety hazards and prevent a degradation in the value of adjacent property.

**J. Lighting, Lighting Fixtures and Glare.**

- (1) **Definitions.** For the purposes of this section, certain words and phrases are defined as follows:

- (a) **Cutoff:** The point at which all light rays emitted by a lamp, light source or luminary are completely eliminated at a specific angle above the ground.
- (b) **Cutoff Angle:** The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above which no light is emitted.
- (c) **Cutoff Type Luminary:** A luminary with elements such as shields, reflectors, or refractor panels which direct and cut off the light at a cutoff angle that is less than ninety (90) degrees.
- (d) **Flashing Lights:** A light source which is not constant in intensity or color at all times while in use.
- (e) **Footcandle:** A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one candle.
- (f) **Light Source:** A single artificial point source of luminescence that emits measurable radiant energy in or near the visible spectrum.
- (g) **Luminary:** A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.
- (h) **Outdoor Lighting:** Any light source, or collection of light sources, located outside a building including, but not limited to, light sources attached to any part of a structure,

located on the surface of the ground or located on free standing poles.

- (i) **Outdoor Light Fixture:** Outdoor electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement. The fixture includes hardware that houses the illumination source and to which the illumination source is attached including but not limited to the hardware casing. Such devices shall include, but are not limited to search, spot, and flood lights for: buildings and structures; recreational areas; parking lot lighting; landscape lighting; billboards and other signs (advertising or other); street lighting; product display area lighting; building overhangs and open canopies.
  - (j) **Security Lighting:** Outdoor lighting fixtures installed exclusively as a measure to reduce the possible occurrence of a crime on the property.
  - (k) **Shielding:** A technique or method of construction permanently covering the top and sides of a light source by a material which restricts the light emitted to be projected below an imaginary horizontal plane passing through the light fixture.
  - (l) **Spillage:** Is any reflection, glare or other artificial light emission onto any adjoining property or right of way and is above a defined maximum illumination.
- (2) **Exemptions.** The standards of this section shall not apply to the following:
- (a) **Temporary Holiday Lighting.** This subchapter does not prohibit the use of temporary outdoor lighting used during customary holiday seasons.
  - (b) **Civic Event Lighting.** This subchapter does not prohibit the use of temporary outdoor lighting used for civic celebrations and promotions.
  - (c) Airport Lighting required for the safe operation of airplanes.
  - (d) Emergency Lighting by police, fire, and rescue authorities

- (3) **Non-conforming Uses.**
- (a) All outdoor lighting fixtures lawfully existing and legally installed prior to the effective date of this Section are exempt from the regulations contained in this section.
  - (b) Whenever an outdoor light fixture that was existing on the effective date of this ordinance is replaced by a new outdoor light fixture, the new fixture must meet the standards of this subsection.
- (4) **Method of Measuring Light Intensity.**
- (a) The footcandle level of a light source shall be taken after dark with the light meter held six (6) inches above the ground with the meter facing the light source. A reading shall be taken with the light source on, then with the light source off. The difference between the two readings will be identified as the illumination intensity.
- (5) **Performance Standards.**
- (a) **Residential Districts.** In all residential districts, any lighting used to illuminate an off-street parking area or other structure or area shall be arranged as to deflect light away from any adjoining residential property or from the public street.
  - (b) **Shielding.** The light source shall be hooded or controlled so as not to light adjacent property in excess of the maximum intensity defined in Section subsection 151.008K5(a) below. Bare light bulbs shall not be permitted in view of adjacent property or public right of way.
  - (c) **Intensity.** No light source or combination thereof which cast light on a public street shall exceed one (1) foot candle meter reading as measured from the centerline of said street nor shall any light source or combination thereof which cast light on adjacent property exceed four tenths (0.4) foot candles as measured at the property line.
  - (d) **Commercial District.** Any lighting used to illuminate an off-street parking area or other structure or area shall be arranged as to deflect light away from any adjoining property or from the public street.

- (e) **Shielding.** The luminary shall contain a cutoff which directs and cuts off the light at an angle of ninety (90) degrees or less.
  - (f) **Intensity.** No light source or combination thereof which cast light on a public street shall exceed one (1) foot candle meter reading as measured from the centerline of said street nor shall any light source or combination thereof which cast light on adjacent property exceed four tenths (0.4) foot candles as measured at the property line.
  - (g) **Height.** The maximum height above the ground grade permitted for light sources on a pole is twenty-five (25) feet except by conditional use permit. A light source mounted on a building shall not exceed the height of the building and no light sources shall be located on the roof unless said light enhances the architectural features of the building and is approved by the Zoning Administrator.
  - (h) **Location.** The light source of an outdoor light fixture shall be setback a minimum of ten (10) feet from a street right of way and five (5) feet from an interior side or rear lot line.
  - (i) **Hours.** The use of outdoor lighting for parking lots serving commercial businesses is restricted to the following. Outdoor lighting which services businesses that do not operate after dark must be turned off one (1) hour after closing except for approved security lighting. For those businesses which offer services after dark, outdoor lighting may be utilized during the night time hours provided the business is open for service. Once the business closes, lighting must be turned off one (1) after closing except for security lighting.
- (6) **Outdoor Recreation.** Outdoor recreational uses such as, but not limited to baseball fields, football fields, tennis courts and snow skiing areas have special requirements for night time lighting. Due to these unique circumstances, a conditional use permit shall be required for all new outdoor lighting fixtures which do not meet the regulations stated above.
- (a) No outdoor recreation facility whether public or private shall be illuminated after 11:00 PM unless the lighting fixtures conform to this subsection.

- (b) Off street parking areas for outdoor recreation uses which are illuminated shall meet the requirements stated in subsection 151.008 K5(b)(ii).
- (7) **Prohibitions.** The following outdoor fixtures are prohibited within Lakeland Shores:
- (a) Search lights shall not be used between 11:00 PM and sunrise.
  - (b) Flashing lights.
- (8) **Submission of Plans.** The applicant for any permit requiring outdoor lighting must submit evidence the proposed outdoor lighting will comply with this subsection. The submission shall contain the following in addition to other required data for the specific permit:
- (a) Plans indicating the location of the premises, and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices.
  - (b) Description of illuminating devices, fixtures, lamps, supports, reflectors, and other devices and the description may include, but is not limited to, catalog cuts by manufacturers and drawings (including sections where required).
  - (c) Photometric data, such as that furnished by manufacturers, or similar showing the angle of the cutoff or light emissions.

**K. Parking.**

- (1) **Surfacing and Drainage.** Off-street parking areas shall be improved with a durable and dustless surface. Such areas shall be so graded and drained as to dispose of all surface water accumulation within the parking area. Durable and dustless surface may include crushed rock and similar treatment for parking accessory to one (1), two (2), three (3), and four (4) unit residential structures; all other uses shall utilize asphalt, concrete or a reasonable substitute surface as approved by the community engineer. All surfacing must be completed prior to occupancy of the structure unless other arrangements have been made with the community.
- (2) **Location.** All accessory off-street parking facilities required herein shall be located as follows:

- (a) Spaces accessory to one and two family dwellings on the same lot as the principal use served.
  - (b) Spaces accessory to multiple family dwellings on the same lot as the principal use served and within two hundred (200) feet of the main entrance to the principal building served. Parking as required by the current Americans With Disabilities Act (ADA) for the handicapped shall be provided.
  - (c) Spaces accessory to uses located in the Commercial District shall be on the same lot as the principal building. Parking as required by the current ADA for the handicapped shall be provided.
  - (d) There shall be no off-street parking space within ten (10) feet of any street right-of-way.
- (3) **General Provisions.**
- (a) Existing off-street parking spaces and loading spaces upon the effective date of this Chapter shall not be reduced in number unless said number exceeds the requirements set forth herein for a similar use.
  - (b) No motor vehicle over one (1) ton capacity bearing a commercial license and no commercially licensed trailer shall be parked or stored on residential properties except when loading, unloading, or rendering service.
  - (c) A parking space shall not be less than nine (9) feet wide and eighteen (18) feet in length exclusive of an adequately designed system of access drives. Parking lots that separate vehicles based on size may be designed with parking spaces less than or greater than nine (9) feet wide and eighteen (18) feet in length depending upon the size of the vehicle, as long as adequate space is provided for easy and safe ingress and egress for the vehicle. Proposed reductions in or additions to the parking space size must be submitted in a dimensioned site plan with size of vehicle to use parking spaces indicated for review and approval. Signs specifying the vehicle size to use the parking space shall be required. Parking spaces for the handicapped shall be in accordance with the current ADA.
  - (d) Off-street parking facilities accessory to residential uses shall be utilized solely for the parking of passenger automobiles and/or one (1) truck not to exceed twelve

thousand pounds (12,000) gross capacity for each dwelling unit. Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants, or customers of nearby businesses or manufacturing establishments.

- (e) Off-street parking facilities for a combination of mixed buildings, structures or uses may be provided collectively in the Commercial District only in which separate parking facilities for each separate building, structure or use would be required, provided that the total number of spaces provided shall equal the sum of the separate requirements of each use during any peak hour parking period.
- (f) When required accessory off-street parking facilities are provided elsewhere than on the lot in which the principal use served is located, they shall be in the same ownership or control, either by deed or long-term lease, as the property occupied by such principal use, and the owner of the principal use shall file a recordable document with Washington County requiring the owner and his or her heirs and assigns to maintain the required number of off-street parking spaces during the existence of said principal use.
- (g) Required off-street parking space in any district shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable, for sale or for rent.
- (h) Off-street parking spaces required shall be as follows for:
  - (i) Multiple Dwelling Units: Two (2) spaces per dwelling unit. At least one-half (1/2) of the required spaces shall be enclosed.
  - (ii) Place of Worship and Other Places of Assembly: One (1) space for each three (3) seats for each five (5) feet of pew length. Based upon maximum design capacity.
  - (iii) Offices: One (1) space for each two hundred (200) square feet of gross floor space.
  - (iv) Schools, Elementary and Junior High: Three (3) spaces for each classroom.

- (v) Schools, High School through College: One (1) space for each four (4) students based on design capacity plus three (3) additional spaces for each classroom.
- (vi) Community Residence: One (1) space for each bed plus one (1) space for each three (3) employees other than doctors.
- (vii) Health Club: One (1) space for each two hundred (200) feet of floor area.
- (viii) Motor Vehicle Service Station: Two (2) spaces plus three (3) spaces for each service stall.
- (ix) Retail Store: Four (4) spaces for each one thousand (1,000) square feet of gross floor area.
- (x) Medical or Dental Clinic: Six (6) spaces per doctor or dentist.
- (xi) Restaurants, Cafes and Bars: One (1) space for each two and one-half (2½) seats, based on capacity design.
- (xii) Furniture Store, Wholesale. Auto Sales and Repair Shops: Three (3) spaces for each one-thousand (1,000) square feet of gross floor area. Open sales lots shall provide two (2) spaces for each five-thousand (5,000) square feet of lot area, but not less than three (3) spaces.
- (xiii) Uses Not Specifically Noted: As determined by the Zoning Administrator.

- (i) No motor vehicle shall be parked on in any public street or public right of way continuously for more than twenty-four (24) hours.

(4) **Design and Maintenance of Off-Street Parking Areas in Commercial District.**

- (a) Parking areas shall be designed so as to provide adequate means of access to a public street. Such driveway access widths shall be in accordance with the State of Minnesota DOT Highway Department Standards. but in no case shall they exceed thirty-two (32) feet in width or less than twenty-four (24) feet in width. Driveway access shall be so

located as to cause the least interference with traffic movement.

- (b) When the calculation of the number of off-street parking spaces required results in a fraction, such fraction shall require a full space.
- (c) Any lighting used to illuminate an off-street parking area shall be in accordance with Section 151.008 of this Chapter.
- (d) All open off-street parking areas designed to have head-in parking along the property line shall provide a bumper curb not less than ten (10) feet from the side property line.
- (e) When a required off-street parking space for six (6) or more cars is located adjacent to a residential district a fence or screening not less than four (4) feet in height shall be erected along the residential district property line.
- (f) It shall be the joint responsibility of the operator and owner of the principal use or building to reasonably maintain the parking space, access ways, landscaping and required fencing.
- (g) All off-street parking spaces shall have access from driveways and not directly from the public street.
- (h) Fire access lanes shall be provided as required by the building or fire code.

(5) **Miscellaneous Restricted Parking.**

- (a) **Definitions:** The following words and phrases when used in this Chapter shall have the meaning respectively ascribed to them in this Section:
  - (i) Vehicle shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway or street, excepting devices used exclusively on stationary rails or tracks.
  - (ii) Motor Vehicle shall mean every vehicle that is self-propelled and every vehicle that is propelled by electric power. Motor vehicle does not include a vehicle moved solely by human power.

- (iii) Street shall mean highway, avenue, boulevard, or other road, square or public place open to public travel for the purpose of vehicular travel.
- (iv) Parking shall mean the standing of a vehicle upon a street whether accompanied or unaccompanied by an operator.
- (v) Street Intersection shall mean any street which joins another at an angle, whether or not it crosses the other streets, and shall include the full width of the streets.

(b) **Snow Emergency Periods.**

- (i) Winter Parking Ban: No person shall park in any public street from 1 :00 a.m. to 7:00 a.m. during the time period of November 1 through April 1 and no parking at any time when the snow depth exceeds 3” until the streets are fully cleaned.
- (ii) Towing: Any vehicle parked in violation of this Chapter may be removed and towed away under the direction of the authorized agent of the City Council. Vehicles towed for illegal parking shall be stored in a safe place and returned to the owner upon advance payment of a reasonable fee.
- (iii) Vehicles for Sales Purposes: No person, except licensed peddlers, shall leave any vehicle parked on any street for any sales purpose.
- (iv) Parked Vehicle-Location:
  - (a) No person shall leave parked upon any street in the City a vehicle in any other place than at the side of such street so that the side of such vehicle is parallel with the main traveled portion of such street and is not more than two feet from the curb or shoulder of such street.
  - (b) No person shall park any vehicle upon any public paved sidewalk or trail or upon any part of such paved sidewalk or trail.
  - (c) No vehicle or any part thereof shall stand or extend within the intersections of any streets.

- (d) *Parked Vehicles-Time Limit:* No person may place, park, permit to remain, store or leave any vehicle upon any City Street for more than 48 hours.
- (e) *Violation:* Every person convicted of violating the provisions of Section 151.008 K(5) shall be guilty of a petty misdemeanor.

**L. Reserved.**

**M. Reserved.**

**N. Screening.** The purpose of this section is to protect and buffer adjacent uses.

(1) **Applicability:** These standards apply to commercial uses in the Commercial District.

(2) **Performance Standards.**

(a) Screening shall be required when:

- (i) Any nonresidential commercial off-street parking area contains more than four (4) parking spaces and is within thirty (30) feet of a residential use.
- (ii) Where the driveway to a nonresidential parking area of more than six (6) parking spaces is within fifteen (15) feet of a residential use.

(b) Where any business use is adjacent to property zoned for residential use, that business shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, parking lot or industry is across the street from a residential zone, but not on the side of a business considered to be the front.

(c) All exterior storage in commercial areas shall be screened. The exceptions are (1) merchandise being displayed for sale; and (2) materials and equipment currently being used for construction on the premises.

(d) The screening required in this section shall consist of earth mounds, berms or ground forms, fences and walls, landscaping (plant materials) or landscaped fixtures (such as timbers (used in combination or singularly so as to block direct visual access to an object.

**O. Storage of Hazardous Materials.**

- (1) **Bulk Storage (Liquid).** All uses associated with the bulk storage of over (110) gallons of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall require a conditional use permit in order that the Zoning Administrator may have assurance that fire, explosion or water or soil contamination hazards are not present that would be detrimental to the public health, safety and general welfare. All existing, above ground liquid storage tanks having a capacity in excess of (110) gallons shall secure a conditional use permit within twelve (12) months following enactment of this Ordinance; the Zoning Administrator shall require the development of diking around said tanks, suitably sealed, to hold a leakage capacity equal to one hundred fifteen percent (115%) of the tank capacity. Any existing storage tank that, in the opinion of the Zoning Administrator or City Council, constitutes a hazard to the public safety shall discontinue operations within five (5) years following enactment of this Chapter. (Also see Section 151.008 P, Explosives.)

**P. Explosives.**

- (1) No activities involving the storage, use or manufacture of materials or products which could decompose by detonation shall be permitted except as are specifically permitted by the Governing Body. Such materials shall include but not be confined to all primary explosives such as lead azide and mercury fulminate, all high explosives and boosters such as TNT, tetryl and nitrates, propellants and components thereof such as nitrocellulose, nitroglycerin, blasting explosives such as dynamite and nuclear fuel and reactor elements such as uranium 235 and plutonium.

**Q. Fall-Out Shelters.**

- (1) Fall-out shelters may be permitted in any district subject to the yard regulations of the district. Such shelters may contain or be contained in other structures or be constructed separately, and in addition to shelter use, may be used for any use permitted in the district, subject to the district regulations on such use.

**R. Guest Houses.**

- (1) Guest houses for the purpose of this section shall be an accessory building, detached from the principal building, with accommodations for guests and intended for the use of persons visiting the occupants of the principal structure, provided that the use preexisted the adoption of the first Zoning Ordinance that was

adopted after the formation of Lakeland Shores as a City, and provided the use maintains an ISTS System that qualifies under current Washington County standards.

- (2) Guesthouses shall be permitted in all residential districts and shall conform to all requirements of this code and other regulations applicable to residential dwellings setback and yard requirements in relation to the principal structure.
  - (a) All guesthouses shall have designated off-street parking spaces.
  - (b) A certificate of compliance shall be required for a guest house.

**S. Reserved.**

**T. Reserved.**

**U. Radiation and Electrical Interference Prohibited.** No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas. There shall be no electrical disturbance (except from domestic household appliances) adversely affecting the operation of ordinary business or household equipment and appliances. Any such omissions are hereby declared to be a nuisance.

**V. Reserved.**

**W. Reserved.**

**X. Reserved.**

**Y. Coin Operated Machines.**

- (1) Coin operated, automatic machines dispensing food, soft drinks and other food and materials shall not be permitted outside of a building, except as approved by a certificate of compliance.

**Z. Swimming Pools.**

- (1) **Swimming Pools Defined.** For the purposes of this subchapter a swimming pool is defined as any structure basin, chamber or tank containing an artificial body of water for swimming, diving or recreational bathing and having a depth of more than twenty-four (24) inches at any point and/or a surface area exceeding one hundred fifty (150) square feet.
- (2) In all districts where residential dwelling units are permitted uses, the following standards apply:

- (a) A certificate of compliance shall be required for any outdoor swimming pool with a capacity of over three thousand (3,000) gallons or with a depth of over three and one-half (3-1/2) feet of water.
- (b) An application for a certificate of compliance shall include a site plan showing:
- (c) The type and size of pool, location of pool, location of house, garage, fencing and other improvements on the lot, location of structures on all adjacent lots, location of filter unit, pump and writing indicating the type of such units, location of back-flush and drainage outlets, grading plan, finished elevations and final treatment (decking, landscaping, etc.) around the pool, location of existing overhead and underground wiring, utility easements, trees and similar features, and location of any water heating unit.
- (d) Pools shall not be located within twenty (20) feet of any septic tank/drainfield nor within six (6) feet of any principal structure or frost footing. Pools shall not be located within any required front or side yard setbacks.
- (e) Pools shall not be located beneath overhead utility lines nor over underground utility lines of any type.
- (f) Pools shall not be located within any private or public utility, walkway, drainage or other easement.
- (g) In the case of underground pools, the necessary precautions shall be taken during the construction, to:
- (h) Avoid damage, hazards or inconvenience to adjacent or nearby property. A temporary structure or safety fence of a non-climbable type at least five (5) feet in height shall completely enclose location of the pool, but shall not be located within any required rear yard areas.
- (i) Assure that proper care shall be taken in stockpiling excavated material to avoid erosion, dust or other infringements upon adjacent property.
- (j) All access for construction shall be over the owner's land and due care shall be taken to avoid damage to public streets and adjacent private or public property.
- (k) To the extent feasible, back-flush water or water from pool drainage shall be directed onto the owner's property or into

approved public drainage ways. Water shall not drain onto adjacent or nearby private land.

- (l) The filter unit, pump, heating unit and any other noise making mechanical equipment shall be located at least fifty (50) feet from any adjacent or nearby residential structure and not closer than fifteen (15) feet to any lot line.
- (m) Lighting for the pool shall be directed toward the pool and not toward adjacent property.
- (n) A structure or safety fence of a non-climbable type at least five (5) feet in height shall completely enclose the pool, but shall not be located within any required yard areas.
- (o) Water in the pool shall be maintained in a suitable manner to avoid health hazards of any type. Such water shall be subject to periodic inspection by the local health officer.
- (p) All wiring, installation of heating units, grading, installation of pipes and all other installations and construction shall be subject to inspection.
- (q) Any proposed deviation from these standards and requirements shall require a variance in accordance with normal zoning procedures.

**(3) In All Zoning Districts.**

- (a) All outdoor swimming pools existing and hereinafter constructed shall be completely enclosed by a safety fence or wall at least five feet in height, and same being installed within three weeks following the installation of the pool and before any water is allowed in the pool. All fence openings or points of entry into the pool area shall be equipped with self-closing and self-latching devices placed at the top of the gate or in a manner otherwise inaccessible to small children. Any openings between the fence bottom and the ground or other surface shall not exceed four (4) inches. Existing pools not presently in compliance with this provision shall comply prior to any water being allowed in pool.
- (b) Drainage of pools into public streets or other public drainage ways shall require written permission of the appropriate local public officials.

