CHAPTER 152: ZONING CODE

Section

General Provisions

152.001 Title
152.002 Scope and interpretation
152.003 Definitions
152.004 Violations
152.005 Official Zoning Map adopted

Zoning Districts

152.020 Generally
152.021 R-1 Low Density Residence District
152.022 R-2 Medium Density Multiple Dwelling Residence District
152.023 R-3 Mobile Home Park District
152.024 R-4 Ore Be Gone Residential Special Zoning District
152.025 C Commercial District
152.026 M-1 Industrial District
152.027 M-2 Mining and Related Activities District
152.028 P Public Recreation and Forest Reserve District
152.029 FZ Floating Zone District

General Zoning Regulations

152.040 Scope
152.041 Erection of more than one principal structure on a lot
152.042 Accessory buildings
152.043 Height regulations
152.044 Yard regulations
152.045 Vision clearance
152.046 Street closure
152.047 Areas under water
152.048 Structures to have access
152.049 Sign regulations
152.050 Off-street parking and loading; unloading space requirements

Planned Unit Developments

152.065 Purpose and intent
152.066 Definitions
152.067 Procedure
152.068 Preliminary development plan
152.069 Final development plan
152.070 General provisions

Nonconforming Uses

152.085 Nonconforming signs
152.086 Nonconforming junk yards
152.087 Discontinuance
152.088 Alterations
152.089 Residential alterations
152.090 Restoration
152.091 Normal maintenance
152.092 Nonconforming lots of record

Conditional Use Permits

152.105 Application
152.106 Conformance

Administration and Enforcement

152.120 Zoning Administrator
152.121 Building and use permits
152.122 Variances and appeals
152.123 Amendments to this chapter
152.124 Enforcement and fees

Shorelands Management

152.135 Scope
152.136 Definitions
152.137 General regulations
152.138 Conditional use permit
152.139 Planned unit development
152.140 Sanitary provisions
152.141 Administration
Appendix A: Tabulation of District Provisions and Dimensional Requirements

GENERAL PROVISIONS

§ 152.001 TITLE.

This chapter shall be known as "Land Use Regulations (Zoning)," and shall be referred to herein as "this chapter."
(1985 Code, § 11.01)

§ 152.002 SCOPE AND INTERPRETATION.

(A) *Scope.* From and after the effective date of this chapter, the use of all land and every building, and the erection or structural alteration of any building or portion of a building in the city, shall be in conformity with the provisions of this chapter. Any structure or use lawfully existing at the passage of this chapter but not in conformity with the regulations of the appropriate zoning district may be continued subject to the regulations of §§ 152.085 through 152.092.

(B) *Interpretation.* The provisions of this chapter shall be interpreted as the minimum requirements for the promotion of the public health, safety, morals, convenience, and general welfare. Where the provisions of this chapter impose greater restrictions than those of any statute, other code provision, or regulation, this chapter shall apply. Where the provisions of any statute, other code provision, or regulation impose greater restrictions than this chapter, the restrictions shall apply.
(1985 Code, § 11.02)

§ 152.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. For the purpose of this chapter, words in the present tense shall include the future; the word ***BUILDING*** shall include the word ***STRUCTURE***; and the word ***LOT*** shall include the word ***PLOT***.

ACCESSORY USE. A use or structure subordinate to the principal use of the land or a building on the same lot and serving a purpose customarily incidental to the principal use or structure.

APARTMENT. A room or suite of rooms in a multi-family or multi-use building arranged and intended as a place of residence for a single family or a group of individuals living together as a single housekeeping unit.

APARTMENT BUILDING. Three or more dwelling units grouped in one building.

BASEMENT. A portion of a building located partly underground but housing less than half its clear floor to ceiling height below grade.

BLOCK. A tract of land bounded by streets or a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines, unsubdivided acreage, or boundary lines of the corporate limits of the city.

BOARDING HOUSE. Any dwelling, other than a hotel or motel, where meals or lodging and meals for compensation are provided for five or more persons pursuant to previous arrangements.

BUILDING. Any structure for the shelter, support, or enclosure of persons, animals, chattel, or property of any kind; and when separated by bearing walls without openings, each portion of the building so separated shall be deemed a separate building.