**AA. Signs.**

- (1) **Purpose.** The purpose of this section is to protect and regain the natural and scenic beauty of the road sides throughout Lakeland Shores. By the construction of public roads, the public has created views to which the public retains a right-of-way view and it is the intent of these standards to prevent the taking of that right.
- (2) **Permit Required.** Except as otherwise provided in this Ordinance, no sign shall be erected, constructed, altered, rebuilt or relocated until a sign permit or conditional use permit for the sign has been issued according to the chart in Section 151.008 AA, 30. However, no permit will be required under this Chapter for the following signs:
  - (a) All signs under ten (10) square feet in area, except those that require a conditional use permit.
  - (b) Real estate sale signs under nine (9) square feet in area.
  - (d) Warning signs which do not exceed nine (9) square feet in area.
- (3) **Definitions.** As used in this section, the following words and phrases shall have the meaning indicated:
  - (a) **Sign.** A display, illustration, structure or device which directs attention to an object, product, place, activity, person, institution, organization or business.
  - (b) **Sign - Advertising.** A sign that directs attention to a business or profession or to a commodity, service or entertainment not sold or offered upon the premises where such sign is located or to which it is attached.
  - (c) **Sign Area.** The entire area within a continuous perimeter enclosing the extreme limits of such sign. However, such perimeter shall not include any structural elements lying outside of such sign and not forming an integral part or border of the sign. The maximum square footage of multi-faced signs shall not exceed two (2) times the allowed square footage of a single-faced sign.
  - (d) **Sign - Business.** A sign that directs attention to a business or profession or to the commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is attached.

- (e) **Sign - Flashing.** An illuminated sign which has a light source not constant in intensity or color at all times while such sign is in use.
- (f) **Sign - Ground.** A sign which is supported by one (1) or more uprights, poles or braces in or upon the ground.
- (g) **Sign - Illuminated.** A sign which is lighted with an artificial light source.
- (h) **Sign - Identification.** A sign which identifies the inhabitant of the dwelling, not to exceed two (2) square feet in size.
- (i) **Sign - Motion.** A sign that has revolving parts or signs which produce moving effects through the use of illumination.
- (j) **Sign - Nameplate.** A sign which states the name and/or address of the business, industry or commercial occupant of the site and is attached to said building or site.
- (k) **Sign - Pedestal.** A ground sign usually erected on one (1) central shaft or post which is solidly affixed to the ground.
- (l) **Sign - Real Estate.** A sign offering property (land and/or buildings) for sale, lease or rent.
- (m) **Sign - Roof.** A sign erected upon or above a roof or parapet of a building.
- (n) **Sign - Shopping Center or Industrial Park.** A business sign designating a group of shops or offices (more than three (3)).
- (o) **Sign - Structure.** The supports, uprights, braces and framework of the sign.
- (p) **Sign - Temporary or Seasonal.** A sign placed on a lot or parcel of land for a period not to exceed ninety (90) days out of any twelve (12) month period. No sign permit fee is required.
- (q) **Sign - Wall.** A sign attached to or erected against the wall of a building with the exposed face of the sign a plane parallel to the plane of said wall.

- (r) **Sign - Warning.** A sign which warns the public of a danger or hazard in the immediate vicinity and is obviously not intended for advertising purposes.
- (4) No sign shall be allowed that prevents egress from any door, window or fire escape; that tends to accumulate debris as a fire hazard, or that is attached to a standpipe or fire escape or in any other way constitutes a hazard of health, safety or general welfare of the public.
- (5) No sign may be erected that, by reason of position, shape, movement, color or any other characteristic, interferes with the proper functioning of a traffic sign or signal or otherwise constitutes a traffic hazard; nor shall signs be permitted which would otherwise interfere with traffic control.
- (6) Private traffic circulation signs and traffic warning signs in alleys, parking lots or in other hazardous situations may be allowed on private property provided that such signs do not exceed three (3) square feet, except where the Minnesota Manual on Uniform Traffic Control Devices requires a larger sign panel, and are used exclusively for traffic control purposes.
- (7) Private signs, other than public utility warning signs, are prohibited within the public right-of-way of any street or way or other public property.
- (8) Illuminated signs may be permitted, but flashing signs, except ones giving time, date, temperature, weather or similar public service information, shall be prohibited. Signs giving off intermittent, rotating or directional light which may be confused with traffic, aviation or emergency are prohibited.
- (9) Political Signs. Political signs are allowed in any district on private property with the consent of the owner of the property. Such signs may not exceed a size of twenty (20) inches by forty (40) inches (20" X 40") and shall be placed upon the property only with the consent of the owner of the property. Such signs must be removed within seven (7) days following the date of election or elections to which they apply.
- (10) Illuminated signs shall be diffused or indirect so as not to direct rays of light into adjacent property or onto any public street or way. No illuminated signs or their support structure shall be located closer than twenty-five (25) feet to a roadway surface or closer than ten (10) feet to a road right-of-way line or property line, notwithstanding more restrictive portions of this section.

- (11) Real estate sales signs may be placed in any yard providing such signs are not closer than ten (10) feet to any property line.
- (12) Construction signs not exceeding thirty-two (32) square feet in area shall be allowed in all zoning districts during construction. Such signs shall be removed when the project is substantially completed.
- (13) Signs shall not be painted directly on the outside wall of a building. Signs shall not be painted on a fence, tree, stone or other similar objects in any district.
- (14) Roof signs are prohibited in all districts.
- (15) Signs on benches, newsstands, car stands, bus stop shelters and similar places shall require a sign permit as provided in this section.
- (16) Electrical Signs. All signs and displays using electric power shall have a cut-off switch on the outside of the sign and on the outside of the building or structure to which the sign is attached. No electrically illuminated signs shall be permitted in a residential district.
- (17) Offensive Signs. No signs shall contain any indecent or offensive picture or written matter.
- (18) Required Signs. In all zoning districts one (1) identification sign shall be required per building, except accessory structures and residential buildings which shall be required only to display, the street address or property number.
- (19) Advertising signs shall not be located closer than three thousand (3,000) feet to any other sign on the same side of a street or highway.
- (20) Multi-faced signs shall not exceed two (2) times the allowed square footage of a single-faced sign.
- (21) Except for more restrictive sub-sections of this Sign Section, no sign that exceeds one hundred (100) square feet in area shall be erected or maintained:
  - (a) Which would prevent any traveler on any street from obtaining a clear view of approaching vehicles on the same street for a distance of five hundred (500) feet.

- (b) Which would be closer than one thousand three hundred fifty (1,350) feet to a national, state or local park, historic site, picnic or rest area, church or school.
  - (c) Which would be closer than one hundred (100) feet to residential structures.
  - (d) Which would partly or totally obstruct the view of a lake, river, rocks, wooded area, stream or other point of natural and scenic beauty.
- (22) **Signs by Conditional Use Permit.** Where a use is permitted in a zoning district by conditional use permit, the sign for that use shall require a conditional use "permit unless the sign is otherwise provided for in this section.
- (23) **Permitted Signs in Residential Districts:**
- (a) **Types of Signs Allowed:** Nameplate, real estate sales, political, ground, temporary, wall and identification.
  - (b) No sign shall be so constructed as to have more than two (2) surfaces.
  - (c) **Number of Each Type of Sign Allowed Per Lot Frontage.** One (1) of each of the permitted type signs, except temporary signs where two (2) will be permitted and political signs where one (1) for each candidate will be permitted. No more than thirty-two (32) square feet of total display area will be permitted at anyone time in developed areas.
  - (d) **Size.** Not more than a total of sixteen (16) square feet with a four (4) foot maximum for any dimension except as otherwise restricted in this section. Total square feet of all signs shall not exceed thirty-two (32) square feet per lot.
  - (e) **Height.** The top of the display shall not exceed eight (8) feet above grade.
  - (f) **Setback.** Any sign over one and one-half (1-1/2) square feet shall be setback at least ten (10) feet from any lot line.
- (24) **Permitted Signs for Uses Requiring a Conditional Use Permit or Certificate of Compliance.**
- (a) Type, number, size, height and setback as specifically authorized by terms of the issued permit.

- (b) To the extent feasible and practicable, signs shall be regulated in a manner similar to that in the use district most appropriate to the principal use involved.

(25) **Sign Design, Construction and Maintenance.**

(a) **Required marking on signs.**

- (i) After the effective date of this Chapter, every sign for which a permit is required shall have painted in a conspicuous place thereon in letters not less than one (1) inch in height, the date of erection, the permit number and voltage of any electrical apparatus used in connection therewith.
- (ii) Every outdoor advertising sign erected under the provisions of this Chapter shall be plainly marked with the name of the person or firm erected such Sign.

- (b) **Projecting Signs.** Projecting signs are not allowed in any district.

(c) **Ground Signs.**

- (i) No ground sign shall be erected, constructed, altered, rebuilt or relocated to a height at the top of the display exceeding thirty-five (35) feet above the ground, unless otherwise restricted in this section.
- (ii) No ground sign display for which a permit is required shall be erected to a height of more than twelve (12) feet above the ground, unless the face is constructed of sheet metal or other noncombustible facing materials.
- (iii) The bottom of the facing of every ground sign shall be at least three (3) feet above the ground, which space may be filled with landscaping, platform or decorative trim of light wood or metal construction.
- (iv) The soil used for the dug-in type of anchor or post support shall be carefully placed and thoroughly compacted. The anchors and supports shall penetrate to a depth below ground greater than that of the frost line.

- (d) **Wall Signs.** Wall signs attached to exterior walls of solid masonry or concrete shall be safely and securely attached to the same by means of metal anchors, bolts or expansion screws of not less than three eighths (3/8) inch in diameter which shall be embedded at least five (5) inches. No wooden blocks or anchorage with wood used in connection with screws or nails shall be considered proper anchorage, except in the case of wall signs attached to buildings with walls of wood. No wall sign shall be entirely supported by an unbraced parapet wall.
- (e) **Sign Maintenance.**
  - (i) **Painting.** The owner of any sign shall be required to have such sign properly painted at least once every two (2) years, if needed, including all parts and supports of the sign, unless such parts or supports are galvanized or otherwise treated to prevent rust.
  - (ii) **Area Around Sign.** The owner or lessee of any sign, or the owner of the land on which the sign is located shall keep the grass, weeds or other growth cut and the area free from refuse between the sign and the street and also for a distance of six (6) feet behind and at the ends of said sign.
- (26) **Obsolete Signs.** Any sign for which no permit has been issued shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or land upon which the sign may be found within thirty (30) days after written notice from the Zoning Administrator.
- (27) **Unsafe or Dangerous Signs.** Any sign which becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety, shall be taken down and removed or structurally improved by the owner, agent or person having beneficial use of the building, structure or land upon which the sign is located within ten (10) days after written notice from the Zoning Administrator.
- (28) **Permit Fees.** The application for a sign permit shall be accompanied by a fee of twenty-five dollars (\$25.00) or twenty-five cents (\$0.25) per square foot of sign area, whichever amount is larger.

(29) **Expiration of Permit.** All sign permits for an advertising sign, business sign, motion sign, pedestal sign or any sign over one hundred fifty (150) square feet in area shall expire three (3) years from the date of issuance. If the work authorized under a sign permit has not been completed within six (6) months after the date of issuance, the permit shall become null and void.

(30) **Sign Permit Chart.**

SP = Sign Permit  
C = Conditional Use Permit with Public Hearing  
P = Permitted Use  
N = Not Allowed

(a) **Residential Districts (A & B)**

(i)	Advertising Sign:	N
(ii)	Business Sign	C
(iii)	Flashing Sign	N
(iv)	Ground Sign	P
(v)	Illuminated Sign	N
(vi)	Identification Sign	P
(vii)	Motion Sign	N
(viii)	Nameplate Sign	SP
(ix)	Pedestal Sign	P
(x)	Political Sign	P
(xi)	Real Estate Sign	P
(xii)	Roof Sign	N
(xiii)	Shopping Center Sign	O
(xiv)	Temporary or Seasonal Sign	P
(xv)	Wall Sign	SP
(xvi)	Warning Sign	P

(b) *Commercial District*

(i)	Advertising Sign:	N
(ii)	Business Sign	SP
(iii)	Flashing Sign	N
(iv)	Ground Sign	P
(v)	Illuminated Sign	N
(vi)	Identification Sign	P
(vii)	Motion Sign	N
(viii)	Nameplate Sign	SP
(ix)	Pedestal Sign	P
(x)	Political Sign	P
(xi)	Real Estate Sign	P
(xii)	Roof Sign	N
(xiii)	Shopping Center Sign	N
(xiv)	Temporary or Seasonal Sign	P
(xv)	Wall Sign	SP
(xvi)	Warning Sign	P

**BB. Reserved.**

**CC. Reserved.**

**DD. Reserved.**

**EE. Reserved.**

**FF. Reserved.**

**GG. Reserved.**

**HH. Reserved.**

**II. Reserved.**

**JJ. Reserved.**

**KK. Reserved.**

**LL. Reserved.**

**MM. Reserved.**

**NN. Drainage.**

- (1) No land shall be developed or altered and no use shall be permitted that results in surface water run-off causing unreasonable flooding, erosion or deposit of minerals on adjacent properties or waterbodies. Such run-off shall be properly channeled into a storm drain, a natural water course or drainage way, a ponding area or other public facility.
- (2) The Zoning Administrator, upon inspection of any site which has created drainage problems or could create drainage problems with proposed new development, may require the owner of said site or contractor to complete a grading plan and apply for a grading permit.
- (3) The owner or contractor of any natural drainage improvement or alteration may be required by the Zoning Administrator to obtain recommendations from the Minnesota Department of Natural Resources, the Soil Conservation Agent, the affected Watershed District(s) and/or the community engineers, as well as obtaining a local grading permit.
- (4) On any slope in excess of thirteen percent (13%) where, in the opinion of the zoning Administrator, the natural drainage pattern may be disturbed or altered, the zoning Administrator may require the applicant to submit both a grading plan and a soil conservation plan prior to applying for a building permit.
- (5) The owner or contractor of any natural drainage improvement or alteration shall follow the recommendations of Washington County and the affected watershed district, the Minnesota Department of Natural Resources and the Soil Conservation Association and the City concerning drainage and runoff.

**OO. Land Alteration and Grading.** The purpose of the standards in this subsection is to regulate the alteration or grading of land. Land alteration and grading is the reclaiming of land by excavating, depositing or moving material so as to alter the grade.

- (1) Permit Required. Land alteration and grading of fifty (50) cubic yards or more and/or the disturbance of land area of one thousand (1,000) square feet or more shall be permitted with a grading permit. A permit is not required for the following: agricultural activities, grading activities associated with a construction project provided a building permit is issued and there is a minimal amount of land disturbance, subdivisions that have reached final plat approval and driveways permitted with a building permit.
  - (a) The application for a permit shall include an existing and finished grading, drainage and erosion control plan. The finished grade plan shall show no adverse affects on adjacent land. The Zoning Administrator may require information in addition to this plan, including but not limited to, a plan for fire control, general maintenance of site, control of vehicle ingress and egress, preservation of vegetation and control of material disbursed from wind or hauling of material to or from the site.
  - (b) Grading permit applications will be reviewed by the Community Engineer and may be reviewed, as deemed necessary by the Zoning Administrator or in accordance with other rules, by the Minnesota Department of Natural Resources, and the appropriate Watershed Management Organization.
  - (c) The Zoning Administrator may require the applicant to post a bond or other financial guarantee to ensure compliance with the grading permit.
- (2) **General Standards.** The following general standards shall apply for grading, drainage, and erosion control:
  - (a) All development shall conform to the natural limitations presented by the topography and soil as to create the best potential for preventing soil erosion.
  - (b) Slopes over twenty-five percent (25%) shall not be altered.
  - (c) Development on slopes with a grade between thirteen (13%) and twenty-five (25%) shall be carefully reviewed to ensure adequate measures have been taken to prevent soil erosion, sedimentation, vegetative, and structural damage.
  - (d) Erosion and siltation measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.

- (e) Land shall be developed in increments of workable size such that erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at anyone period of time.
  - (f) The drainage system shall be constructed and operational as quickly as possible during construction.
  - (g) Whenever possible, natural vegetation shall be retained and protected.
  - (h) Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the disturbed area. The soil shall be restored to a depth of four (4) inches and shall be of quality at least equal to the soil quality prior to development.
  - (i) When soil is exposed, the exposure shall be for the shortest feasible period of time. No exposure shall be planned to exceed sixty (60) days. Said time period may be extended with approval of the Zoning Administrator provided measures have been established for erosion and sedimentation control.
  - (j) The natural drainage system shall be used as far as feasible for the storage and flow of runoff. Storm water drainage shall be discharged to sediment, detention or retention basins or other treatment facilities. Prior to discharge to wetlands, diversion of stormwater to marshlands or swamps shall be considered for existing and planned surface drainage. Wetlands used for stormwater shall provide for natural or artificial water level control. Storage areas or retention basins scattered throughout developed areas shall be encouraged to reduce peak flow, erosion damage and construction cost
- (3) **Erosion Control.** The following measures shall be taken to control erosion during the construction process:
- (a) Exposed slopes shall not be steeper in grade than four (4) feet horizontal to one (1) foot vertical (25%).
  - (b) Exposed slopes shall be protected by whatever means effective to prevent erosion considering the degree of the slope, soil material, and expected length of exposure. Slope protection may consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seedings of annual grasses.

- (c) Control measures, other than those stated above may be used in place of the above measures to control if it can be demonstrated that they will effectively protect exposed slopes.
- (4) **Sediment Control.** The following measures shall be taken to control sediment from leaving the construction site.
- (a) Temporary barriers shall be constructed to prevent sediment from leaving the site. These barriers may consist of silt fences, straw bale sediment traps, or other barriers approved by the Community Engineer.
  - (b) Temporary sediment basins or traps may be required to remove medium and large-sized sediment particles from runoff and reduce discharge velocity.
  - (c) The Zoning Administrator may require a temporary rock driveway at the site entrance to prevent sediment from leaving the site on the tires of vehicles.
- (5) **Restoration.** All permits shall contain a restoration plan providing for the use of land after project completion. The following are minimum standards for restoration:
- (a) All disturbed areas shall be restored at the completion of the project.
  - (b) All restoration shall include the application of a minimum of four (4) inches of a mineral topsoil or similar material that will support plant growth.
  - (c) Final grades shall be in conformity with the permit and topography of the surrounding land.
  - (d) If the land is to be restored to crop production, no slope shall exceed five (5) feet horizontal to one (1) foot vertical (20%).
  - (e) If the restoration is not for crop production, no grade shall exceed four (4) feet horizontal to one (1) foot vertical (25%).
  - (f) All restored areas shall be seeded with a mixture recommended by the Soil and Water Conservation District or returned to crop production.

- (g) The standards in B, C, D and E above may be raised or modified to accommodate a specific restoration plan.
- (6) **Floodplains.** Land alteration in floodplains shall also be in accordance with Floodplain Regulations.
- (7) **Public Waters.** No public water area shall be filled, partially filled, dredged, altered by grading, mining or disturbed in any manner without first securing a permit from the Minnesota Department of Natural Resources, the United States Army Corp of Engineers and a grading permit from the Zoning Administrator.
- (8) **Drainage.**
  - (a) No land shall be developed or altered and no use shall be permitted that results in surface water runoff causing unreasonable flooding, erosion, or deposit of materials on adjacent properties or water bodies. Such runoff shall be properly channeled into a storm drain, a natural watercourse or drainageway, a ponding area or other public facility.
  - (b) Upon inspection of any site which has created drainage problems or could create a drainage problem with proposed new development, the owner of said site or contractor may be required to complete a grading, drainage and erosion control plan and apply for a grading permit.
  - (c) The owner or contractor of any natural drainage improvement or alteration may be required to complete a grading, drainage and erosion control plan and apply for a grading permit.
  - (d) On any slope in excess of thirteen percent (13%) (8:1) where the natural drainage pattern may be disturbed or altered, the owner or contractor may be required to complete a grading, drainage and erosion control plan and apply for a grading permit.
- (9) **Wetland Preservation.** The alteration of wetlands shall comply with the rules and regulations of Federal, State and local agencies.
- (10) **Preservation of Natural Waterways/Waterways.** The regulation of this subsection shall be administered by the Zoning Administrator unless the Watershed Management Organization has permitting authority. In that event, the regulations of the Watershed Management Organization shall take precedence.

- (a) Storm sewers may be used where it can be demonstrated that the use of the aboveground natural drainage system will inadequately dispose of runoff. Surface water drainage systems may be constructed to augment the natural drainage system.
- (b) The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten (10) year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.
- (c) No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.
- (d) The banks of the waterway shall be protected with permanent turf vegetation.
- (e) The banks of the waterway should not exceed five (5) feet horizontal to one (1) foot vertical.
- (f) The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks and waterway.
- (g) The bed of the waterway should be protected with turf or sod. If turf or sod will not function properly, rip rap may be used. Rip rap shall consist of quarried limestone or field stone (if random rip rap is used). The rip rap shall be no smaller than two (2) feet square.
- (h) The flow velocity of runoff waterways shall be controlled to a velocity that will not cause erosion of the waterway. If the flow velocity in the waterway is such that erosion of the turf sidewall will occur and said velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls. Rip rap would be allowed to prevent erosion at these points.
- (i) Flow velocity should be controlled through the installation of diversions, berms, slope drains and other similarly effective velocity control structures.
- (j) To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures shall be incorporated throughout the contributing watershed.

- (k) Temporary pervious sediment traps could consist of a construction of hay bales with a low spillway embankment section of sand and gravel that permits slow movement of water while filtering sediment. Such structures would serve as temporary sediment control features during the construction state of the development. Development of housing and other structure shall be restricted from the area on either side of the waterway to channel a twenty-five (25) year storm.
- (l) Permanent impervious sediment control structures consist of sediment basins (debris basins, desiltation basins or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.
- (m) The erosion and velocity control structures shall be maintained in a condition that will insure continuous functioning according to the provisions of this Development Code.
- (n) Sediment basins shall be maintained as the need occurs to Insure continuous desilting action.
- (o) The areas utilized for runoff waterways and sediment basins shall not be allowed to exist in an unsightly condition. The banks of the sediment basin shall be landscaped.
- (p) Prior to the approval of a plat for development, the developer shall make provisions for continued maintenance on the erosion and sediment control system.

**PP. Land Clearing.**

- (1) **Required Permits:** Land clearing on an area of twenty thousand (20,000) square feet or more is permitted in all districts, provided a Certificate of Compliance is issued. A permit is not required for clearing trees and other woody plants in an area less than twenty thousand (20,000) square feet, clearing activities associated with a construction project provided a building permit is issued and there is minimal amount of clearing, and subdivisions that have received final plat approval.
- (2) **Other Requirements.** Land clearing must comply with all rules and regulations of Federal, State, County and local agencies.
- (3) **Performance Standards.** Land clearing shall comply with the following:

- (a) There shall be no removal of trees located on slopes greater than twenty-five percent (25%), or in wooded floodplains, wooded wetlands, and stream corridors. Trees and woodlands within the Shoreland Overlay District and the St. Croix River District are subject to the requirements as stated in Chapter Six, Shore land Management Regulations and Chapter Five, Lower St. Croix River Bluffland and Shoreland Management Regulations in addition to the regulations of this Chapter.
- (b) Construction fences or barricades may be required to be placed at the perimeter of the area to be cleared.
- (c) Erosion and siltation measures shall be coordinated with the different stages of clearing. Appropriate control measures shall be installed prior to land clearing when necessary to control erosion.
- (d) Land shall be cleared in increments of a workable size such that erosion and siltation controls can be provided as the clearing progresses. The smallest practical area of land shall be exposed at anyone period of time.
- (e) Restoration. All permits shall contain a restoration plan providing for the use of the land after project completion. The following are minimum standards for restoration:
- (f) All disturbed areas shall be restored at the completion of the project.
- (g) All restoration shall include the application of a minimum of four (4) inches of mineral soil or similar material that will support plant growth.
- (h) All restored areas shall be seeded with a mixture recommended by the Soil and Water Conservation District unless it is put into forest or row crop production.
- (i) Final grades shall be in conformity with the permit and topography of the surrounding land.
- (j) The standards above may be raised or modified to accommodate a specific restoration plan.

The Zoning Administrator may require the applicant to post a bond or other financial guarantee to ensure compliance with the certificate of compliance.

**QQ. Soil Conservation Plans.**

- (1) On any development or land alteration project with more than one (1) acre of soil, drainage patterns or vegetation cover that would be either destroyed or disturbed by the construction process, the Community Zoning Administrator may require the owner or contractor on said project to request the Soil Conservation District to prepare a Soil Conservation Plan to protect the soil from erosion or sheet run-off for the duration of the construction project and/or over the long term occupancy of the site.
- (2) The Zoning Administrator may require a soil conservation plan on projects which disturb less than one (1) acre of soil, drainage patterns or vegetation cover if, in the judgment of the Zoning Administrator, significant soil erosion, vegetation destruction or drainage damage may occur during the construction process.
- (3) A soil conservation plan shall consist of specific written recommendations on how to protect the soil, vegetation and drainage patterns during the construction process. The Zoning Administrator may require construction fencing along the edges of the construction area.
- (4) Where construction of a structure is proposed on slopes of thirteen percent (13%) to eighteen percent (18%), the Zoning Administrator may require the applicant to provide a grading and erosion control plan and may require a certificate of compliance.
- (5) Where construction of a structure is proposed on slopes of eighteen percent (18%) to twenty-five percent (25%), the Zoning Administrator shall require the applicant to provide a grading and erosion control plan and a certificate of compliance prior to issuance of a building permit.
- (6) The Governing Body may require the applicant to post a bond to ensure the orderly completion of the grading and erosion control plan by a specific date.

**RR. Reserved.**

**SS. Access Drives and Access.**

- (1) Access drives may not be placed closer than five (5) feet to any side or rear lot line. No access drive shall be closer than three (3) feet to any single family residence, no closer than five (5) feet to any building. The number and types of access drives onto major streets may be controlled and limited in the interests of public safety and efficient traffic flow.

- (2) Access drives onto county roads shall require an access permit from the County Engineer. This permit shall be acquired prior to the issuance of any building permits. The County Engineer shall determine the appropriate location, size and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow. The County Engineer may refer the request for an access drive permit onto a county road to the Governing Body for their comment.
- (3) Access drives to principal structures which traverse wooded, steep or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. The Community Engineer or Building official shall review all access drives (driveways) for compliance with accepted community access drive standards.
- (4) **Driveway/Access way Standards.**
  - (a) **Single Family Dwelling:**
    - (i) **Maximum Slope:** 10 feet in vertical rise in 100 horizontal feet.
    - (ii) **Minimum Width:** 12 feet driveway base, vegetation cleared to 8 feet on each side of driveway centerline.
    - (iii) **Pavement Strength:** Capable of supporting emergency fire or other heavy vehicles.
  - (b) **Commercial:**
    - (i) **Maximum Slope:** 8 feet vertical rise in 100 horizontal fee.
    - (ii) **Minimum Width:** 20 feet driveway base or as approved by the community engineer.
    - (iii) **Pavement Strength:** Capable of supporting emergency fire or other heavy vehicles.
- (5) All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway, or an existing private roadway approved by the Governing Body.

In addition to the required direct physical access along the frontage of the lot or parcel to the approved public or private roadway, a lot

or parcel may have private easement access drives to the lot over adjacent lots or parcels.

**TT. Tennis Courts.**

- (1) In all districts, the following standards shall apply:
  - (a) A certificate of compliance shall be required for all private tennis courts on residential lots.
  - (b) A conditional use permit shall be required for all public, semi-public and commercial tennis courts.
  - (c) An application for a certificate of compliance or a conditional use permit shall include a site plan showing:
    - (i) The size, shape and pavement and sub-pavement materials, the location of the court, the location of the house, garage, fencing, septic systems and any other structural improvements on the lot, the location of structures on all adjacent lots, a grading plan showing all revised drainage patterns and finished elevations at the four corners of the court, landscaping and turf protection around the court, location of existing and proposed wiring and lighting facilities.
  - (d) Tennis courts shall not be located closer than fifteen (15) feet to any side or rear lot line. Tennis courts shall not be located within any required front yard.
  - (e) Tennis courts shall not be located over underground utility lines of any type, nor shall any court be located within any private or public utility, walkway, drainage or other easement.
  - (f) Solid tennis court practice walls shall not exceed ten (10) feet in height. A building permit shall be required for said walls. Said walls shall be setback a minimum of thirty (30) feet from any lot line.
  - (g) Chain link fencing surrounding the tennis court may extend up to twelve (12) feet in height above the tennis court surface elevation.

UU. **Vegetative Cutting.**

- (1) For purposes of this subchapter, the following definitions are made.
  - (a) Clear cutting shall be defined as removal of all live vegetation in excess of six (6) inches in diameter at breast height on any area of twenty thousand (20,000) square feet or more in size.
  - (b) Selective cutting shall be defined as the removal of single scattered live trees or shrubs in excess of six (6) inches in diameter at breast height.
- (2) Clear cutting of vegetation shall not be permitted within any required yard of any lot or parcel within any zoning use district.
- (3) Clear cutting for commercial tree production purposes shall require a conditional use permit in Commercial District.
- (4) Selective tree cutting may occur on any lot provided:
  - (a) Any cutting on slopes of greater than eighteen percent (18%) shall require a Soil Conservation District re-vegetation plan and a certificate of compliance prior to issuance of a building permit.

VV. **Home Occupations.**

- (1) **Purpose.** The purpose of this Section is to maintain the character and integrity of residential areas and to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety and general welfare of the surrounding neighborhood. In addition, this Section is intended to provide a mechanism enabling the distinction between permitted home occupations and special or customarily more sensitive home occupations, so that permitted home occupations may be allowed through an administrative process rather than a legislative hearing process.
- (2) **Procedures and Permits.**
  - (a) **Permitted Home Occupation.** Any permitted home occupation as defined in this Chapter, and subject to the performance standards of this Section, may be conducted solely within a single family detached dwelling (excluding attached garage space and/or any accessory structures). The

permitted home occupation shall require a permitted home occupation permit. Such permits shall be issued subject to the conditions of this Section, other applicable City ordinances and State law. This permit may be issued by the Zoning Administrator based upon proof of compliance with the provisions of this Section. Application for the permitted home occupation permit shall be accompanied by a fee as adopted by the City Council. If the Zoning Administrator denies a permitted home occupation permit to an applicant, the applicant may appeal the decision to the City Council. The permit shall remain in force and effect until such time as there has been a change in conditions or until such time as the provisions of this Section have been breached. An annual fee, as set by the City Council, will be charged to the applicant. At such time as the City has reason to believe that either event has taken place, a public hearing shall be held, and the City Council shall make a final decision on whether or not the permit holder is entitled to the permit.

- (b) **Special Home Occupation.** Any home occupation which does not meet the specific requirements for a permitted home occupation as defined in this Section shall require a special home occupation permit which shall be applied for review and disposed on in accordance with the procedural provisions of a conditional use permit found in Section 151.005 A(3) of this Chapter.
- (c) **Declaration of Conditions.** The City Council may impose such conditions on the granting of a special home occupation permit as may be necessary to carry out the purpose and provisions of this Section.
- (d) **Transferability.** Permits shall not run with the land and shall not be transferable.
- (e) **Lapse of Special Home Occupation Permit by Non-Use.** Whenever within one (1) year after granting a permit the use as permitted by the permit shall not have been initiated, then such permit shall become null and void, unless a petition for extension of time in which to complete the work has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original 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 initiate the use. Such

petition shall be presented to the City Council for a decision.

- (f) **Reconsideration.** Whenever an application for a permit has been considered and denied by the City Council, a similar application for a permit affecting substantially the same property shall not be considered again by the City Council for at least six (6) months from the date of its denial unless a decision to reconsider such matters is made by not less than four-fifths (4/5) vote of the City Council.

- (3) **Requirement-General Provisions.** All home occupations shall comply with the following general provisions and according to definition, the applicable requirement provisions.

- (a) **General Provisions.**

- (i) No home occupation shall involve firearms, guns or ammunition, produce light, glare, noise, odor, vibration, smoke, dust, heat, or hazardous or toxic material shall not be produced, stored or kept on the premises that will in any way have an objectionable effect upon adjacent or nearby property.
- (ii) No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.
- (iii) Any home occupation shall be clearly incidental and secondary to the residential use of the premises, should not change the residential character thereof, and shall result in no incompatibility or disturbance to the surrounding residential uses.
- (iv) No home occupation shall require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and state fire and police recommendations.
- (v) There shall be no exterior storage of equipment or materials used in the home occupation, except personal automobiles used in the home occupation may be parked on the site.
- (vi) The home occupation shall meet all applicable fire and building codes.

- (vii) There shall be no exterior display or exterior signs or interior display or interior signs which are visible from outside the dwelling.
- (viii) All home occupations shall comply with the provisions of the City Code.
- (ix) No home occupation shall be conducted between the hours of 10:00 p.m., and 7:00 a.m., unless said occupation is contained entirely within the principal building, excluding attached garage space, and will not require any on-street parking facilities.
- (x) No commodity shall be sold on the premises.
- (xi) Not over twenty-five percent (25%) of any one story can be used for a home occupation.

(b) **Requirements-Permitted Home Occupations.**

- (i) No person other than those who customarily reside on the premises shall be employed.
- (ii) The general public shall not come to the premises in question for purposes pertaining to the conduct of the home occupation.
- (iii) All permitted home occupations shall be conducted entirely within the principal dwelling, excluding attached garage space and may not be conducted in an accessory building.

(4) **Non-Conforming Use.** Existing home occupations lawfully existing on the date of this Code may continue as non-conforming uses. They shall, however, be required to obtain permits for their continued operation. Any existing home occupation that is discontinued for a period of more than thirty (30) days, or is in violation of the Chapter's provisions under which it was initially established, shall be brought into conformity with the provisions of this Section.

(5) **Inspection.** The City of Lakeland Shores hereby reserves the right, upon issuing any home occupation permit, to inspect the premises in which the occupation is being conducted to insure compliance with the provisions of this Section or any conditions additionally imposed.

**§ 151.009 ENFORCEMENT**

**A. Violations and Penalties.**

- (1) **Violations.** The violation of any provision of this Chapter or the violation of the conditions or provisions of any permit issued pursuant to this Chapter, by any person, firm or corporation shall be a misdemeanor and, upon conviction thereof, the violator shall be subject to the maximum fine allowed by State law or imprisonment for a term not to exceed ninety (90) days or both, plus in either case, the cost of prosecution.
- (2) **Penalties.** Unless otherwise provided, each act of violation and every day on which such violation occurs or continues constitutes a separate offense.
- (3) **Application to Community Personnel.** The failure of any officer or employee of the community to perform any official duty imposed by this Chapter shall not subject the officer or employee to a penalty imposed for violation unless a penalty is specifically provided for such failure.
- (4) **Equitable Release.** In the event of a violation or the threatened violation of any provision of this Ordinance, or any provision or condition of a permit issued pursuant to this Ordinance, the community in addition to other remedies. may institute appropriate actions or proceedings to prevent. restrain. correct or abate such violation or threatened violation.

**§ 151.010 SEPARABILITY, SUPREMACY AND EFFECTIVE DATE**

**A. Separability.** Every section, provision, or part of this Chapter or any permit issued pursuant to this Chapter is declared separable from every other section. provision or part thereof to the extent that if any section, provision or part of this ordinance or any permit issued pursuant to this ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section. provision or part thereof.

**B. Supremacy.** When any condition imposed by any provision of this Chapter on the use of land or buildings or on the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by any provision of any other community ordinance or regulation, the more restrictive conditions shall prevail.

This Chapter is not intended to abrogate any easements. restrictions or covenants relating to the use of land or imposed on lands within the community by private declaration or agreement, but where the provisions of this Chapter are more restrictive than any such easement, restriction or covenant or provision of any private agreement,

the provisions of this Chapter shall prevail.

**C. Effective Date.** This Chapter shall be in full force and effect from and after or the date of its passage and publication according to law, whichever occurs first.

## CHAPTER 152: SUBDIVISION REGULATIONS

### Section

- 152.001 Introduction
- 152.002 Purpose
- 152.003 Definitions
- 152.004 Platting Procedure
- 152.005 Preliminary and Final Plat Requirements
- 152.006 Minimum Design Standards
- 152.007 Engineering Standards
- 152.008 Require Improvements & Financial Arrangements
- 152.009 General Provisions
- 152.010 Enforcement

### § 152.001 INTRODUCTION

Washington County is but one of the land areas making up the St. Paul-Minneapolis seven county Metropolitan Area. Its present land use character is varied, as in any area, but predominantly it is made of agricultural land units. Its proximity to the core of the Metropolitan Area suggests that with the forecasted expansion of population, the land use in Washington County will continue to change as it has in the last fifteen years. In regard to land use, the changes will be made in the direction of smaller pieces of land for housing and commercial uses, and finally large scale commercial use such as sales, office, multiple dwelling or concentrated housing developments.

During the course of such change, on a large or small scale, land holdings are divided into lots with provision for new streets and for the basic utilities such as power, telephone, water and sewer. This conversion of land into building sites is a process which requires careful regulation to ensure an attractive, efficient and safe community environment. Provision must also be made for possible future resubdivision, for after the subdivision of a land parcel has been approved and buildings permitted, the same standards must be met by future resubdivision. The division, combination or resubdivision of land parcels are the first step in shaping the physical character of a community and as such are important process which should be subject to public regulation.

Adequate, up-to-date Subdivision Regulations, as well as good administration and enforcement, are the tools to control the change in land use. These Subdivision Regulations must reflect the desire of the City as outlined in its Comprehensive Development Plan. Because the City's outlook will vary as an area toward urbanization, both the Comprehensive Plan and Subdivision Regulations need periodic review. Finally, of course, the zoning requirements outline the actual land area usage controlled by the Subdivision Regulations within the framework of the Comprehensive Plan.

### **A. Why Plat.**

The land use pattern of Washington County is changing from an agricultural land use, which required large parcels of land, to an urban land use, requiring much smaller parcels. Land has been bought and sold using metes and bounds descriptions, but now with smaller parcels being bought and sold the practice of describing them by metes and bounds is no longer practical.

Many metes and bounds descriptions, past and present, written by unqualified people do not properly describe conveyance of land. Overlaps and gaps have been created by these poor descriptions and can only be corrected by the courts. Descriptions based on a good boundary survey can be checked, therefore, the record plat is a highly desirable instrument. The underlying description of the property to be platted can be adjusted or corrected, based on a boundary survey. The recorded plat then becomes a legal document denoting lots and blocks as the subdivision of the described tract of land. Clean, simple and accurate conveyances can then be made and described as Lot, Block, Plat Name. The present platting system was established to provide a simple system for keeping records of the division and ownership of land. Minnesota Statutes give the registered land surveyor exclusive rights to prepare plats. The statutes also set minimum standards that the surveyor must meet and regulate the plat itself, as to information required, size, number and kind. The reader is referred to the Minnesota Statutes § 505 and the standard procedures for platting in Washington County.

### **B. How Plattings are Accomplished.**

Prior to the preparation of a plat, the subdividers or owners should meet with local officials, with the planning staff and City Engineer in order to be made fully aware of all applicable ordinances, regulations and plans in the area to be subdivided. At this time or at a time subsequent informal meeting, the subdivider should submit a general sketch plan of the proposed subdivision and preliminary proposals for the provision of water supply and waste disposal. The sketch plan can be presented in simple form but should show any zoning changes which would be required and should show that consideration has been given to the relationship of the proposed subdivision to existing community facilities that would serve it, to neighboring subdivisions and development, and to the topography of the site. The subdivider is urged to avail himself of the advice and assistance of the planning staff and the local governing body at this point in order to save time and effort and facilitate the approval of the plat.

The next step is for the subdivider to prepare a preliminary plat for the area to be subdivided. The preliminary plat is a very detailed drawing showing the proposed development and necessary accessory information. It contains more detail than is required on the sketch plan and serves as the basis for the public hearing. It also serves as the master plan for a development where subdividing a piece of land is carried out stepwise, by a series of plats, where the first plat which is approved and recorded may be only part of the total plan, and may later be followed by other plats, all in conformity with the overall plan.

After the preliminary plat is approved, the subdivider will have his surveyor prepare a final plat covering all or part of the land to be subdivided. The final plat is a legal document designed primarily to record in the county offices the exact boundaries and location of parcels of land. Before the City will approve the plat, it will usually require the subdivider to agree to do certain things, such as pave streets. The City will make sure that all such matters are agreed to by the subdivider, and are covered as necessary by written contract, and by bond, before the plat is approved.

### **§ 152.002 PURPOSE**

The process of dividing raw land into home sites, or separate parcels for other uses, is one of the most important factors in the growth of any community. Few activities have a more lasting effect upon its appearance and environment. Once the land has been subdivided into urban lots and the streets, homes and other structures have been constructed, the basic character of this permanent addition to the community has become firmly established. It is then virtually impossible to alter its basic character without substantial expense. In most subdivisions, roads and streets must be maintained and various public service must be provided. The welfare of the entire community is thereby affected in many important respects. It is, therefore, to the interest of the general public, the developer, and the future owners that subdivisions be conceived, designed, and developed in accordance with sound rules and proper standards.

All subdivisions of land hereafter submitted for approval shall fully comply, in all respects, with the regulations set forth herein. It is the purpose of these regulations to:

- (1) Encourage well planned, efficient and attractive subdivisions by establishing adequate standards for design and construction.
- (2) Provide for the health and safety of residents by requiring properly designed streets and adequate sewage and water service.
- (3) Place the cost of improvements against those benefiting from their construction.
- (4) Secure the rights of the public with respect to public lands and waters.
- (5) Set the minimum requirements necessary to protect the public health, safety, comfort, convenience and general welfare.

### **§ 152.003 DEFINITIONS**

#### **A. Usage.**

- (1) For the purpose of these regulations, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this section.
- (2) Unless the context clearly indicates to the contrary, words used in

the present tense include the future tense; words used in the plural number include the singular; the word "herein" means "in these regulations"; the word "regulations" means "these regulations."

- (3) A "person" includes a corporation, a partnership and an incorporated association of persons such as a club; "shall" is always mandatory; a "building" includes a "structure"; a "building" or "structure" includes any part thereof; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."
- (4) In the event of conflicting provisions in the text of this regulation the restrictive shall apply.

**B. Definitions.** For the purpose of this Chapter, certain terms and words are hereby defined as follows:

- (1) **Alley.** Any dedicated public right-of-way providing a secondary means of access to abutting property.
- (2) **Applicant.** The owner of land proposed to be subdivided or his representative. Consent shall be required from the legal owner of the premises.
- (3) **Attorney.** The attorney employed by the City unless otherwise stated.
- (4) **Arterial, Minor.** A road intended to move through and from adjacent sub-regions and activity centers within sub-regions.
- (5) **Block.** The enclosed area within the perimeter of roads, property lines or boundaries of the subdivision.
- (6) **Bond.** Any form of security including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the City Council. All bonds shall be approved by the City Council wherever a bond is required by these regulations.
- (7) **Boulevard.** The portion of the street right-of-way between the curb line and the property line.
- (8) **Butt Lot.** A lot at the end of a block and located between two corner lots.
- (9) **Cluster Development.** A subdivision development planned and constructed so as to group housing units into relatively tight

patterns while providing a unified network of open space and wooded areas and meeting the overall density regulations of this ordinance and the Zoning Ordinance.