BUILDING HEIGHT. The vertical distance from the average of the lowest and the highest point of that portion of the lot covered by the building to the highest point of the roof, and to the mean height between eaves and ridge for gable, hip, and gambrel roofs.

CLINIC. An establishment where patients who are not lodged overnight are admitted for examination treatment by a group of physicians, dentists, or both practicing together.

CONVENIENCE OR ESSENTIAL RETAIL. Refers to the sale of relatively small quantities of commodities and services directly to customers.

DISTRICT. Any section of the city within which the provisions of this chapter are uniform.

DWELLING, MOBILE HOME. Manufactured transportable housing designed with under-carriage wheels and towing device, and intended for occupancy as a complete year-round single-family dwelling unit upon arrival and placement on a site, with or without a permanent foundation designed to support the transportable unit. For purposes of this chapter, the term shall include all the transportable housing 29 feet or more in length, 16 feet or more in width, and 5,000 pounds or more in weight, containing the same water supply, waste disposal, and electrical convenience as immobile housing. The term shall include transportable housing subject to tax or registration as required under the provisions of M.S. Ch. 168 or M.S. Ch. 273, as they may be amended from time to time.

DWELLING, MODULAR HOME. A single-family dwelling suitable for year-round occupancy, which consists of more than one module either partially or wholly factory-fabricated and containing a framework which does not contain wheels or towing tongue. When transported to a building site, it will be placed on a permanent foundation so as to be substantially affixed to the site and connected to a water supply, waste disposal system, and electrical supply, thereby making it immobile housing.

DWELLING, MULTIPLE-FAMILY. A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, SINGLE-FAMILY. A detached residential dwelling unit, other than a mobile home, designed for and occupied by one family only.

DWELLING, TWO-FAMILY. A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

DWELLING UNIT. One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

FAMILY. Any number of individuals living together on the premises as a single nonprofit housekeeping unit (except for necessary servants) as distinguished from a group occupying a boarding house, lodging house, hotel, club, or fraternity or sorority house.

FLOOR AREA. The sum of the gross horizontal areas of the several floors of a building, measured from the exterior walls, including basements and attached accessory buildings.

GARAGE, PRIVATE. An accessory building or one attached to or part of a principal building, designed or used for the storage of not more than three motor-driven vehicles.

GARAGE, PUBLIC. Any premises, except those defined as a private garage, used for storage or care of self-propelled vehicles and/or where any such vehicles are equipped for operation or repair, or are kept for remuneration, hire, or sale.

GRADE.

(1) For buildings more than five feet from any street line, the average level of the finished surface adjacent to the exterior walls of the building.

(2) For building having one or more exterior walls within five feet of a street line or lines, the average of the elevations of the sidewalk or sidewalks, or their equivalent established ground surface, adjacent to the street line or lines.

HOME OCCUPATION. Any use customarily conducted entirely within a dwelling and carried on by members of a family residing therein, which use is clearly incidental and secondary to the use of the dwelling purposes and does not change the character thereof. Clinics, hospitals, mortuaries, motor vehicle repairing for hire, welding, animal hospitals, and the maintenance of animals shall not be deemed to be home occupations.

HOTEL. Any building or portion thereof where lodging is offered to transient guests for compensation and in which there are more than five sleeping rooms, with no cooking facilities in individual dwelling units.

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

KENNEL. Any lot or premises on which four or more dogs at least four months of age are kept.

LOADING AREA. Any area where vehicles are parked, maneuvered, or loaded or unloaded of materials or equipment.

LOT. One unit of a recorded plat or subdivision, which unit has frontage on a public street and is occupied, or to be occupied, by a building and its accessory buildings, and including, as a minimum, any open spaces as are required under this chapter.

LOT, CORNER. A lot situated at the intersection of two or more streets.

LOT COVERAGE. The total allowable amount of lot area, expressed as a percentage, which may be covered by a principal use and its accessory structures.

LOT DEPTH. The average distance between the front and rear lot line (the greater frontage of a corner lot shall be deemed its depth and the lesser frontage its width).

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

LOT, INTERIOR. A lot other than a corner lot.

LOT OF RECORD. A parcel of land that is recorded as a lot in a subdivision that has been recorded in the official public records of the County Recorder.

LOT WIDTH. The horizontal straight line distance between the side lot lines at the setback line.