- (10) **Collector Street or Road.** A road intended to move traffic from local roads to secondary roads.
- (11) **Community.** The City of Lakeland Shores.
- (12) **Comprehensive Development Plan.** A comprehensive plan prepared by the City including a compilation of policy statements, goal,. standards and maps indicating the general locations recommended for the various functional classes of land use, places and structures and for the general physical development of the City and includes any unit or part of such plan or parts thereof.
- (13) **Contour Map.** A map on which irregularities of land surface are shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines.
- (14) **Copy.** A print or reproduction made from a tracing.
- (15) **Corner Lot.** A lot bordered on at least two (2) adjacent sides by using streets.
- (16) **County.** Washington County, Minnesota.
- (17) **County Board.** The Washington County Board of Commissioners.
- (18) **Cul-De-Sac.** A minor street with only one outlet and having a turnaround.
- (19) **Developer.** The owner of land proposed to be subdivided or his representative. Consent shall be required from the legal owner of the premises.
- (20) **Development.** The act of building structures and installing site improvements.
- (21) **Double Frontage Lots.** Lots which have a front line abutting on one street and a back or rear line abutting on another street.
- (22) **Drainage Course.** A water course or indenture for the drainage of surface water.

- (23) **Basement.** A grant by an owner of land for a specific use by persons other than the owner.
- (24) **Engineer.** The registered engineer employed by the City unless otherwise stated.
- (25) **Escrow.** A deposit of cash with the local government in lieu of an amount required and still in force on a performance or maintenance bond. Such escrow funds shall be deposited by the City/Administrator in a separate account.
- (26) **Final Plat.** The map or plan or record of a subdivision and any accompanying material, as described in these regulations.
- (27) **Governing Body.** The City council of the City of Lakeland Shores.
- (28) **Grade.** The slope of a road, street or other public way specified in percentage (%) terms.
- (29) **Individual Sewage Disposal System.** A sewage treatment system or part thereof, serving a dwelling or other establishment, or group thereof, consisting of one or more septic tanks and a soil treatment system.
- (30) **Local Road or Street.** A road intended to provide access to other roads from individual properties and to provide right-of-way beneath it for sewer, water and storm drainage pipes.
- (31) **Lot.** A parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof
- (32) **Lot, Corner.** A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding 135 degrees.
- (33) **Major Subdivision.** All subdivisions not classified as minor subdivisions including, but not limited to, subdivisions of four (4) or more lots, or any size subdivision requiring any new street or extension of the local government facilities, or the creation of any public improvements.
- (34) **Marginal Access Street (Service Road).** A minor street parallel to and adjacent to high volume arterial streets and highways, which provide access to abutting properties and protection of through

traffic.

- (35) **Metes and Bounds.** A method of describing land by measure of length (metes) of the boundary lines (bounds). Most common method is to recite direction and length of each lines as one would walk around the perimeter. In general, the "metes" and "bounds" can be recited by reference to record, natural or artificial monuments at the corners; and record, natural or cultural boundary lines.
- (36) **Minimum Subdivision Design Standards.** The guides, principles and specifications for the preparation of subdivision plans indicating among other things, the minimum and maximum dimensions of the various elements set forth in the plan.
- (37) **Minor Subdivision.** Any subdivision containing not more than three (3) lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provisions or portion of the Master Plan, Official Map, Zoning Ordinance or these regulations.
- (38) **Natural Water Way.** A natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area. The term also includes all drainage structures that have been constructed or placed for the purpose of conducting water from one place to another.
- (39) **Nonresidential Subdivision.** A subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of these regulations.
- (40) **Outlot.** A lot remnant or any parcel of land included in a plat, which may be used as open space. Such outlot may be a large tract that could be subdivided in the future or may be too small to comply with the minimum size requirements of zoning and subdivision ordinances or otherwise unsuitable for development and therefore not usable as a building site.
- (41) **Owner.** An individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under

these regulations.

- (42) **Pedestrian Way.** A public right-of-way across or within a block, to be used by pedestrians.
- (43) **Person.** Any individual, firm, association, syndicate or partnership, corporation, trust, or any other legal entity.
- (44) **Planning Commission.** The City Planning Commission.
- (45) **Preliminary Plat.** The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the City Council for approval. Preliminary Plat shall contain data required as outlined in Section 5.
- (46) **Private Street.** A street serving as vehicular access to two (2) or more parcels of land which is not dedicated to the public, but is owned by one or more private parties.
- (47) **Protective Covenants.** Contracts entered into between private parties and constituting a restriction on the use of all private property within a subdivision for the benefit of the property owners and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.
- (48) **Reserve Strips.** A narrow strip of land placed between lot lines and streets to control access.
- (49) **Resubdivision.** A change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.
- (50) **Right-of-Way.** The land covered by a public road or land dedicated for public use or for certain private use such as land over which a power line passes.
- (51) **Road, Dead-End.** A road or a portion of a street with only one (1) vehicular traffic outlet.
- (52) **Sketch Plan.** A drawing showing the proposed subdivision of property. This plan is not necessarily drawn to scale and exact accuracy is not a requirement.

- (53) **Sketch Plat.** A sketch preparatory to the preparation of the preliminary plat (or subdivision plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the City and Planning Department as to the form of the plat and the objects of these regulations.
- (54) **Street.** A way for vehicular traffic, whether designated as street, highway, thoroughfare, parkway, through-way, road, avenue, boulevard, lane, place, drive, court, or otherwise designated.
- (55) **Street Width.** The shortest distance between the lines delineating the right-of-way of a street.
- (56) **Subdivider.** The owner, agent or person having control of such land as the term is used in this Chapter.
- (57) **Subdivision.** The division of a parcel of land after the effective date of this Chapter into two (2) or more lots or parcels, for the purpose of transfer of ownership or building developments. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.
- (58) **Survey, Land.** The process of determining boundaries and areas of tracts of land. The term cadastral survey is sometimes used to designate a land survey, but in this country its use should be restricted to the surveys of public lands of the United States. Also called property survey; boundary survey.
- (59) **Surveyor.** A land surveyor registered under Minnesota State Laws.
- (60) **Thoroughfare.** A street primarily designated to carry large volumes of traffic and provide for vehicular movement between and among large areas.
- (61) **Zoning Ordinance.** A zoning ordinance or resolution controlling the use of land as adopted by the City Council.
- (62) **Vicinity Map.** A map drawn to comparatively small scale which definitely shows the area proposed to be platted in relation to known geographical features. i.e., town centers, lakes, roads.

**§ 152.004 PLATTING PROCEDURE**

**A. Sketch Plan**

- (1) In order to ensure that all applicants are informed of the procedural requirements and standards of this Ordinance, and the requirements or limitations imposed by City Ordinances and the Comprehensive Plan, all applicants shall meet with the Planning Commission and prepare a sketch plan prior to preparing a preliminary plat. The sketch plan shall be drawn to scale and contain as a minimum the following information:
  - (a) Tract boundaries and dimensions.
  - (b) Significant topographic and physical features.
  - (c) Proposed general street and lot layout.
  - (d) General location of proposed public and private open space areas.
  - (e) General drainage plan.

**B. Preparing and Submitting the Preliminary Plat.**

- (1) When the subdivider feels he is ready to prepare the preliminary plat he shall have his surveyor and/or planner draw one which is in conformity with the requirements of this Chapter. (See Section 152.005.)
- (2) The subdivider shall fill out an "Application for Consideration of Planning Request," or other applicable blanks, as may be required.
- (3) The subdivider shall furnish the City Clerk with ten (10) copies of the preliminary plat and seven (7) copies with the Washington County Surveyor's Office.
- (4) Furnish copies to appropriate watershed district.
- (5) If owner and developer are not the same, a consent of owner shall be filed.

**C. Review of the Preliminary Plat.**

- (1) The City Clerk shall, upon receipt of the plat and application, refer one copy of the plat and application to the City Council, two copies of the plat to the Planning Commission and one copy of the plat to the engineer. Two copies of the plat shall also be referred to the County Planning Coordinator and one copy of the plat to the school district.

(2) Any proposed preliminary plat which includes lands abutting upon any existing or established trunk highway or proposed highway which has been designated by a centerline order filed in the office of the county recorder shall first be presented to the Commission of Transportation for his written comments and recommendations. Where any preliminary plat includes land abutting upon an existing or established county or county state aid highway, it shall first be submitted to the county engineer for his written comments and recommendations. Preliminary plans involving both a trunk highway and a highway under county jurisdiction shall be submitted to the Commissioner of Transportation and the county highway engineer. Plats shall be submitted for review at least thirty (30) days prior to the home rule charter of statutory City, town or county taking final action on the preliminary plat. The Commissioner of Transportation and/or the County Highway Engineer shall submit the written comments and recommendations to the City, town or county within thirty (30) days after receipt by them of such a plat. Final action on such plat by the City, Town or County shall not be taken until after these required comments and recommendations have been received or until the thirty-day period has elapsed. A legible preliminary drawing or print of a proposed preliminary plat shall be acceptable for purposes of review by the Commissioner of Transportation or the County Highway Engineer. To such drawing or print, there shall be attached a written statement describing:

- (a) the outlet for and means of disposal of surface waters from the proposed platted area;
- (b) the land use designation or zoning category of the proposed platted area;
- (c) the locations of ingress and egress to the proposed platted area; and
- (d) a preliminary site plan for the proposed platted area, if one has been prepared.

Failure to obtain the written comments and recommendations of the Commissioner of Transportation or the County Highway Engineer shall in no manner affect the title of the lands included in the plat or the platting of said lands. A certificate or other evidence shall be required to or upon the plat for filing in the Office of the County Recorder or Registrar of Titles as to the submission of or the obtaining of such written comments and recommendations. The home rule charter or statutory City, town or county shall provide the certificate or other evidence to the County Recorder or Registrar of Titles.

- (3) The Engineer, School Board, County Planning Coordinator and the District Highway Engineer, if appropriate, shall within thirty (30) days, submit reports to the City Council expressing recommendations for approval, disapproval or revisions. If no report is received within thirty (30) days, it will be assumed by the Planning Commission that there are no objections to the plat as submitted.

After review by the City Council and upon receipt of an application by the City Council, the City Council Planning Commission shall hold a public hearing and follow procedures as set forth in the City's Subdivision Chapter.

- (4) Within forty-five (45) days after the preliminary plat is filed and application fees are paid, the Planning Commission must hold a public hearing on the subdivision. Notice of the purpose, time and place of such public hearing shall be published in the official newspaper at least ten (10) days prior to the day of hearing.
- (5) The City Council may require modifications, changes and revisions of the preliminary plat, as it deems necessary to protect the health, safety, morals, comfort, convenience and general welfare of the City.
- (6) If the preliminary plat is not approved by the City Council, the reasons for such action shall be recorded in the proceedings and transmitted to the applicant.
- (7) Should the subdivider desire to amend the plat as approved, he may submit an amended plat which shall follow the same procedure as a new plat, except for the public hearing and fee unless the amendment is, in the opinion of the City Council, of such scope as to constitute a new plat, then it shall be re-filed.
- (8) Any plat proposed in a Shoreland District or St. Croix River District must have approval of the Minnesota Department of Natural Resources. If a watershed district exists in the area of the proposed platted property, approval must be obtained from the watershed district.

**D. Preparing and Submitting the Final Plat.**

- (1) After approval of the preliminary plat, the final plat may be prepared. It shall incorporate all changes, modifications and revisions required; otherwise, it shall conform to the approved

preliminary plat.

- (2) In the case of large subdivisions, to be developed in stages, the subdivider may be granted permission to prepare a final plat for only the portion of the approved plat which he proposes to develop at this time, provided such portion conforms with all the requirements of these regulations. The subdivider may be required, as a condition of approval, to submit an estimated time schedule for further staging of the platting and recording.
- (3) All plats shall comply with the provisions of Minnesota State Statutes, the Standard Procedures for Platting in Washington County and the requirements of this regulation.
- (4) The subdivider shall submit the final plat to the City Clerk and Washington County Surveyor's Office no later than six (6) months after the date of approval of the preliminary plat. The approval of the preliminary plat will be considered void unless an extension is requested in writing by the subdivider and granted by the City Council.
- (5) The subdivider shall submit, with the final plat, an Opinion of Title by the subdivider's attorney.

**E. Review of the Final Plat.**

- (1) After attaining approval of the preliminary plat, the subdivider shall submit ten (10) copies of the final plat along with plat checking fee to the County Surveyor for review by the County Surveyor.
- (2) Prior to approval of the final plat approved by the City Council, the subdivider must have installed all required improvements or executed an agreement with the City for their installation. Required improvements shall conform to approved engineering standards and be in compliance with these regulations.
- (3) If the final plat is not approved, the reasons for such action shall be recorded in the official proceedings and transmitted to the subdivider.
- (4) The final plat must be approved by the County Surveyor in accordance with the standard Procedures for Platting in Washington County.
- (5) Upon receiving final plat approval by the City Council, the

subdivider shall then record it with the County Recorder within one hundred and twenty (110) days or the approved plat shall be considered void.

- (6) Upon receiving approval of the final plat for a portion of the approved plat, the subdivider shall not be required to request a continuation of the recognition of the plat so as to maintain its approval except that in the event a zoning amendment is adopted which requires a larger minimum lot size for land not yet platted and recorded, the larger minimum lot size may be required for any additional platting.
- (7) Upon approval, final plats shall be signed by the Mayor, and the City Clerk.

**§ 152.005 PRELIMINARY AND FINAL PLAT REQUIREMENTS**

**A. Data Required For Preliminary Plat:**

**(1) Identification and Description.**

- (a) Proposed name of subdivision, which name shall not duplicate or be alike in pronunciation of the name of any plat theretofore recorded in the county.
- (b) Legal description of the property.
- (c) Name and address of the record owner and any agent having control of the land, subdivider, land surveyor, engineer and designer of the plan.
- (d) Graphic scale not less than one (1) inch to one hundred (100) feet.
- (e) North point and vicinity map of area showing well-known geographical points for orientation within a one-half(1/2) mile radius.
- (f) List of adjoining property owners within three hundred and fifty (350) feet of the proposed plat.
- (g) Date of preparation.

**(2) Existing conditions:**

- (a) Boundary lines shall be shown clearly and to such a degree of accuracy that conforms to the plat in that no major changes are necessary in preparing said plat.
- (b) Existing zoning classifications for land in and abutting the subdivision.
- (c) Approximate total acreage.
- (d) Location, right-of-way, width and names of existing or

platted streets or other public ways, parks and other public lands, permanent buildings and structures, easements and section, corporate and school district lines within the plan and to a distance one hundred (100) feet beyond shall also be indicated.

- (e) Location and size of existing sewers, water mains, culverts, wells, septic systems or other underground facilities within the preliminary plat area and to a distance of one hundred (100) feet beyond. Such data as grades and locations of catch basins, manholes, hydrants and street pavement width and type shall also be shown.
- (f) Boundary lines of adjoining unsubdivided or subdivided land, within one hundred (100) feet, identified by name and ownership, but including all contiguous land owned or controlled by the subdivider.
- (g) Topographic data, including contours at vertical intervals of not more than two (2) feet except where the horizontal contour interval is one hundred (100) feet or more, a one (1) foot vertical interval shall be shown. Water courses, bluff lines, marshes, wooded areas, rock outcrops, power transmission poles and lines and other significant features shall also be shown. North American Vertical Datum 1988 (NAVD 88) adjustment shall be used for all topographic mapping.
- (h) A copy of all proposed private restrictions shall be submitted.
- (i) In areas where public sewer is not available, two soil borings shall be completed on each lot with results being submitted to the City Building Inspector. If it appears soil may not be suitable on any lot for the installation of an on-site septic system, additional borings and percolation tests may be required.
- (j) Soil types and location of limits of each soil type as shown in the Soil Survey of Washington County.
- (k) All slopes in excess of twelve percent (12%) shall be delineated.
- (l) If severe soil limitations for the intended use are noted in the Soil Handbook on file in the Washington County Planning Department and the Washington County Soil and Water Conservation District Office, a plan or statement indicating the soil conservation practice or practices to be used to overcome said imitation shall be made part of the permit application.
- (m) On all lakes, ponds and wetlands all water surface elevations, natural ordinary high elevation, and present and proposed 100-year flood elevations shall be denoted.

(3) **Subdivision Design Features.**

- (a) Layout of proposed streets, showing right-of-way widths and proposed names of streets. The name of any street shall conform to the Washington County Uniform Street Naming and Property Numbering System as applicable.
- (b) Locations and widths of proposed alleys, pedestrian ways and utility easements.
- (c) Lot and block numbers and preliminary dimensions of lots and blocks and area of each lot.
- (d) Proposed front, side and rear building setback lines.
- (e) Location and size of proposed sanitary sewer lines and water mains or proposed City sewer and water systems.
- (f) Gradients of proposed streets, sewer lines and water mains. Plans and profiles showing locations and typical cross-sections of street pavement including curbs, gutters, sidewalks, drainage easements, servitude right-of-ways, manholes and catch basins.
- (g) Areas, other than streets, alleys, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres.
- (h) Grading and drainage plan for entire subdivision. If any fill or excavation is proposed in a wetland or lake, approval must be obtained from the Minnesota Department of Natural Resources and Army Corps of Engineers.
- (i) Erosion and sediment control plan.

(4) **Other Information.**

- (a) Statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units; type of business or industry so as to reveal the effect of the development on traffic, fire hazards and congestion of population.
- (b) Source of water supply.
- (c) Provisions for sewage disposal, surface water drainage and flood control.
- (d) If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions.
- (e) Such other information as may be requested by the engineer, planning staff, City Planning Commission or City Council.
- (f) Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the City Council may require that the subdivider submit a sketch plat of the

remainder of the property so as to show the possible relationships between the proposed subdivision and future subdivision. In any event, all subdivisions must be shown to relate well with existing or potential adjacent subdivisions and land use.

**B. Data Required For Final Plat.**

- (1) The final plat shall be prepared by a land surveyor who is registered in the State of Minnesota and shall comply with the provisions of Minnesota State Statutes, this Subdivision Ordinance and the manual of Standard Procedures for Platting in Washington County.

**§ 152.006 MINIMUM DESIGN STANDARDS**

**A. Conformity With Comprehensive Development Plan**

- (1) The proposed subdivision shall conform to the Comprehensive Development Plan and policies as adopted by the City.

**B. Land Requirements.**

- (1) Land shall be suited to the purpose for which it is to be subdivided. No plan shall be approved if the site is not suitable for purposes of the kind proposed by reason of potential flooding, topography or adverse earth or rock formations.
- (2) Land subject to hazards to life, health or property shall not be subdivided for residential purposes until all such hazards have been eliminated or unless adequate safeguards against such hazards are provided by the subdivision plan.
- (3) Grading, drainage, erosion and sedimentation control plans in accordance with the technical standards and specifications of the Soil Conservation Service as provided by the Washington County Soil and Water Conservation District Office, are required on slopes with grades of eighteen (18) percent or steeper.
- (4) Proposed subdivisions shall be coordinated with existing nearby municipalities or neighborhoods so that the community as a whole may develop harmoniously.

**C. Street Plan.**

- (1) Proposed streets shall conform to the state road and county

highway plans or preliminary plans as have been prepared, adopted and/or filed as prescribed by law.

- (2) Streets shall be logically related to the topography so as to produce usable lots and reasonable grades.
- (3) Access shall be given to all lots and portions of the tract in the subdivision, and to adjacent unsubdivided parcels unless the topography clearly indicates that such connection is not feasible. Reserved stripes and land-locked areas shall not be created.
- (4) The arrangement of streets in new subdivisions shall make provisions for the appropriate continuation of the existing streets in adjoining areas.
- (5) Where adjoining areas are not subdivided, but may be subdivided, the arrangement of streets in a new subdivision shall make provision for the proper projection of streets into adjoining areas by carrying the new streets to the boundaries of the new subdivision at appropriate locations. Streets must be rough graded or documented that grading can be accomplished within the right-of-way.
- (6) Minor streets shall be laid out to discourage their use by through traffic.

Thoroughfares shall be reserved for through traffic by providing marginal access streets, interior streets for serving lots or other means.

- (7) Half or partial streets will not be permitted, except where essential to reasonable subdivision of a tract in conformance with the other requirements and standards of these regulations and where, in addition, satisfactory assurance for dedication of the remaining part of the street can be secured.
- (8) Wherever a tract to be subdivided adjoins an existing half, or partial street, the part of the street within such tract shall be platted.
- (9) Dead-end streets shall be prohibited, except as stubs to permit future street extension into adjoining tracts or when designed as cul-de-sac streets.
- (10) Private streets and reserve strips shall be prohibited and no public improvements shall be approved for any private street. All streets shall be dedicated for public use, except in cluster developments or

planned unit developments.

- (11) Where a subdivision abuts or contains an existing or planned major thoroughfare or a railroad right-of-way, a street approximately parallel to and on each side of such thoroughfare and right-of-way may be required for adequate protection of residential properties and separation of through and local traffic. Such service streets shall be located at a distance from the major thoroughfare or railroad right-of-way suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial and industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
- (12) The street arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

**D. Cul-De-Sac Streets.**

- (1) Cul-de-sac streets, permanently designed as such shall not exceed six hundred (600) feet in subdivisions in which lots are less than two and one-half (2-1/2) acres in size. In subdivisions where lots are two and one-half (2-1/2) acres in size or greater, cul-de-sacs shall not exceed one-quarter (1/4) mile in length. A variance may only be granted to this requirement if it can be clearly shown that by reason of unfavorable land form, or the irregular shape of the land from which the subdivision is being made, a normal street pattern cannot be established or that land would be wasted by not granting such a variance. Lots with frontage at the end of the cul-de-sac shall have a minimum of sixty (60) feet of road frontage and meet the lot width requirement at the building setback line for the zoning district in which the property is located.
- (2) Unless future extension is clearly impractical or undesirable, the turnaround right-of-way shall be placed adjacent to a property line and a right-of-way of the same width as the street shall be carried to said property line in such a way as to permit future extension of the street into the adjoining tract. At such time as a street is extended, the acreage covered by the turnaround outside the boundaries of the extended street shall revert in ownership to the property owner fronting on the temporary turnaround. To assure such streets can be constructed according to this code, the street shall be rough graded or typical sections shall be submitted and approved by the City Engineer.

**E. Street Design.**

- (1) Minimum right-of-way widths and pavement widths (edge to edge of pavement or face to face of curb) for each type of public street or road shall be as follows:

<b>Type of Street</b>	<b>Right-of-Way Width Including Shoulders</b>	<b>Roadway Width Including Shoulders</b>
Minor Arterial Collector	As Determined by Traffic Needs	
Commercial/Industrial Street	80 feet minimum	44 feet
Local Street	60 feet minimum	20 feet
Cul-de-sac	60 feet minimum	50-foot Turnaround Radius

- (2) Where a subdivision abuts or contains an existing street of inadequate width, sufficient additional width shall be provided to meet the above standards.
- (3) Additional right-of-way and roadway widths may be required to promote public safety and convenience when special conditions require it or to provide parking space in areas of intensive use.
- (4) **Restriction of Access.** Access of local streets onto state, county state aid highways and county highways shall be discouraged at intervals of less than five hundred (500) feet.
- (5) **Street Jog.** Street jogs with centerline offsets of less than one hundred fifty (150) feet shall not be allowed.
- (6) **Deflection.** When connecting street lines deflect from each other at anyone point by more than ten (10) degrees, they shall be connected by a curve with a centerline radius of not less than two hundred (200) feet.
- (7) **Grades.** Centerline gradients shall be at least 0.5 percent (0.5%) and grades shall not exceed eight percent (8%).
- (8) **Vertical Curves.** Different connecting street gradients shall be connected with vertical curves. Minimum length, in fact, of these curves shall be thirty (30) times the algebraic difference in the percent of grade of the two adjacent slopes.
- (9) **Angle of Intersection.** Intersections of more than four (4) corners shall be prohibited.
- (10) **Corner Radii.** Roadways of street intersections shall be rounded

by a radius of not less than fifteen (15) feet. Roadways of alley-street intersections shall be rounded by a radius of not less than six (6) feet.

**F. Private Streets.** Private streets generally are not permitted. In planned unit developments and cluster developments, private streets may be permitted provided the roads are built to the same specification as public roads.

**G. Alley Design.**

- (1) Except in the case of a planned unit development, either a public or private alley shall be provided in a block where commercially zoned property abuts a major thoroughfare or a major street. Alleys in residential areas other than those zoned for multiple family use shall not be permitted.
- (2) All alley rights-of-way and pavement widths shall conform to the following minimum standards:

<b>Classification</b>	<b>Right-of-Way Width</b>	<b>Pavement</b>
Industrial or Commercial Feet	24 feet	20
Residential (two-way) feet	20 feet	20
Residential (one-way) feet	20 feet	16

- (3) **Grades.** All centerline gradients shall be at least 0.5 percent (0.5%) and shall not exceed eight percent (8%).

**H. Sidewalk Design.**

- (1) **Widths.** All sidewalk widths shall, when installed, conform to the following minimum standards:

<b>Classification</b>	<b>Width</b>
Single Family Area	4 feet
Multiple Family Area and Public Building Sites	6 feet
Commercial Areas	10 feet
Industrial Areas	6 feet

- (2) **Grades.** Sidewalks shall slope 1/4 inch per foot away from the property line and the profile grade shall not exceed eight percent (8%).

**I. Public Utilities.**

- (1) **Water Supply.** Extensions of the public water supply system shall, when available, be designed so as to provide public water service to each lot.
- (2) **Sewage Disposal.** Extensions of the public sanitary sewer system shall, when available, be designed so as to provide public sewer service to each lot.

**J. Drainage.**

- (1) A complete and adequate drainage system design shall be required for the subdivision and may include a storm sewer system or a system of open ditches, culverts, pipes and catch basins and ponding areas for both systems and submitted to engineer for approval.

**K. Easements.**

- (1) **Provided for Utilities.** Easements of at least twenty (20) feet wide, centered on rear and other lot lines as required, shall be provided for utilities where necessary. Where underground utilities are being installed, a ten-foot wide front or side yard easement may be required. These easements shall be dedicated on the final plat.
- (2) **Provided for Drainage.** Easements shall be provided along each side of the center line of any water course or drainage channel, whether or not shown on the Comprehensive Plan, to a sufficient width to provide proper maintenance and protection and to provide for storm water run-off and installation and maintenance of storm sewers.
- (3) **Dedication.** Utility and drainage easements shall be dedicated for the required use. Section 152.006 L, Street Trees.

**L. Street Trees.**

- (1) Street trees shall not be less than eighty (80) feet apart with a minimum of one (1) per lot. They shall be placed six (6) to twenty (20) feet inside the property line and not in the boulevard.

**M. Street Names.**

- (1) Names of new streets shall not duplicate existing or platted street names, unless a new street is a continuation of or in alignment with the existing or platted street. In that event, it shall bear the same name of the existing or platted street so in alignment Street names shall conform to the Washington County Uniform Street Naming and Property Numbering System as applicable.

**N. Block Design.**

- (1) Block length and width or acreage within bounding streets shall be such as to accommodate the size of residential lots required in the area by the Zoning Code and to provide for convenient access, circulation control and safety of street traffic.
- (2) In residential areas, other than water frontage, blocks shall not be less than six hundred (600) feet nor more than eighteen hundred (1,800) feet in length measured along the greatest dimension of the enclosed block area, unless minor variances are necessitated by topography or conformance with an adjoining plat.
- (3) In blocks over nine hundred (900) feet long, ten (10) feet wide pedestrian crosswalks may be required through the blocks in locations deemed necessary to public health, convenience and necessity, suitable paving and fencing shall be provided.
- (4) Blocks for commercial and industrial areas may vary from the elements of design contained in this section if the nature of the use requires other treatment. In such cases, off-street parking for employees and customers shall be provided along with safe and convenient limited access to the street system. Space for off-street loading shall also be provided with similar access. Extension of roads, railroad access right-of-way and utilities shall be provided as necessary.
- (5) Blocks shall be wide enough to allow two (2) tiers of lots with a minimum depth as required by zoning ordinance, except adjoining a lake, stream, railroad or thoroughfare or where one tier of lots is necessary because of topographic conditions.

**O. Lot Requirements.**

- (1) Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines or radial to lake or stream shores, unless topographic conditions necessitate a different

- arrangement.
- (2) Each lot shall front upon a public street.
  - (3) No lot shall have less area or width than is required by zoning regulations applying to the area in which it is located; except as herein provided.
  - (4) Lots designed for commercial or industrial purposes shall provide adequate off the street service, loading and parking facilities.
  - (5) Butt lots in any subdivision are to be discouraged. Where such lots must be used to fit a particular type of design, they shall be platted at least five (5) feet wider than the average width of interior lots in the block.
  - (6) **Through or Double Frontage Lots.** Such lots shall not be permitted, except where such lots abut a thoroughfare or major highway. Such lots shall have an additional depth of ten (10) feet for screen planting along the rear lot line.
  - (7) **Water Course.** Lots abutting upon a water course, drainageway, channel or stream shall have an additional depth often (10) feet for screen planting along the rear lot line.
  - (8) Lots with lakeshore frontage shall be designed so that the lot lines extended shall maintain the closest approximation to riparian right.
  - (9) **Natural Features.** In the subdividing of any land, 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.
  - (10) **Lot Remnants.** All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots or a plan showing as to future use rather than allowed to remain as unusable parcels.
  - (11) **Access to Major Arterials.** In the case where a proposed plat is adjacent to a major or minor arterial, there shall be no direct vehicular access from individual lots to such streets and roads. In the platting of small tracts of land fronting on limited access highways or thoroughfares where there is no other alternative, a temporary entrance may be granted; as neighboring land becomes subdivided and more preferable access arrangements become possible, such temporary access permits shall become void. Driveway access on collector streets must be a minimum of three hundred (300) feet apart and meet appropriate safety standards.
  - (12) **Political Subdivision Lines.** No lot shall extend over a political subdivision boundary. No building shall extend over a school district line.

§ 152.007 ENGINEERING STANDARDS

A. Streets.

- (1) **Street Grading.** Streets shall be graded in accordance with a plan approved by the engineer. In the case of an urban street design, the grading shall include the entire width of the right-of-way and shall provide a boulevard section, in addition to the minimum pavement width.
- (2) **Street Pavement.** The design of street pavement for all streets covered by this regulation shall be in accordance with the State of Minnesota Highway Department Road Design Manual No. 5-291 for flexible pavements. The designed thickness of the surfacing elements shall be in accordance with the flexible pavement design standard for road classifications as shown below. However, a minimum of six (6) inches of class 5 and three (3) inches of bituminous is required. More stringent design may be required by the engineer.

Classification	Pavement Design/Axle Load
Arterials, Collector Street	As Determined by Traffic Needs
Local Street	7 ton minimum

- (3) **Soil Tests.** To determine sub grade soil classifications, soil samples shall be collected and analyzed by a reputable testing laboratory. Reports of the soil analysis shall be submitted to the engineer with the pavement plans. Soil samples shall be taken along the center line of the proposed road at intervals not exceeding three hundred (300) feet.
- (4) **Boulevards.** All boulevards shall have four (4) inches of top soil (black dirt) placed on them and then be seeded or sodded.
- (5) **Sidewalks and Pedestrian Ways.** All required walks shall be concrete four (4) inches thick placed on a four (4) inch gravel base. Grades shall be as approved by the City engineer. Sidewalks shall be placed in the public right-of-way.

B. Utilities

- (1) **Trunk Facilities.** Where a larger size water main, sanitary sewer, storm drain or similar facility is required to serve areas outside the subdivision, the larger facility required must be constructed. Additional cost is to be borne by the benefiting properties and the assessments are to be determined by the City Council.

(2) **Sewer and Water-Urban Areas.**

- (a) **Sewer Lines.** No public sanitary sewer facilities shall be extended which are not in conformance with the Utility Staging Plan of the City's Comprehensive Plan.

Where trunk line sanitary sewer facilities are available, the subdivider shall install sanitary sewers and connect such sanitary sewers to such trunk line sewers. Extensions of the public sewer system shall be designed to provide public sewer service to each lot.

All sanitary sewers may be inspected by the municipality by means of television, at the subdivider's expense, prior to their acceptance by the municipality. In the event that such facilities are not available but, in the opinion of the City Council, can be made available within a reasonable period of time, such sewers and all necessary laterals extending from the main sewer to the street curb shall be installed and capped for future connection as service becomes available.

Unless otherwise required, a sanitary sewer of eight-inch PVC or approved equivalent shall be installed as the minimum size, placed at grades approved by the engineer. Mains over eight (8) inches in size may be required, and the additional cost may be borne by the City. Service size shall be four (4) inches, rubber or plastic compression joints are required.

- (b) **Water Mains.** Where mains from a public water system are available, the subdivider shall install water mains in the plat and connect such mains to such public water system. Extensions of the public water supply system shall, when available, be designed to provide public water service to each lot. A minimum water main of six-inch ductile iron pipe or other approved pipe shall be required. Mains over six (6) inches in size may be required and the additional cost may be borne by the City.
- (c) **House Services.** Each house shall be run from the main to the property line where a cap or plug shall be placed until the service is extended to the structure. A one-inch Type K copper water service, corporation cock, curb box and stop and four-inch PVC pipe sewer service shall be the

minimum requirements and may be placed in a common trench.

(3) **Sewer and Water-Rural Areas.**

- (a) **Sewage Disposal Systems.** Where lots cannot be connected with a public sewerage system, provision must be made for sanitary sewerage facilities, consisting of an individual disposal device for each lot in accordance with the City Sanitary Sewer Code. This does not mean that the installation of individual disposal devices shall be at the expense of the subdivider.

Any subdivision or lot not provided with off-site sewer facilities shall be subject to soil and percolation tests to determine whether the lot size proposed will meet minimum standards of health and sanitation due to limitations of soils as shown on existing soils maps. The lot area and topography must be such that it will accommodate an adequate disposal system to serve the residence for the estimated unsewered years, as determined by the City Council. Such test shall be made at the expense of the subdivider and a sketch map shall be submitted to identify the specific locations where tests were made. Two (2) soil borings shall be performed on each proposed lot by a certified soil tester. Additional testing may be required if serious limitations for the installation of an on-site septic system are found.

All sewage disposal systems shall comply with the standards of the City Sanitary Sewer Ordinance, the Minnesota Department of Health and the Minnesota Pollution Control Agency.

- (b) **Water Supply.** Where mains from a public water system are available, the subdivider shall install water mains in the plat and connect such mains to such public water system. Extensions of the public water supply system shall, when available, be designed to provide public water service to each lot. A minimum water main of six-inch ductile iron pipe or other approved pipe shall be required. Mains over six (6) inches in size may be required and the additional cost may be borne by the City.

Where mains from a public water system are not available, an individual well shall produce at least ten (10) gallons per minute, have a well casing at least four (4) inches in

diameter and be grouted to provide a safe, potable water supply.

**C. Storm Water Drainage.**

- (1) A drainage system design shall be required, and may include a storm sewer system or a system of open ditches, culverts, pipes, catch basins and ponding areas or both systems. Such facilities and easements shall be installed as will adequately provide for the drainage of surface waters; drainageway easements or land dedication may be required when such easements or land is needed in the public interest for purposes of flood plain management. proper drainage, prevention of erosion, pedestrian access to water bodies, or other public purposes. If there is a watershed district, that board must approve all surface water drainage.

**D. Easements.**

- (1) Easements at least twenty (20) feet wide, centered on rear and other lot lines as required, shall be provided for utilities where necessary. Where underground utilities are being installed, a ten-foot wide front or side yard easement may be required. These easements shall be dedicated on the plat.
- (2) Easements shall be provided along each side of the center line of any watercourse or drainage channel, whether or not shown on the Comprehensive Plan, to a width sufficient to allow for maintenance and to provide for storm water runoff and installation and maintenance of storm sewers.
- (3) Utility and drainage easements shall be dedicated for the required use.

**E. Street Signs.**

- (1) All street signs shall be provided and installed by the City at the expense of the subdivider.

**F. Utilities Location.**

- (1) When practicable and feasible, all utilities shall be placed underground. All groundwork shall be completed prior to street surfacing. All utility lines for telephone and electrical service shall be placed in rear line easements when carried on overhead poles.

**G. Inspection.**

- (1) All required improvements shall be inspected by the engineer during construction at the expense of the subdivider.

**§ 152.008 REQUIRED IMPROVEMENTS AND FINANCIAL ARRANGEMENTS**

**A. Improvements Required.**

- (1) Prior to the approval of a plat by the City Council, the subdivider shall have agreed, in the manner set forth below, to install, in conformity with approved construction plans and in conformity with all applicable standards and codes, the following improvements on the site:
  - (a) **Survey Monuments.** All subdivision boundary corners, block and lot corners, road intersection corners and points of tangency and curvature shall be marked with survey monuments meeting the minimum requirements of state law. All U.S., state, county and other official bench marks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position unless a relocation is approved by the controlling agency.
  - (b) **Grading.** The full width of the right-of-way of each street and alley dedicated in the plat shall be graded for an urban design roadway.
  - (c) **Pavement.** All streets and alleys shall be improved with concrete or bituminous surface, except as may be approved by action of the City Council.
  - (d) **Curb and Gutter.** Along both sides of an urban designed street, curb and gutter shall be installed. Concrete curb and gutter is recommended; however, bituminous curbing would be permitted if approved by the City Council.
  - (e) **Sidewalks.** These may be required along both sides of all streets in areas where residential density equals or exceeds three (3) dwelling units per net acre of residentially used land or in commercial areas.
  - (f) **Water Mains.** In the case where mains from a public water system are available, the subdivider shall be required to

install water mains in the plat and connect the same to such public water system.

- (g) **Public Sanitary Sewer.** In all cases where trunk line sanitary sewer facilities are available, the subdivider shall be required to install sanitary sewers in the plat and connect the same to such trunk line sewers. If such facilities are not available, but it is expected they will be within five (5) years, the City Council may require that such sewers, together with all necessary laterals extending from the main sewer to the street curb shall be installed and capped for future connection as service becomes available. In that event, the subdivider may also install on-site disposal units provided they are so located as to permit easy and the least expensive connection to the sewer when it becomes available and usable. Where such on-site units are installed, the subdivider shall provide underground plumbing to extend three (3) feet beyond the footing which plumbing shall be plugged. The area around the stack shall be scored so that the septic tank line can be disconnected and connection can be made with the public sanitary sewer system.
- (h) **Drainage Facilities.** Such facilities and easements shall be installed as will adequately provide for the drainage of surface waters; a storm sewer system may be required. Drainageway easements or land dedication may be required when such easements or land is needed in the public interest for purposes of flood plain management, proper drainage, prevention of erosion, pedestrian access to water bodies, or other public purpose. If there is a watershed district, that board must approve all surface water drainage.
- (i) **Miscellaneous Facilities.** Tree planting, street name signs, traffic control signs, oversized utility trunk lines, pedestrian ways, and other improvements may be required.

**B. Payment for Installation of Improvements.**

- (1) The required improvements as listed elsewhere are to be furnished and installed at the sole expense of the subdivider. However, if the cost of an improvement would, by general policy, be assessed only in part to the improved property and the remaining cost paid out of general tax levy, provision may be made for the payment of a portion of the cost by the City. Further, if any improvement installed within the subdivision will be of substantial benefit to

lands beyond the boundaries of the subdivision, provision may be made for causing a portion of the cost of the improvements, representing the benefit to such lands, to be assessed against the same. In such a situation, the subdivider will be required only to pay for such portion of the whole cost of said improvement as will represent the benefit to the property within the subdivision.

**C. Agreement Providing for the Installation of Improvements.**

- (1) Prior to the installation of any required improvements and prior to approval of the plat, the subdivider shall enter into a contract in writing with the City requiring the subdivider to furnish and construct said improvements at his sole cost and in accordance with plans and specifications and usual contract conditions. This shall include provisions for supervision of details of construction by the engineer and shall grant to the engineer authority to correlate the work to be done under said contract by any subcontractor authorized to proceed thereunder and with any other work being done or contracted by the City in the vicinity. The agreement shall require the subdivider to make an escrow deposit or, in lieu thereof, to furnish a performance bond, the amount of the deposit or penal amount of the bond to be equal to one hundred twenty-five percent (125%) of the engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection. On request of the subdivider, the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plat. In such event, the amount of the deposit or bond may be reduced in a sum equal to the estimated cost of improvements so completed prior to the acceptance of the plat. The time for connection of the work and the several parts thereof shall be determined by the City Council upon recommendation of the engineer after consultation with the subdivider. It shall be reasonable with relation to the work to be done, the seasons of the year, and proper correlation with construction activities in the plat and subdivision.
- (2) No subdivider shall be permitted to start work on any other subdivision without special approval of the City Council if he has previously defaulted on work or commitments.

**D. Financial Guaranty.**

- (1) The financial guarantee required as part of the subdivision agreement shall be one of the following:
  - (a) **Escrow Deposit.** A cash escrow deposit may be made with

the City Treasurer in a sum equal to one hundred twenty-five percent (125%) of the total costs, as estimated by the engineer, of all the improvements to be furnished and installed by the subdivider pursuant to the subdivision agreement. The total costs shall include costs of inspection by the City Engineer. The City shall be entitled to reimburse itself out of such deposit for any cost or expense incurred by the City for completion of the work in case of default of the subdivider under such contract and for any damages sustained on account of any branch thereof.

- (b) **Performance Bond.** The subdivider may furnish a performance and payment bond with corporate surety, in a penal sum equal to one hundred twenty-five percent (125%) of the total cost, as estimated by the engineer, of all the improvements to be furnished and installed by the subdivider pursuant to the subdivision agreement. The total costs shall include costs for inspection by the City Engineer. The bond shall be approved as to form by the attorney and filed with the clerk.
- (c) **Letter of Credit.** The subdivider may deposit with the City, from a bank or other reputable institution or individual subject to the approval of the City Council, an irrevocable letter of credit which shall certify the following:
  - (i) That the creditor does guarantee funds in an amount equal to one hundred twenty-five percent (125%) of the total cost as estimated by the City Engineer, or completing all required improvements.
  - (ii) That in the case of failure on the part of the subdivider to complete the specified improvements within the required time period, the creditor shall pay to the City immediately, and without further action, such funds as are necessary to finance the completion of those improvements, up to the limit of credit stated in the letter.
  - (iii) That this letter of credit may not be withdrawn, or reduced in amount, until released by the City Council.

**E. Constructions Plans and Inspection.**

- (1) Construction plans for the required improvements conforming in all respects with the standards and ordinances of the City shall be prepared at the subdivider's expense by a professional engineer

who is registered in the State of Minnesota, and said plans shall contain his certificate. Such plans, together with the quantities of construction items, shall be of the total costs of the required improvement. Upon approval, such plans shall become a part of the required contract. The tracings of the plans approved by the engineer plus two (2) prints and electronic CAD files shall be furnished to the City to be filed as a public record.

- (2) All required improvements on the site that are to be installed under the provisions of this regulation shall be inspected during the course of construction by the City Engineer at the subdivider's expense, and acceptance by the City shall be subject to the engineer's certificate of compliance with the contract.

**F. Improvements Completed Prior to Approval of the Plat.**

- (1) Improvements within a subdivision which have been completed prior to application for approval of the plat or execution of the contract for installation of the required improvements shall be accepted as equivalent improvements in compliance with the requirements only if the engineer shall certify that he is satisfied that the existing improvements conform to applicable standards.

**G. Trunk Facilities.**

- (1) Where a larger size water main, sanitary sewer, storm drain or similar facility is required to serve areas outside the subdivision, the larger facility required must be constructed. Additional cost is to be borne by the benefiting properties and the assessments are to be determined accordingly by the City Council.

**H. Alternate Installation and Incomplete Improvements.**

- (1) The City Council may elect to install any or all of the required improvements pursuant to a cash escrow agreement or other financial arrangements with the subdivider.
- (2) It is hereby the announced policy of the City that full and complete utility systems be installed in all needed areas as soon as is practicable and feasible. Accordingly, the City shall proceed as soon as it is practicable after final approval of a subdivision with installation within the subdivision of such improvements as may be determined to be necessary. In the event of small subdivisions or in subdivisions in which development may proceed slowly, or in other events in which the construction of surfaced streets, sidewalks, utility lines, or other improvements is clearly not

feasible immediately following the approval of the plat, the City Council may elect to commence assessment proceedings, utilize funds of a cash escrow agreement, or otherwise move to finance and install improvements when the subdivision is developed to the point of warranting the improvements. Such improvements are required in order to provide greater assurance of public health, assure reliability of water supply, provide for economy of installation. provide more effective fire fighting through hydrants and otherwise protect the public health, safety, convenience and general welfare.

**I. Reimbursement of Review Costs.**

- (1) The applicant shall reimburse the City for all costs and fees incurred by the City in reviewing the application, including, but not limited to, planning, attorney and engineering fees, hall rental and any other costs incurred by the City directly attributable to review of the application.
- (2) The applicant shall deposit with the City Clerk the sum of \$1,500 to be applied to the cost of review. Should the City Clerk determine that the review costs have exceeded that figure, the applicant may be required to deposit additional sums. Any unexpended portion of the deposit shall be refunded to the applicant upon completion of the review process.

**§ 152.009 GENERAL PROVISIONS**

**A. Protection of Natural Features.**

- (1) The City Council reserves the right to decline approval of a subdivision if due regard is not shown for the preservation of all natural features such as large trees, water courses, scenic points, historical spots and similar community assets which, if preserved, will add attractiveness and stability to the proposed development of the property.

Subdivision review shall be coordinated with the requirements and procedures for Environmental Assessment and Impact Statements contained in the Zoning Code. Any Mandatory Environmental Assessment Worksheet or Impact Statement as required by the Minnesota Environmental Quality Board Regulations shall be submitted as part of the application for preliminary plat approval.

**B. Solar Access Planning.** All new subdivisions should be designed to accommodate extensive use of passive and active solar energy systems with special attention given to street, lot and building orientation.

- (1) The subdivider shall consult with the City Council at the time his sketch plan is under consideration, to secure their recommendation as to the location of any property that should be dedicated to the public, such as parks, playgrounds or other public property. The plan shall show the location and dimensions of all areas to be dedicated in this manner.
- (2) **Public Sites to be Reserved.** Where a proposed drainageway, park, playground, school site or other public site, as shown on the Comprehensive Development Plan is embraced in part or in whole by the boundary of a proposed subdivision and such public sites are not dedicated, such sites shall be reserved and no action taken towards approval of a plan or plat for a period not to exceed ninety (90) days to allow the proper governmental agency the opportunity to consider and take actions toward acquisition of such public ground or park by purchase or other methods.
- (3) **Open Space /Parkland Dedication.** In all new subdivisions, the City shall require that land be dedicated to the public or preserved for public use as parks, playgrounds, trails or other open space. Each dedication shall be of suitable size, dimension, topography and general character and shall have adequate road access for the particular purposes envisioned by the City. When recreation areas are required, the developer may dedicate eight percent (8%) of the gross area subdivided. The developer must dedicate all such recreation areas to the City as a condition of final subdivision plat approval.

Alternative Procedure: Money in lieu of land. When the subdivision is too small for practical dedication of public land, or if the City deems that no land in the subdivision is suitable for such use, the subdivider will be required to deposit with the City a cash payment in the amount of \$500 per lot in lieu of land dedication. Such deposit must be placed in a separate fund established by the City and must be used only for the acquisition of land for parks, trails or other recreation areas, development of existing parks and debt retirement in connection with land previously acquired for such public purposes.

In minor subdivisions, a fee of \$500 per lot created must be paid to the City for public recreation purposes.

**C. Planned Unit Developments.**

- (1) Upon receiving a report from the Planning Commission, the City Council may grant a variance from the provisions of these regulations in the case of a planned unit development, as defined in the Zoning Code, provided that the City Council shall find that the proposed development is fully consistent with the purpose and intent of these regulations. This provision is intended to provide the necessary flexibility for new land planning and land development trends and techniques.

**D. Minor Subdivisions.**

- (1) In the case of a subdivision resulting in three (3) or less parcels, situated in a locality where conditions are well defined, the City Council may exempt the subdivider from complying with some of the requirements of these regulations. In the case of a request to subdivide a lot which is a part of a recorded plat, or where the subdivision is to permit the adding of a parcel of land to an abutting lot or to create not more than three (3) new lots, and the newly created property lines will not cause any resulting lot to be in violation of these regulations or the Zoning Code, the division may be approved by the City Council, after submission of a survey by a registered land surveyor showing the original lot and the proposed subdivision. The newly created parcels shall meet all requirements of the Zoning Code. Topographic data at ten-foot contour intervals, driveway access points, drainage plans and soil tests for the installation of an on-site septic system shall be submitted for minor subdivision review. A Certificate of Survey shall be prepared by a registered land surveyor showing the boundaries of the newly created lots. Prior to approval of a minor subdivision, the City Council reserves the right to require the dedication of streets, utility easements or public park land or cash in lieu of land. A maximum of three (3) lots in a five-year period are permitted utilizing the minor subdivision procedure. In cases where the new lot and resulting lots created exceed twenty (20) acres and have five hundred (500) feet of frontage on a public road, subdivision approval is not required.

Any proposed minor subdivision which includes land abutting upon any existing or established trunk highway or proposed highway which has been designated by a center line order filed in the office of the County Recorder shall first be presented to the Commissioner of Transportation for his written comments and recommendations. Where any minor subdivision includes land abutting upon an existing or established county or county state aid

highway, it shall first be submitted to the County Engineer for his written comments and recommendations. Minor subdivision involving both a trunk highway and a highway under county jurisdiction shall be submitted to the Commissioner of Transportation and the County Highway Engineer. Plats shall be submitted for review at least thirty (30) days prior to the home rule charter of statutory City, town or county taking final action on the minor subdivision. The Commissioner of Transportation and/or the County Highway Engineer shall submit the written comments and recommendations to the City, town or county within thirty (30) days after receipt by them of such a plat. Final action on such plat by the City, town or county shall not be taken until after these required comments and recommendations have been received or until the thirty-day period has elapsed. A legible preliminary drawing or print of a proposed minor subdivision shall be acceptable for purposes of review by the Commissioner of Transportation or the County Highway Engineer. To such drawing or print, there shall be attached a written statement describing: (1) the outlet for and means of disposal of surface waters from the proposed subdivided area; (2) the land use designation or zoning category of the proposed subdivided area; (3) the locations of ingress and egress to the proposed subdivided area; and (4) a preliminary site plan for the proposed subdivided area, if one has been prepared. Failure to obtain the written comments and recommendations of the Commissioner of Transportation or the County Highway Engineer shall in no manner affect the title to the land included in the plat or the platting of said lands. A certificate or other evidence shall be required to or upon the plat for filing in the Office of the County Recorder or Registrar or Titles as to the submission of or the obtaining of such written comments and recommendations. The home rule charter or statutory City, town or county shall provide the certificate or other evidence to the County Recorder or Registrar or Titles.

**E. Resubdivision.**

- (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 to be in violation with this regulation or the Zoning Code, the division may be approved by the City Council after submission of a survey by a registered land surveyor showing the original lot and the proposed subdivision.

**F. Land Division**

- (1) In any case where the division of land into two or more lots or parcels for the purpose of transfer of ownership or building improvement is not specifically provided for in the provision of these regulations, a description of such land division shall be filed with the clerk. No building permit shall be issued for any construction, enlargement, alteration or repair, demolition or moving of any building or structure on any lot or parcel resulting from such division, until such division has been approved by the City Council. Prior to the consideration of such division by the City Council, they shall require that a certified survey be submitted.
- (2) In cases where adjoining contiguous property owners wish to exchange or otherwise divide land with the intent of enlarging one of the parcels and as a result of such division neither parcel will be non-conforming in accordance with the Zoning Code, approval must be obtained from the City Council following the minor subdivision process. Some of the requirements for minor subdivision approval may be waived, however, the newly acquired land must be combined on the deed for recording purposes as the remainder of the owners property.

**F. Registered Land Surveys.**

- (1) All Registered Land Surveys shall be filed subject to the same procedure as required for the filing of a plat for platting purposes. The standards and requirements set forth in these regulations shall apply to all Registered Land Surveys.

**G. Metes and Bounds.**

- (1) Conveyance by metes and bounds shall only be permitted in minor subdivision after submission of a survey and on parcels at least twenty (20) acres in area with no less than five hundred (500) feet of frontage on a public road.
- (2) No building permit shall be issued for any structure on any parcel of land less than twenty (20) acres in area and having a width of less than five hundred (500) feet on an improved public road until a subdivision has been approved by the City Council in accordance with the regulations of this Chapter and the Zoning Code and the parcel is recorded with the Washington County Recorder.
- (3) When a conveyance is made by metes and bounds, no building

permit shall be issued until a survey is submitted and the parcel is recorded with the Washington County Recorders Office. A survey is not required for parcels in excess of twenty (20) acres.

#### **H. Unapproved Subdivisions.**

- (1) No conveyance of land to which these regulations are applicable shall be filed or recorded, if the land is described in the conveyance by metes and bounds or by reference to an unapproved Registered Land Survey made after April 21, 1961, or to an unapproved plat. The foregoing provision does not apply to a conveyance if the land described:
  - (a) Was a separate parcel of record April 1, 1945. or the date of adoption of subdivision regulations under Laws 1945, Chapter 287, whichever is the later, or of the adoption of subdivision regulations pursuant to a home charger; or
  - (b) Was the subject of a written agreement to convey entered into prior to such time; or
  - (c) Was a separate parcel not less than two and one-half (2-1/2) acres in area and one hundred fifty (150) feet in width on January 1, 1996; or
  - (d) Was a separate parcel of not less than five (5) acres in area and three hundred (300) feet in width on July 1, 1980; or
  - (e) Is a single parcel of commercial or industrial land of not less than five (5) acres and having a width of not less than three hundred (300) feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five (5) acres in area or three hundred (300) feet in width; or
  - (f) Is a single parcel of residential or agricultural land of not less than twenty (20) acres and having a width of not less than five hundred (500) feet and its conveyance does not result in the division of the parcel into two (2) or more lots or parcels, any one of which is less than twenty (20) acres in area or five hundred (500) feet in width.
- (2) In any case in which compliance with the foregoing restrictions will create an unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the platting authority may waive such compliance.
- (3) Any owner or agent of the owner of land who conveys a lot or parcel in violation of the provisions of this Subdivision Code shall pay to the municipality a penalty (no criminal sanction) of not less than \$100 for each lot or parcel so conveyed. The City may enjoin

such conveyance or may recover such penalty by a civil action in any court of competent jurisdiction.

**I. Variances.**

- (1) The City Council may grant a variance in any particular case where the subdivider can show that by reason of the exceptional topography or other physical conditions, the strict compliance to these regulations could cause an exceptional and undue hardship on the enjoyment of a substantial property right. Such relief may be granted provided there is no detriment to the public welfare and no impairment of intended purpose of this regulation.
- (2) Application for any such variance shall be made in writing by the subdivider at the time when the plat is filed for consideration. Such application shall state fully all facts relied upon by the subdivider, and shall be supplemented with maps, plans or other additional data which may aid the City Council in the analysis of the proposed project. Such variances shall be considered at the next regular meeting held by the City Council. The plans for such development shall include any covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the proposed plat. Any variance or modifications thus granted shall be recorded and entered in the minutes setting forth the reasons for granting the variance.

**J. Security Interest.**

- (1) Creation of a security interest in a portion of a parcel less than the entire parcel does not entitle the property to subdivision even in the event of foreclosure of the security interest, unless otherwise approved by the City Council and the parcel is in conformance with this Chapter and the Zoning Code.

**§ 152.010 ENFORCEMENT**

**A. Building Permits**

- (1) No building permit shall be issued for any construction, enlargement, alteration or repair, demolition or moving of any building or structure on any lot or parcel until all the requirements of this regulation have been fully met.

**B. Violations and Penalties**

- (1) Any firm, person or corporation who violates any of the provisions of these regulations, or who sells, leases or offers for sale or lease any lot, block or tract of land herewith regulated before all the requirements of these regulations have been complied with shall be guilty of a misdemeanor and upon conviction thereof be subject to fine and/or imprisonment. Each day that a violation is permitted to exist shall constitute a separate offense.

**C. Separability.**

- (1) It is hereby declared to be the intention that the several provisions of this regulation are separable in accordance with the following:
  - (a) If any court of competent jurisdiction shall adjudge any provision of this regulation to be invalid, such judgment shall not affect any other provision of this regulation not specifically included in said judgment.
  - (b) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this regulation to a particular property, building or structure, such judgment shall not affect other property, buildings or structures.

## **CHAPTER 153: SHORELAND MANAGEMENT AREA**

### Section

#### *General Provisions*

- 153.001 Purpose
- 153.002 Construction
- 152.003 Definitions

#### *Shoreland Classification System and Land Use Districts*

- 153.004 Subdivisions, Designation of Districts
- 153.005 Use Standards
- 153.006 Prohibited Uses

#### *Nonconformities*

- 153.007 Nonconforming Uses
- 153.008 Dimensional Standards and Other Requirements

#### *Subdivision/Platting Provisions*

- 153.009 Setback Requirements
- 153.010 Substandard Lots
- 153.011 Substandard Structures

#### *Zoning and Water Supply/Sanitary Provisions*

- 153.012 Sewage Disposal
- 153.013 Marinas
- 153.014 Alterations in Public Waters
- 153.015 Transmission Services
- 153.016 Public Roads

#### *Planned Residential Developments (PRDs)*

- 153.017 Subdivisions
- 153.018 Administration

## **GENERAL PROVISIONS**

### **§ 153.001      PURPOSE**

This chapter is adopted for the purpose of:

**A.**     Designating suitable land use districts along the bluffland and shoreland of the Lower St. Croix River.

**B.**     Regulating the area of a lot, and the length of bluffland and water lot frontage suitable for building sites.

**C.**     Regulating the setback of structures and sanitary waste treatment facilities from blufflines to protect the existing and/or natural scenic values, vegetation, soils, water, and bedrock from disruption by man-made structures of facilities.

**D.**     Regulating the setback of structures and sanitary waste treatment facilities from shorelines to protect the natural scenic value, floodplain, and water quality.

**E.**     Regulating alterations of the natural vegetation and topography.

**F.**     Conserving and protecting the natural scenic values, historical and cultural resources of the river valley and maintaining a high standard of environmental quality consistent with the National Scenic Rivers Act (PL 90-542) and Lower St. Croix Act (PL 92-560) and Master Plan, and with Minnesota Department of Natural Resources Standards and Criteria for the Lower St. Croix National Scenic Riverway (Minnesota Rules Part 6105.0351 to 6105.0550).

### **§ 153.002      CONSTRUCTION**

**A.**     In the event of conflicting provisions in the text of this Chapter, and/or other Chapters, the more restrictive provision shall apply. The Zoning Administrator shall determine which is more "restrictive". Appeals from such determination may be made to the City Council.

**B.**     Words used in the present tense include the past and future tense; the singular number includes the plural and the plural includes the singular; the word "shall" is mandatory, the word "may" is permissive.

**C.**     The provisions of this Chapter are in addition to and not in replacement of other provisions of the Zoning Code. Any provision of the Zoning Code relating to the Lower St. Croix Riverway shall remain in full force and effect except as they may be contrary to the provisions of this Chapter.

**D.**     Unless otherwise specified, all distances shall be measured horizontally.

**§ 153.003 DEFINITIONS**

**A.** For the purpose of this Chapter, certain phrases and words are hereby defined as follows:

1. "Accessory Use" means a use subordinate to and serving the principal use on the same lot and customarily incidental thereto.
2. "Appurtenance" means a structure subordinate to and serving the principal structure on the same lot and customarily incidental thereto such as garages, decks, essential services, signs, docks and stairways and lifts, except that appurtenance does not include private water supply and sewage and waste disposal systems below the ground.
3. "Bluffline, Riverway" means a line along the top of a slope in the Riverway District connecting the points at which the slope, proceeding away from the river or adjoining watershed channel, becomes less than 12% and it only includes slopes greater than 12% visible from the river or any water course tributary to the river. The location of the bluffline for any particular property shall be certified by a registered land surveyor or the zoning administrator. More than one bluffline may be encountered proceeding away from the river or adjoining watershed channel. All setbacks required herein shall be applicable to each bluffline.
4. "Building Line" means a line measured across the width of the lot at the point where the principal structure is placed in accordance with setback provisions.
5. "Channel" means a natural or artificial depression of perceptible extent with a definite bed and banks to confine and conduct flowing water either continuously or periodically.
6. "Commissioner" means the Commissioner of Natural Resources.
7. "Conservancy" means the practice or implementation of policies for the protection and preservation of the natural character of lands for their value to scenic enjoyment, wildlife, water and soil conservation, flood plain management, forestry, and other such purposes.
8. "Dwelling Unit" means a residential accommodation which is arranged, designed, used, or intended for use exclusively as living quarters for one family.
9. "Harbor" means a portion of body of water along or landward of the natural shoreline deep enough for recreational watercraft

navigation, and so situated with respect to shoreline features as to provide protection from winds, waves, ice, and currents. Natural harbors consist of bays and estuaries, while artificial harbors are constructed by dredging.

10. "Marina" means an area of concentrated small craft mooring, where ancillary facilities may be provided for some or all of such services as fueling, sewage pump out, boat, launching, boat repair, and boat storage; except that marina does not mean temporary docks associated with riparian residential development if the mooring area is of a size not to exceed the resource limitations of the site and the needs of the residents of the development.
11. "Non-Conforming Use" means any use of land legally established before the effective date of this Riverway, Bluffland/Shoreland Code which does not conform to the zoning district use regulations.
12. "Ordinary High Water Mark" means a mark delineating the high-water water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. In areas where the ordinary high water mark is not evident, setbacks shall be measured from the stream bank of the following water bodies that have permanent flow or open water: the main channel, adjoining side channels, backwaters, and sloughs.
13. "Riverway Boundary" means a legally described line delineating the landward extent of the St. Croix Riverway subject to these regulations, City Code 31.03.
14. "Scenic Easement" means an interest in land, less than fee title, that limits the use of the land for the purpose of protecting the scenic, recreational, and natural characteristics of areas in the St. Croix Riverway. Unless otherwise expressly and specifically provided by mutual agreement of the parties, the easement shall be perpetually held for the benefit of the people of Minnesota; specifically enforceable by its holder or any beneficiary; and binding on the holder of the servient estate, his heirs, successors, or assigns. Unless specifically provided by the parties, no such easement shall give the holder or any beneficiary the right to enter on the land except for enforcement of the easement.
15. "Screening" means existing or planted vegetation or topography which makes any structure on any property visually inconspicuous in summer months as viewed from the river.
16. "Setback" means the minimum horizontal distance between any

part of a structure and the ordinary high water mark is not evident, setbacks shall be measured from the stream bank of the following water bodies that have permanent flow or open water: the main channel, adjoining side channels, backwaters, and sloughs.

17. "Slope" means all lands between the ordinary high water mark and the riverway boundary having an angle of ascent or descent of more than 12% (percent) from the horizontal.
18. "St. Croix Riverway" means all lands and public waters within the riverway boundary subject to these regulations.
19. "Structure" means any building or appurtenance thereto, including garages, decks, docks, and stairways, except transmission services.
20. "Substandard Structure" means any structure legally established before the effective date of the Bluffland and Shoreland Code which does not meet the structure setbacks or other dimensional standards of the Code.
21. "Variance" means any modification or variation of the dimensional standards, or other requirements of the Bluffland and Shoreland Code where it is determined that, because of hardships, strict enforcement of the Code is impractical.
22. "Visually Inconspicuous" means difficult to see or not readily noticeable in summer months as viewed from the river.
23. "Watercourse" means a channel in which a flow of water occurs either continuously or intermittently. The term applies to either natural or artificially constructed channels.
24. "Wetlands" means land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp, marsh, or slough.

#### **§ 153.004 DESIGNATION OF DISTRICTS**

**A.** For the purpose of protecting the natural resources and natural scenic values of the land within the boundaries of the Lower St. Croix Riverway the following districts shall be established:

**B.** The boundaries of the Lower St. Croix Riverway and the urban district with sewer and water service and urban district without sewer and water include all of the land riverward of the legally described Riverway boundary contained in the official copy of the Lower St. Croix National Scenic Riverway Master Plan.

**C.** The boundaries of the Lower St. Croix Riverway zoning districts are as designated in the official copy of the Lower St. Croix National Scenic Riverway Master

Plan, which is made part of this Code and is on file with the governing body.

**§ 153.005 USE STANDARDS**

**A. Purpose.** The purpose of establishing standards for uses in the St. Croix Riverway shall be to protect and preserve existing natural, scenic, and recreational values, to maintain proper relationships between various land use type.

**B. Permitted Uses.** All structures associated with the following uses are permitted in the St. Croix Riverway subject to the dimensional requirements of the Bluffland/Shoreland Code:

- (1) Conservancy;
- (2) Agriculture;
- (3) Single-family residential;
- (4) Governmental highway waysides, rest areas, information areas, parks and scenic overlooks; and
- (5) Governmental resource management and interpretive activities.

**C. Accessory Uses in General.** All appurtenances associated with and customarily incidental to permitted uses.

**§ 153.006 PROHIBITED USES.**

- A.** Sand and gravel operations;
- B.** Junk yards;
- C.** Mobile home parks;
- D.** Downhill ski areas;
- E.** Advertising sign, visible from the river; and
- F.** All uses not authorized in this Shoreland/Bluffland Chapter.

**§ 153.007 NON-CONFORMING USES.** Prohibited uses legally in existence prior to the effective date of adoption of the Riverway Shoreland and Bluffland Code are non-conforming uses. Such uses can be maintained but shall not be enlarged or expanded.

**§ 153.008 DIMENSIONAL STANDARDS AND OTHER REQUIREMENTS**

**A. Purpose.** The purpose of establishing dimensional standards and criteria in the St. Croix Riverway shall be to protect riverway lands by means of acreage, frontage, setback and height requirements on development. Specific objectives shall be to maintain the esthetic integrity of the St. Croix Riverway's dominant

natural setting, to reduce the adverse effects of poorly planned shoreland and bluffland development, to provide sufficient space on lots for sanitary facilities, to minimize flood damage, to prevent pollution of surface and ground water, to minimize soil erosion, and to provide a natural buffer between the river and developed areas.

**B. Minimum Dimensional Requirements.**

- (1) The following chart sets forth the minimum area, setbacks, and other dimensional requirements of each district.

	Urban District	
	Without Sewer and Water	With Public Sewer and
Minimum lot size above ordinary high water mark	1 acre	20,000 sq. ft.
Lot width at building setback line	150 feet	100 feet
Lot width at water line	150 feet	100 feet
Structure setback from ordinary high water mark	100 feet	100 feet
Structure setback from bluffline	50 feet	40 feet
On-site sewage treatment system setback from ordinary high water mark	100 feet	
On-site sewage treatment system setback from bluffline	40 feet	
Maximum structure height	35 feet	35 feet
Maximum total lot area covered by impervious surface	20% (8,700 sq. ft.)	20% (4,000 sq. ft.)
On slopes less than 12%, the controlled vegetative cutting areas setback are from: ordinary highwater mark	100 feet	100 feet
Blufflines	40 feet	40 feet

**C. Other Requirements.**

- Slopes.** Structures shall not be permitted on slopes greater than 12 percent, with the exception of stairways and lifts. The physical

alteration of slopes shall not be permitted for the purpose of overcoming this limitation.

2. **Floodplain.** New structures shall meet the floodway requirements as defined in the Flood Plain Ordinance.
3. **Color of Structures.** The exterior color of new structures, including roofs, shall be of earth or summer vegetation tones, unless completely screened from the river by topography.
4. **Sewage Disposal.** Shall meet requirements of Section 153.012.
5. **Vegetative Cuttings.**
  - (a) **Permit Required.** On lands within 100 feet of the ordinary high water mark and forty feet landward of blufflines and on slopes greater than 12% there shall be no vegetative cutting of live trees or shrubs without a permit. A permit may be issued only if:
    - (i) the cutting, including topping, involves trees less than six inches in diameter at breast height;
    - (ii) the cutting, including topping involves vegetation which is not screening any structure from view from the river;
    - (iii) the essential character, quality, and density of existing growth is preserved and continuous canopy cover is maintained;
    - (iv) the trees, or diseased trees, and their removal is in the public interest; or
    - (v) the cutting is necessary for the maintenance of transportation lines or utility rights-of-way.
  - (b) **Permit Not Required.** A vegetative permit is not required for the following, however, the vegetative cutting shall be accomplished in such a manner that the essential character, quality, and density of existing growths is preserved and continuous canopy cover is maintained as viewed from the river:
    - (i) clearing the minimum area necessary for a structure, sewage disposal system, and private road and parking area, undertaken pursuant to a validly issued building permit;

- (ii) maintenance trimming or pruning on any particular property or in transportation or utility rights-of-way;
- (iii) vegetative cutting in areas of the St. Croix Riverway not covered under subpart C, 5(a), provided that the cutting, including topping involves vegetation which is not screening any structure from view from the river.

**6. Grading and Filling.**

- (a) Grading, filling, excavating, or otherwise changing the topography landward of the ordinary high water mark shall not be conducted without a permit from the local authority. A permit may be issued only if:
  - (i) slopes greater than 12% are not altered where erosion and visual scars may result;
  - (ii) earth moving, erosion, vegetative cutting, draining or filling of wetlands, and the destruction of natural amenities is minimize;
  - (iii) the smallest amount of ground is exposed for as short a time as feasible;
  - (iv) during construction temporary ground cover, such as mulch, is used and permanent ground cover, such as sod is planted;
  - (v) temporary and permanent methods to prevent erosion and trap sediment are employed; and
  - (vi) fill is stabilized to accepted engineering standards.
- (b) **Permit Not Required.** A separate grading and filling permit is not required for grading, filling, or excavating the minimum area necessary for a structure, sewage disposal system, and private road and parking area undertaken pursuant to a validly issued building permit. However, the standards and criteria of subpart 6(a) shall be required as conditions of the building permit.

**§ 153.009 EXCEPTIONS.** Exceptions to the minimum setback requirements include the following:

**A.** Where a substandard setback pattern from the ordinary high water mark or a bluffline has already been established by existing principal dwelling unit structures on

adjacent lots on both sides of the proposed building site, the setback of the proposed structure shall be the average setback of the existing dwelling units plus at least forty (40) feet, or the required minimum setbacks of the underlying zoning district, whichever distance is less from the average setback line. This exception shall apply only to substandard lots which do not meet the minimum lot width requirements of part Section 153.008.

**B.** Developments subject to state permits which provide services to the public and which, by their nature, require location on or near public waters shall be subject to the conditions of the state permits and provided in Minnesota Rules 6105.0390 and 6105.0410 to 6105.0440.

**C.** Temporary docks may be allowed as approved by federal, state, or local governments to extend into the water the minimum distance necessary to facilitate the launching or mooring of watercraft during the open-water season.

**D.** Signs may be allowed as approved by federal, state, and local governments which are necessary for the public health and safety. Signs may also be allowed that indicate areas that are available or not available for public use. Outside the minimum setbacks within the St. Croix Riverway, signs that are otherwise lawful are permitted, provided they will be visually inconspicuous in summer months as viewed from the river.

**E.** Stairways and lifts to enable access from bluffland properties to the water on steep slopes may be allowed by the local authority, provided the disruption of vegetation and topography is kept to a minimum and the structure will be visually inconspicuous in the summer months as viewed from the river.

**§ 153.010 SUBSTANDARD LOTS.** Lots recorded in the office of the Washington County Recorder prior to May 1, 1974, that do not meet the requirements of Section 153.008, may be allowed as building sites when:

- A.** The proposed use is permitted in the zoning districts;
- B.** The lot has been in separate ownership from abutting lands since May 1, 1974;
- C.** It can be demonstrated that a proper and adequate sewage disposal system can be installed in accordance with the provisions of Subdivision 11; and
- D.** The dimensional standards of the Bluffland and Shoreland Code are complied with to the greatest extent practicable.

**§ 153.011 SUBSTANDARD STRUCTURES.** All structures legally in existence prior to the effective date of adoption of the Bluffland and Shoreland Code that do not meet the structure or sewage treatment system setback requirements or other dimensional standards of the Code are considered substandard structures and shall be subject to the following conditions:

**A.** Substandard structures that contain non-conforming uses shall not be enlarged or expanded.

**B.** Substandard structures and substandard sanitary facilities shall be allowed to continue.

**C.** In no instance shall the extent to which a structure or sanitary facility violates a setback standard be increased.

**D.** An extension, enlargement, or alteration of an existing substandard structure may be permitted on the side of the structure or facility facing away from the river or bluffline.

**E.** Any alteration or expansion of a substandard structure which increases the horizontal or vertical riverward building face shall not be allowed unless it can be demonstrated that the structure will be visually inconspicuous in summer months as viewed from the river as determined by the City Council after public hearing.

**F.** Exterior decks attached to the structure which do not extend any roof or foundation, may be permitted to extend laterally (parallel to the river or bluffline) at the same setback as the substandard structure if said deck is visually inconspicuous in summer months as viewed from the river, and the deck has no roof or building foundation.

**G.** If a substandard structure needs replacing due to destruction, deterioration, or obsolescence, such replacement shall comply with the dimensional standards of this Chapter.

**§ 153.012 SEWAGE DISPOSAL.** Any premises intended for human occupancy must be provided with an adequate method of sewage disposal. Subject to the following items:

**A.** Public collection and treatment facilities must be used where available and where feasible.

**B.** Where public or municipal facilities are not available, all on-site individual sewer disposal systems shall conform to the minimum standards as set forth in Washington County Individual Sewage Treatment System Ordinance.

**C.** A septic tank/drainfield system shall be the only acceptable system for installation unless it can be demonstrated that this system is not feasible on the particular lot in question and it can be demonstrated that the system being proposed as an alternate will not cause a pollution problem.

**D.** No person, firm, or corporation shall install, alter, repair, or extend any individual sewer disposal system without first obtaining a permit therefore from the Zoning Administrator for the specific installation, alteration, repair, or extension.

**§ 153.013 MARINAS**

**A.** New and or expanded marinas may only be allowed:

- (1) Between the Boomsite Highway Wayside and the City of Stillwater.
- (2) Downstream from the northern City limits of Stillwater in urban districts.

**B. New Marinas.** New Marinas shall meet the design standards of Natural Resources Regulations including Minnesota Rules Part 6105.0410, Subpart 2.

**C. Permit Requirements.** No construction or development associated with a marina shall begin until all of the following authorizations have been obtained by the applicant:

- (1). Marinas shall be Conditional Use in this Chapter.
- (2) For uses and structures above the ordinary high water mark associated with a marina, a public hearing shall be held by the City Council to consider a marina as a conditional use in accordance with Department of Natural Resources Regulations including Minnesota Rules Part 6105.0530. The City Council may approve or deny the marina on said standards of the Department of Natural Resources. If the governing body approves the marina, final issuance of the local permit shall be conditioned upon granting of all State and Federal permits required in Department of Natural Resources Regulations including Minnesota Rules Part 6105.0410.

**§ 153.014 ALTERATIONS IN PUBLIC WATERS.** Changing the course, current, or cross section of public waters shall require State and Federal permits as specified in Minnesota Rules Part 6105.0420 before any local permits may be issued.

**§ 153.015 TRANSMISSION SERVICES.** A permit from the Commissioner is required pursuant to Minnesota Statutes § 84.415 or 105.42 before transmission services may cross state-owned lands or public waters and shall be in accordance with the Natural Resources Regulations including Minnesota Rules Part 6105.0430.

**§ 153.016. PUBLIC ROADS.** A permit from the Commissioner of Natural Resources is required before construction, reconstruction, removal or abandonment of any road or railroad crossing of public waters within the Riverway. Said permit shall be in accordance with the Natural Resources Regulations Minnesota Rules Part 6105.0440.

**§ 153.017. SUBDIVISIONS.**

**A. Land Suitability.** No land shall be subdivided which is found by the governing body to be unsuitable for reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewer disposal capabilities or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or the community. The City Council in applying the provisions of this section shall in writing cite the particular features upon which it bases its conclusions that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence regarding such suitability at a public hearing. Thereafter, the governing body may affirm, modify, or withdraw its determination of unsuitability.

**B. Preliminary Plans.**

- (1) Preliminary plans for all plats, including planned cluster developments shall be approved by the Commissioner or his agent in writing prior to preliminary approval by the City Council.
- (2) All subdivisions shall comply with the applicable provisions of the Washington County Subdivision Ordinance, Chapter 5 of the County Development Code.

**C. Planned Cluster Developments.** A pattern of subdivision development which places dwelling units into compact groupings may be allowed when the proposed clustering provides a better means of preserving agricultural land, open space, woods, scenic views, wetlands, and other features of the natural environment than traditional subdivision development. Except for minimum setbacks and height limits, altered dimensional standards may be allowed as exceptions to this Chapter for planned cluster developments, provided:

- (1) In urban districts of this Code and only where public sewer and water will be installed in the proposed cluster development, the number of dwelling units shall not exceed fifty percent (50%) more than the total number of dwelling units allowed if the development was based on the minimum lot size requirements for single family residential subdivisions.

**§ 153.018 ADMINISTRATION**

**A. Administrative Procedures.** In addition to the applicable administrative procedures set forth in the Zoning Code of the City of Lakeland Shores, the following procedures shall be implemented with respect to land, subject to this Chapter:

- (1) A public hearing shall be held for all zoning district amendments, zoning text amendments, conditional use permits, planned unit developments, subdivisions, and variances.

- (2.) No less than twenty (20) days prior to the public hearing, the local Zoning Administration shall send notice and copies of the applicants information as specified in Section 153.018 F to the following agencies for review and comments:
  - (i) Department of Natural Resources;
  - (ii) Minnesota/Wisconsin Boundary Area Commission/\_\_\_\_\_
- (3) The applicant for any permit requiring a public hearing shall submit to the governing body at least thirty (30) days prior to such hearing, an abstractors certificate showing the names and addresses of all property owners within 350 feet of the affected property, and any local governments, within two (2) miles of the affected property. This requirement does not apply to amendments to the test of the Riverway Bluffland and Shoreland Management Ordinance.
- (4) Notice of the purpose, time, and place of such public hearing shall be mailed to all property owners and local governments listed in Section 153.018 A(3) at least ten (10) days prior to the date of the hearing. This requirement does not apply to amendments to the text of the Riverway Bluffland and Shoreland Management Code.
- (5) Notice of the purpose, time, and place of any such public hearing shall be published in the official newspaper of the affected communities at least ten (10) days prior to the date of the hearing.

**B. Certification of the Commissioner of Natural Resources.** Before any zoning district ordinance amendment or variance becomes effective, the overruns, body shall forward the decision to the Commissioner. The Commissioner shall certify in writing that the proposed action complies with the intent of the Wild and Scenic Rivers acts and the Master Plan for the Lower St. Croix River within thirty (30) days of receipt of final decision in the manner specified in Department of Natural Resources Regulations Minnesota Rules Part 6105.0540.

**C. Forwarding a Final Decision.** The City Clerk shall forward decisions within ten (10) days of final action on all conditional use permits, planned unit developments, and subdivisions to the Commissioner of Natural Resources.

**D. Permit Process.**

<b>St. Croix Riverway Ordinance Permits District</b>	<b>Urban District</b>
Building Permits	LP
Septic Permits	LP
Grading Permits	LP
Tree Cutting Permits	LP

Conditional Use Permits	PH-WA-FD
Amendments to Riverway Bluffland Shoreland	PH-WA-CC
Amendments to District Boundary	PH-
Plats and Cluster Developments	PH-WA-FD
Variances	PH-WA-CC

- LP Permit issued by the local authority in accordance with this Ordinance and all other local permits. CC - Certification by the Commissioner of Natural Resources prior to final local approval.
- PH Public hearing necessary by the local authority giving twenty (20) days notice of meeting to the Commissioner of Natural Resources and other agencies listed in Section 153.018 (3).
- FD Local authority forwards any decisions to the Commissioner of Natural Resources within ten (10) days after taking final action.
- WA The Commissioner of Natural Resources shall submit, after notice of public hearing and before the local authority gives preliminary approval, a written review and approval of the project.

**E. Variances.**

- (1) Variances shall only be granted where there are particular hardships which make the strict enforcement of this ordinance impractical. Hardship means the proposed use of the property and associated structures in question cannot be established under the conditions allowed by this Chapter; the plight of the landowner is due to circumstances unique to his property, not created by the landowners after May 1, 1974; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship for the reasonable use of the property and associated structures under the conditions allowed by this Chapter. In addition, no variance shall be granted that would permit any use that is prohibited in this Chapter in which the subject property is located. Conditions may be imposed in the granting of a variance to insure compliance and to protect adjacent properties and the public interest, especially in regard to the view from the river.
- (2) The public hearing for the variance shall be held by the Planning Commission or the City Council as set forth in the Zoning Code.

**F. Requirements of the Applicant for a Public Hearing.** The applicant shall submit sufficient copies of the following information and additional information as

requested to the governing body thirty (30) days prior to the public hearing on the application for a conditional use, variance, planned unit development or subdivision.

- (1) Plat of survey showing the property location, boundaries, dimensions, elevations, blufflines, utility and roadway corridors, the ordinary high water mark, floodway, and floodplain.
- (2) The most recent aerial photo of the property with property lines drawn in.
- (3) Location of existing and proposed structures including height and setback dimensions.
- (4) Location of existing and proposed alterations of vegetation and topography.
- (5) Adjoining water-oriented and other uses.
- (6) Suitability of the area for on-site waste disposal. Type, size and location of the system shall be indicated. If a public or municipal wastewater collection and treatment system is to be utilized, the applicant must submit a written agreement from the City indicating that the system has the capacity to handle the development.
- (7) An estimate of permanent and transient residents.

**G. Factors to be Considered.** When considering a conditional use permit, variance, subdivision, proposal or zoning amendment within Shoreland and Bluffland District, the City shall address the following items in making its decisions.

- (1) Preserving the scenic and recreational resources of the St. Croix Riverway, especially in regard to the view from and use of the river.
- (2) The maintenance of safe and healthful conditions.
- (3) The prevention and control of water pollution, including sedimentation.
- (4) The location of the site with respect to floodways, slopes, and blufflines.
- (5) The erosion potential of the site based on degree and direction of slope, soil type, and vegetative cover.
- (6) Potential impact on game and fish habitat.
- (7) Location of the site with respect to existing or future access roads.
- (8) The amount of wastes to be generated and the adequacy of the proposed

disposal systems.

- (9) The anticipated demand for police, fire, medical, and school services and facilities.
- (10) The compatibility of the proposed development with uses on adjacent land.

**H. Enforcement.**

(1) **Enforcement.**

- (a) It is declared unlawful for any person to violate any of the terms and provisions of this Chapter. Violation thereof shall be a misdemeanor. Each day that a violation is permitted to exist shall constitute a separate offense.
- (b) In the event of a violation or a threatened violation of this Chapter, the City Council, or the Commissioner of Natural Resources, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violations or threatened violations and it is the duty of the City Attorney or State Attorney General, to institute such action.

(2) **Separability.** It is hereby declared to be the intention that the several provisions of this Chapter are separable in accordance with the following:

- (a) If any court of competent jurisdiction shall adjudge any provision of this Chapter to be invalid, such judgment shall not affect any other provisions of this Chapter not specifically included in said judgment.
- (b) If any court of competent jurisdiction shall adjudge invalid the application of any portion of this Chapter to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.
- (c) Nothing contained in this Chapter repeals or amends any Chapter requiring a permit or license to engage in any business or occupation.

## CHAPTER 154. FLOODPLAIN

### Section

- 154.001 Title
- 154.002 Intent and Purpose
- 154.003 Authorization and Findings of Fact
- 154.004 Definitions
- 154.005 General Provisions
- 154.006 Zoning Districts
- 154.007 Floodway District
- 154.008 Flood Fringe District
- 154.009 General Flood Plain District
- 154.010 Subdivisions
- 154.011 Public Utilities, Railroads, Roads and Bridges
- 154.012 Manufactured Homes
- 154.013 Administration
- 154.014 Nonconforming Uses
- 154.015 Violations and Penalties
- 154.016 Amendments
- 154.017 Effective

### **§ 154.001 TITLE**

A. This Chapter shall be known, cited and referred to as the City of Lakeland Shores Floodplain; except as referred to herein, where it shall be known as, "This Chapter".

### **§ 154.002 INTENT AND PURPOSE**

A. This Chapter is adopted:

- (1) Protecting the public health, safety, morals, comfort, convenience and general welfare.
- (2) Conserving and developing natural resources, and maintaining a high standard of environmental quality.
- (3) Preserving the capacity of floodplains to carry and discharge regional floods.
- (4) Preserving and enhancing the quality of surface waters.
- (5) Regulating the placement of sanitary and waste disposal facilities on lots.

- (6) Promoting the health, safety, and general welfare by regulating the placement of structures and facilities in flood prone areas.
- (7) To be consistent with the changes in the Federal Emergency Management Agency (FEMA) rules by repealing the existing floodplain ordinance and substituting this Chapter which incorporates and implements the new FEMA rules.

**§ 154.003 STATUTORY AUTHORIZATION**

**A. Statutory Authorization.** The legislature of the State of Minnesota has, in Minnesota Statutes § 103F, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses.

**B. Findings of Fact.**

- (1) The flood hazard areas of the City of Lakeland Shores, 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 for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) **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.

**§ 154.004 DEFINITIONS.**

**A. Rules.**

- (1) In the event of conflicting provisions in the text of this Chapter, the more restrictive provision shall apply. The City Council shall rule on what is more "restrictive" and appeals from said decisions may be made in a manner provided.
- (2) Words used in the present tense include the past and future tense; the singular number includes the plural and the plural includes the singular; the word "shall" is mandatory, and the word "may" is permissive.

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

- (1) **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.

- (2) **Basement.** Any area of a structure, including crawl spaces, having its floor or base sub-grade (below ground level) on all four sides, regardless of the depth of excavation below ground level.
- (3) **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 Code 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.
- (4) **Equal Degree of Encroachment.** A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
- (5) **Flood.** A temporary increase in the flow or stage of a stream or in the stage of a lake that results in the inundation of normally dry areas.
- (6) **Flood Frequency.** The average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- (7) **Flood Fringe.** That portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term "Floodway Fringe" used in the Flood Insurance Study for Washington County.
- (8) **Floodplain.** The beds proper and the areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.
- (9) **Floodproofing.** A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
- (10) **Floodway.** The bed of a wetland or lake and the channel of the watercourse and those portions of the adjoining floodplain which are reasonably required to carry and discharge the regional flood.
- (11) **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 floodplain 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.

- (12) **Normal Ordinary High Water Mark.** A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon landscape. The ordinary high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.
- (13) **Principal Use or Structure.** All uses or structures that are not accessory uses or structures.
- (14) **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.
- (15) **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.
- (16) **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 encroachment on the floodplain that result from designation of a floodway.
- (17) **Structure.** Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, detached garages, cabins, mobile homes and similar items.
- (18) **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 elaborated upon in the City of Lakeland Shores Zoning Code.

## **§ 154.005 GENERAL PROVISIONS**

### **A. Application of this Chapter**

- (1) Where the conditions imposed by any provision of this Chapter are either more restrictive or less restrictive than comparable conditions

imposed by any of the other Chapters of the City of Lakeland Shores Chapters or by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive, or which impose higher standards or requirements, shall prevail.

- (2) The provisions of this Chapter are in addition to, rather than in lieu of, regulations imposed by Chapter 151, Zoning Chapter and Chapter 153, Shoreland Management Chapter, of the Lakeland Shores Code.
- (3) **Lands to Which Chapter Applies.** This Chapter shall apply to all lands within the City of Lakeland Shores shown on the Official Zoning Map as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts.
- (4) **Establishment of Official Zoning Map.** The official Zoning Map, together with all materials 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 Washington County prepared by the Federal Insurance Administration dated May 17, 1982, and the Flood Boundary and Floodway Maps and Flood Insurance Rate Maps therein. The Official Zoning Map shall be on file in the office of the City Clerk. The Flood Boundary and Floodway Maps and Flood Insurance Rate Maps shall be on file at the office of the Washington County Zoning Administrator.
- (5) **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 encroachment on the floodplain that result from designation of a floodway.
- (6) **Interpretation.**
  - (a) In their interpretation and application, the provisions of this Chapter shall be held to be the 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 district 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, the Planning Commission shall make the necessary interpretation based on available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Planning Commission and to submit

technical evidence.

- (7) **Compliance.** No 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.
- (8) **Abrogation and Greater Restrictions.** It is not intended by this Chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.
- (9) **Warning and Disclaimer of Liability.** This Chapter does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This Chapter shall not create liability on the part of City of Lakeland Shores or any officer or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.
- (10) **Severability.** If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

#### § 154.006 ESTABLISHMENT OF ZONING DISTRICTS

A. The floodplain areas within the jurisdiction of this Chapter are hereby divided into three districts: Floodway District (FW), Flood Fringe District (FF) and General Floodplain District (GFP).

- (1) **Floodway District.** The Floodway District shall include those areas designated as floodway on the Flood Boundary Floodway Maps and/or as established by elevations delineated by the Federal Emergency Management Administration.
- (2) **Flood Fringe District.** The Flood Fringe District shall include those areas designated as floodway fringe on the Flood Boundary Floodway Maps.
- (3) **General Floodplain District.** The General Floodplain District shall include those areas designated as unnumbered A Zones on the Flood Insurance Rate Map.

The boundaries of these districts shall be shown on the Official Zoning Map. Within these districts, all uses not allowed as permitted uses or permissible as conditional uses shall be prohibited.

**B. 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 Floodplain Districts, all uses not listed as permitted uses or conditional uses in Sections 154.007, 154.008 and 154.009 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

- (1) New manufactured homes and replacement manufactured homes are subject to the general provisions of this Chapter and specifically in Section 154.012.
- (2) Modifications, additions, structural alterations or repair after damage to existing non-conforming structures and non-conforming uses of structures or land are regulated by the general provisions of this Chapter and specifically Section 154.014.
- (3) As-built elevations for elevated or flood-proofed structures must be certified by ground surveys and floodproofing 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 Section 154.013 of this Chapter.

## **§ 154.007 FLOODWAY DISTRICT (FW)**

### **A. Permitted Uses**

- (1) The following uses have a low flood damage potential and do not obstruct flood flows. These uses shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill or storage of materials or equipment. In addition, no use shall adversely affect the capacity of the channels or floodways or any tributary to the main stream or of any drainage ditch, or any other drainage facility or system.
  - (a) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.
  - (b) Industrial-Commercial uses such as 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.

**B. Conditional Uses.**

- (1) The following uses are allowed following the issuance of a Conditional Use Permit provided they are also permitted uses in the City of Lakeland Shores Zoning Ordinance.
  - (a) Structures accessory to uses listed in 701.01 above and uses listed in 702.02 through 702.08.
  - (b) Placement of fill.
  - (c) Extraction of sand, gravel and other materials.
  - (d) Marinas, boat rentals, docks, piers, wharves and water control structures.
  - (e) Railroads, streets, bridges, utility transmission lines and pipelines.
  - (f) Storage yards for equipment, machinery or materials.
  - (g) Other uses similar in nature to uses described in Sections 701 and 702 which are consistent with the intent and purpose of this Ordinance.
  - (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 agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

**C. Standards for Floodway Conditional Uses.**

- (1) **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.
- (2) All floodway conditional uses shall be subject to the procedures and standards contained in This City's ordinance.
- (3) The conditional use shall be permissible in the underlying zoning

district if one exists.

- (a) Fill, dredge spoil and all other similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, rip rap or other acceptable method.
  - (b) 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.
  - (c) As an alternative, and consistent with Subsection (2) immediately 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 City of Lakeland Shores 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.
- (4) Accessory structures (temporary or permanent) permitted as conditional uses by Section 702.01 (1) and This City's ordinances.
- (a) Accessory structures shall not be designed for human habitation.
  - (b) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters.
    - (i) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and
    - (ii) so far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
  - (c) Accessory structures shall be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the State Building Code. As an alternative, an accessory structure may be floodproofed to the FP-3 or FP-4 floodproofing 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 floodproofed accessory structures must meet the following additional standards, as appropriate:

- (i) The structure must be adequately anchored to prevent floatation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and
- (ii) Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.

**(5) Storage of Materials and Equipment.**

- (a) 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.
  - (b) 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 Zoning Administrator.
- (6) 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 Minn. Stat. § 103G. Community-wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.
- (7) 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.

**§ 154.008 FLOOD FRINGE DISTRICT (FF)**

**A. Permitted Uses.**

- (1) The following uses shall be permitted uses within the Flood Fringe District to the extent that they are not prohibited by any other subchapter.
  - (a) Any uses permitted in Section 154.007 (A).
  - (b) Accessory structures provided they comply with the provisions of Section 703.03 of this Ordinance and the City of

Lakeland Shores Zoning Ordinance.

- (c) Residences and other structures constructed on fill so that the basement floor or first floor, if there is no basement, is at or above the Regulatory flood Protection elevation. The finished fill elevation shall be no lower than one (1) foot below the Regulatory Flood Protection Elevation and shall extend at such elevation at least fifteen (15) feet beyond the limits of any structure or building erected thereon. Fill shall be compacted and the slopes shall be protected by rip rap or vegetative covering. Residences constructed on fill shall be subject to the vehicular access requirements in Section 804.01.
- (d) 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 floodproofed in accordance with Section 703.05 (3).
- (2) No uses shall be permitted which will adversely affect the capacity of the channels or floodways of any tributary to the main stream or of any drainage ditch or any other drainage facility or system.
- (3) The placement of fill where a cumulative total of one-thousand (1,000) cubic yards of fill is proposed to be located on the parcel shall require a conditional use permit, unless said fill is specifically intended to elevate a structure in accordance with Section 801.01 (3) of this Ordinance.
- (4) The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.

**B. Conditional Uses.**

- (1) Any structure that is not elevated on fill or floodproofed in accordance with Section 801.01 (3) or any use of land that does not comply with the standards in Sections 801.03 and 801.04 shall only be allowed as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Sections 803, 804 and 1303 of this Ordinance and Section 505 of Chapter 1 of the Washington County Development Code.

**C. Standards for Flood Fringe Conditional Uses.**

- (1) 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) is designed to internally flood and is constructed with flood resistant materials; and 3) is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following standards:

- (a) **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 floodwater from entering or accumulating within these components during times of flooding.
  - (b) **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 design plans must stipulate:
    - (i) The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. When openings are placed in a structure's walls to provide for entry of floodwaters to equalize pressures, the bottom of all openings shall be no higher than one-foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
    - (ii) 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.
- (2) Basements, as defined by Section 154.004 B(2) of this Ordinance, shall be subject to the following:
- (a) Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.

- (b) Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry floodproofed in accordance with Section 154.008 C (3) of this Chapter.
- (3) 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 and FP-2 flood-proofing classification in the State Building Code and this shall require making the structure water tight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Structures flood-proofed to the FP-3 or FP-4 classification shall not be permitted.
- (4) The placement of fill where a cumulative total of one-thousand (1,000) cubic yards of fill is proposed to be located on the 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. 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 Zoning Administrator. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- (5) **Storage of Materials and Equipment.**
  - (a) 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.
  - (b) 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 Zoning Administrator.
- (6) The provisions of Section 154.008 D of this Chapter shall also apply.

**D. Standards for Flood Fringe Uses.**

- (1) All new principal structures must have vehicular access at or above an

elevation not more than two (2) 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 for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

- (2) **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 for 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.
- (3) **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 Section 154.008 D(2) above. In considering permit applications, due consideration shall be given to needs to an industry whose business requires that it be located in floodplain areas.
- (4) Fill shall be properly compacted and the slopes shall be properly protected by the use of rip rap, 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 is requested.
- (5) Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the official Zoning Map.
- (6) 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.

**§ 154.009. GENERAL FLOODPLAIN DISTRICT (GFP).**

**A. Permitted Uses.**

- (1) The uses listed in Section 154.007 of this Chapter shall be permitted uses.
- (2) All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Section 154.009 B below. Section 154.007 shall apply if the proposed use is in the Floodway District and Section 154.008 shall apply if the proposed use is in the Flood Fringe District.

**B. Procedures for Floodway and Flood Fringe Determinations Within the General Floodplain District.**

- (1) Upon receipt of an application for a Conditional Use Permit for a use within the General Floodplain 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.
  - (a) 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.
  - (b) 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 land uses and vegetation upstream and downstream; and soil type.
  - (c) 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.
- (2) 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 Minnesota Regulations 1983, Parts 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

Resource's Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

- (a) Estimate the peak discharge of the regional flood.
  - (b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and over-bank areas.
  - (c) 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 foot 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.
- (3) The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Planning Commission. The Planning Commission must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The Planning Commission, prior to official action, may submit the application and all supporting data and analysis to the Federal Emergency Management Agency or the Department of Flood Fringe Boundaries have been determined, the Planning Commission shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of Sections 154.007 and 154.008 of this Chapter.

**§ 154.010. SUBDIVISIONS.**

**A. Subdivision Regulations.**

- (1) **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 floodplain 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 Chapter 50, and have road access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory' Flood Protection Elevation. For all subdivisions in the Floodplain, 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. All subdivisions must also be in conformance with the City of Lakeland Shores Subdivision Chapter and Zoning

Chapter.

(2) **Floodway/Flood Fringe Determinations in the General Floodplain District.**

- (a) In the General Floodplain District, applicants shall provide the information required in Section 154.009 of this Chapter to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the Regulator,' Flood Protection Elevation for the subdivision site.

(3) **Removal of Special Flood Hazard Area Designation.**

- (1) 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.

**§ 154.011. PUBLIC UTILITIES, RAILROADS, ROADS AND BRIDGES.**

**A. Public Utilities.**

- (1) All public utilities and facilities such as gas, electrical, sewer and water supply systems to be located in the floodplain shall be floodproofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.

**B. Public Transportation Facilities.**

- (1) Railroad tracks, roads and bridges to be located within the floodplain shall comply with Sections 154.007 and 154.008 of this Chapter. 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.

**C. On-Site Sewage Treatment and Water Supply Systems.**

- (1) Where public utilities are not provided:
  - (a) On-site water supply systems must be designed to eliminate infiltration of floodwaters into the systems.
  - (b) New or replacement on-site sewage treatment systems must be designed to eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters and they shall not be subject to impairment or contamination during times of flooding.
- (2) Any sewage treatment system designed in accordance with the Washington County Individual Sewage Treatment System Ordinance standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

**§ 154.012. MANUFACTURED HOMES.**

**A. Manufactured Homes.**

- (1) The placement of new or replacement of manufactured homes on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 154.008 of this Chapter. Manufactured homes must meet all requirements of the Washington County Zoning Ordinance and other codes related to single family dwellings.
- (2) 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 of frame ties to ground anchors. This requirement is in addition to state of local anchoring requirements for resisting wind forces.

**§ 154.013. ADMINISTRATION.**

**A. Zoning Administrator.**

- (1) The City Council shall administer and enforce this Chapter, and may refer enforcement thereof to the Washington County Zoning Administrator. If he/she finds a violation of the provisions of this Chapter, he/she shall notify the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it.

**B. Use Permit.**

- (1) **Use Permit Required.** A use 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 or change of use of a building, structure or land; prior to the change or extension of a non-conforming use; and prior to the placement of fill or excavation of materials within the floodplain.
- (2) **Application for Use Permit.** Application for a use permit shall be made in duplicate to the zoning Administrator on forms furnished by him/her 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.
- (3) **State and Federal Permits.** Prior to granting a use 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.
- (4) **Certificate of Zoning Compliance for a New, Altered or Non-conforming Use.** It shall be unlawful to use, occupy or permit the use or occupancy of any buildings 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. Where a non-conforming use or structure is extended or substantially altered, the certificate of zoning compliance shall specifically state the manner in which the non-conforming structure or use differs from the provisions of this Chapter.
- (5) **Construction and use to be as provided in applications, plans, permits and certificates of zoning compliance.** Use 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 violation of this Chapter, and punishable as provided by Section 154.014 of this Chapter. 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 Chapter. Floodproofing measures shall be certified by a registered professional engineer or registered architect.

- (6) **Record of First Floor Elevation.** The Zoning Administrator shall maintain a record of the elevation of the first floor (including basement) of all new structures or additions to existing structures in the floodplain districts. He/she shall also maintain a record of the elevations to which structures or additions to structures are floodproofed.

**C. Conditional Uses.**

- (1) The Planning Commission shall hear and make recommendations to the council on applications for conditional uses permissible under this Chapter. Applications shall be submitted to the Planning Commission for consideration.
- (2) **Hearings.** Upon filing with the Planning Commission an application for a conditional use permit, the Planning Commission shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional uses sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.
- (3) **Decisions.** The Planning Commission shall arrive at a decision on a conditional use within sixty (60) days. In granting a conditional use permit, the Planning Commission may prescribe appropriate conditions and safeguards, in addition to those specified in Section 154.013, 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 and punishable under Section 154.014. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
- (4) **Procedures for evaluating proposed conditional uses within the general floodplain district.**
  - (a) Upon receipt of an application for a conditional use permit for a use within all floodplain districts, the applicant shall be required to furnish such of the following information as is deemed necessary by the Washington County Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the floodway or flood fringe:

- (i) Plans in triplicate drawn to scale showing the nature, location, dimensions and elevation of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures and the relationship of the above to the location of the stream channel.
  - (ii) Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
- (5) **Factors upon which the decision of the Planning Commission shall be based.** In passing upon conditional use applications, the Planning Commission shall consider all relevant factors specified in other sections of this Ordinance, the City Zoning Ordinance, and
- (a) The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - (b) The danger that materials may be swept onto other lands or downstream to the injury of others.
  - (c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
  - (d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - (e) The importance of the services provided by the proposed facility to the community.
  - (f) The requirements of the facility for a waterfront location.
  - (g) The availability of alternative locations not subject to flooding for the proposed use.
  - (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - (i) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area.
  - (j) The safety of access to the property in times of flood for ordinary and emergency vehicles.

- (k) The expected heights, velocity, duration, rate or rise and sediment transport of the floodwaters expected at the site.
  - (l) Such other factors which are relevant to the purposes of this Ordinance.
- (6) **Time of Acting on Application.** The City Council shall act on the application in the manner described in the Zoning Ordinance.
- (7) **Conditions attached to conditional use permits.** Upon consideration of the factors listed above and the purposes of this Ordinance and the Washington County Zoning Ordinance, the Planning Commission may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:
- (a) Modification of waste disposal and water supply facilities.
  - (b) Limitations on period of use, occupancy and operation.
  - (c) Imposition of operational controls, sureties and deed restrictions.
  - (d) Requirements for construction of channel modification, dikes, levees and other protective measures.
  - (e) Flood proofing measures, in accordance with the State Building Code. 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.

**D. Variances.**

- (1) No variance shall be granted from the terms of this Chapter which would have the effect of allowing in any floodplain 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. The Department of Natural Resources shall be notified at least ten (10) days prior to any-hearing to consider a variance request.

**E. Flood Insurance Notice and Record Keeping.**

- (1) The Zoning Administrator shall notify the applicant for a variance that:
  - (a) 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 for \$100 of insurance coverage; and

- (b) Such construction below the 100-year or regional flood level increases risks to life and property.
- (2) 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.

**§ 154.014. NON-CONFORMING USES.**

**A. Non-conforming Use Regulations.**

- (1) A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance maybe continued subject to the following conditions:
  - (a) No such use shall be expanded, changed, enlarged, or altered in a way which increases its non-conformity.
  - (b) Any alteration or addition to a non-conforming structure or non-conforming 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 elevations on fill or floodproofing techniques (i.e., FP-1 through FP-4, Floodproofing Classifications) allowable in the State Building Code, except as further restricted in (c) below.
  - (c) The cost of any structural alterations or additions to any non-conforming structure over the life of the structure shall not exceed fifty percent (50%) of the assessed market value of the structure excluding the land value unless the conditions of this Section are satisfied. (The assessed market value is the market value of the structure in the Offices of the Washington County Assessor for the year in which application for the building permit is made.) The cost of all structural alterations and additions constructed since the adoption of the Community's initial floodplain 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 and labor. If the current cost of all previous and proposed alterations and additions exceeds fifty

percent (50%) of the current market value of the structure, then the structure must meet the standards of Section 154.017 or 154.018 of this Chapter for new structures, depending upon whether the structure is in the Floodway or Flood Fringe, respectively.

- (d) If any non-conforming use is discontinued for twelve (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 instances of non-conforming uses which have been discontinued for a period of twelve (12) months.
- (e) If any non-conforming use or structure is destroyed by any means, including floods, to an extent of fifty percent (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 Ordinance. The applicable provisions for establishing new uses or structures in Sections 154.017, 154.018 or 154.019 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Floodplain District, respectively.

**§ 154.015. VIOLATIONS AND PENALTIES.**

**A. Violations.**

- (1) Any firm, person or corporation who violates any of the provisions of these regulations shall be guilty of a full misdemeanor and upon conviction thereof shall be subject to a fine and/or imprisonment as provided by law. Each day that a violation is permitted to exist shall constitute a separate offense.
- (2) In the event of a violation of threatened violation of any of the terms of this Ordinance, the City may take appropriate action to enforce this Ordinance, including application for injunctive relief, action to compel performance or other appropriate action to court if necessary to prevent, restrain, correct or abate such violations or threatened violations. Upon motion, the court may award costs, disbursements and reasonable attorney's fees and witness fees, which costs and fees can be assessed against the land.
- (3) Whenever necessary to enforce any of the provisions of this Ordinance or whenever there is reasonable cause to believe that a violation of this Ordinance has occurred or is about to occur, an authorized agent of the City may enter any building or upon any premises at all reasonable times to inspect the same or to perform

any duties imposed by this Ordinance, provided that if such building or premises be occupied, the authorization shall first present proper credentials and demand entry and if such building or premises be unoccupied, shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the County shall have the recourse to every remedy provided by law to secure entry, including administrative and judicial search warrants.

**B. Penalties.**

- (1) Nothing herein contained shall prevent the Washington County Board of Commissioners from taking such other lawful action as is necessary to prevent or remedy any violation.
- (2) 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.
- (3) When an ordinance 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 plan of action to correct the violation to the degree possible.
- (4) The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance 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 department[sic], 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 of 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.

- (5) 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 Ordinance 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 Ordinance.

**§ 154.016. AMENDMENTS.**

**A. Amendments.**

- (1) The floodplain designation on the Official Zoning Map shall not be removed from the floodplain 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 floodplain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.
- (2) All amendments to this Ordinance 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 (10) days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the ordinance amendment or technical study under consideration.

**§ 154.017. EFFECTIVE DATE AND REPEALER.**

**A. Effective Date.**

- (1) This Chapter was approved by the Lakeland Shores City Council on November 4, 1993. An official copy of this Ordinance is on file in the City Clerk's Office located at 325 Quixote Avenue North, Lakeland Shores, Minnesota.
- (2) As of the effective date of this Ordinance, the Washington County Floodplain Ordinance passed by the Washington County Board of Commissioners on May 4, 1982 as Chapter 3 of the Washington County Development Code be and hereby is repealed.

## CHAPTER 155: BUILDING CODE

Section

**155.001 Title**

**155.002 Application, Administration, and Enforcement**

**155.003 Permits and Fees**

**155.004 Minnesota State Building Code Adopted**

**155.005 Violations and Penalties**

### **§ 155.001 TITLE.**

This chapter shall hereafter be known, cited, and referred to as the Lakeland Shores Building Code, except as sometimes referred to herein as the Code or this chapter.

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

**Administration and Enforcement:** The application, administration, and enforcement of the code shall be in accordance with Minnesota State Building Code. The code shall be enforced within the extraterritorial limits permitted by Minnesota Statutes 16B.62. subdivision 1.

The code enforcement agency for this City shall be the Washington County Department of Health, Environment and Management and the Lakeland Shores Building Inspector. This code shall be enforced by the Minnesota Certified Building Official designated by this Municipality to administer the code (Minn. Stat. 16B.65. subd. 1).

### **§ 155.003 PERMITS AND FEES.**

The issuance of permits and the collection of fees shall be as authorized in Minn. Stat. 16B.62, subd. 1.

Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by the municipality by resolution from time to time. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with Minn. Stat. 16B.70.

### **§ 155.004 MINNESOTA STATE BUILDING CODE ADOPTED BY REFERENCE.**

The Minnesota State Building Code, as adopted by the Commissioner of Administration pursuant to Minnesota Statutes chapter 16B.59 to 16B.75, including all of the amendments, rules, and regulations established, adopted and published from time to time by the Minnesota Commissioner of Administration, through the Building Codes and Standards Division is hereby adopted by reference with the exception of the optional

chapters, unless specifically adopted in this ordinance. The Minnesota State Building Code is hereby incorporated in this ordinance as if more fully set out herein.

**§ 155.005 VIOLATIONS AND PENALTIES**

A violation of the code is a misdemeanor (Minn. Stat. 16B.69).