NONCONFORMING USE. A use lawfully in existence on the effective date of this chapter and not conforming to the regulations for the district in which it is situated, except that such a use is not nonconforming if it would be authorized under a conditional use permit where located.

PARKING LOT. A parcel of land containing one or more unenclosed parking spaces whose use is principal to the lot as differentiated from an accessory use, as on a residential lot.

PARKING SPACE. An improved surface area, enclosed or unenclosed, sufficient in size to store one motor vehicle, together with a street or alley and permitted ingress and egress of the motor vehicle. A minimum of 170 square feet, excluding access drives, is required.

PRINCIPAL USE. The purpose for which land or a building thereon is designed, arranged, intended, or maintained, or for which it is or may be used or occupied.

PREMISES. A lot or plot containing a structure with the required front, side, and rear yards for a dwelling or other use as allowed under this chapter.

RECREATIONAL VEHICLE. A travel trailer, pickup camper, converted bus, tent trailer, or similar device used for temporary portable housing.

SCREENING. Any type of plant materials or an architectural form such as fencing being not less than 90% opaque to be utilized to obscure conflicting land uses and also to absorb and deflect noise.

SETBACK. The minimum horizontal distance between the lot line and the foundation wall of a building or the allowable building line as defined by the yard regulations of this chapter.

SIGN. A name, identification, display, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land in view of the general public and which directs attention to a product, place, activity, purpose, institution, or business.

SIGN, ADVERTISING. A sign which directs attention to a business, commodity, service, activity, or entertainment not necessarily conducted, sold, or offered upon the premises where such a sign is located.

SIGN, BUSINESS. A sign which directs attention to a business or profession or a commodity, service, or entertainment sold or offered upon the premises where such a sign is located.

SIGN, FLASHING. Any illuminated sign on which the illumination is not kept stationary or constant in intensity and color at all times when the sign is in use.

SIGN, ILLUMINATED. Any sign which has characters, letters, figures, designs, or outlines illuminated by electric lights or luminous tubes as part of the sign.

SIGN, NAMEPLATE. Any sign which states the name or address or both of the business or occupant of the lot where the sign is placed.

SIGN, ROTATING. A sign which revolves or rotates on its axis by mechanical means.

SIGN, SURFACE AREA OF. The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface, not including any structural elements outside the limits of the sign and not forming an integral part of the display. Only one side of a double-face of V-type sign structure shall be used in computing total surface area.

STORY. The portion of the building included between the surface of any floor and the surface of the next floor above it, or, if there is no floor above it, the space between the floor and the ceiling next above it.

STORY, HALF. A story with at least two opposite exterior sides meeting a sloping roof not more than two feet above the floor of the story.

STREET. A public thoroughfare which affords principal means of access to abutting property.

STREET LINE. The right-of-way line of a street.

STRUCTURAL ALTERATION. Any change or addition to the supporting members of a building such as bearing walls, columns, beams, or girders.

STRUCTURE. Anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground.

SUBDIVISION. A described tract of land which is to be or has been divided into two or more lots or parcels, any of which resultant parcels is less than two and one-half acres in area and 150 feet in width, for the purpose of transfer of ownership or building development, or if a new street is involved, any division of a parcel of land. The term includes resubdivision, and, where it is appropriate to the context, relates either to the process of subdivision or to the land subdivided.

USE. The purpose for which land or premises or a building thereon is designated, arranged, or intended, or for which it is or may be occupied or maintained.

VARIANCE. A modification or variation of the provisions of this chapter, as applied to a specific piece of property, except that modification in the allowable uses within a district shall not be considered a variance.

YARD. A space in the same lot with a building open and unobstructed from the ground to the sky, except for fences five feet or less in height, and trees and shrubs.

YARD, FRONT. A yard extending across the front of the lot between the side yard lines and lying between the outer right-of-way line of the road or highway and the nearest line of the building. On corner lots, the ***FRONT YARD*** shall be considered as parallel to the street upon which the lot has its least dimension.

YARD, REAR. An open space unoccupied except for accessory buildings on the same lot with a building between the rear lines of the building and the rear line of the lot, for the full width of the lot. On all lots, the ***REAR YARD*** shall be at the opposite end of the lot from the front yard.

YARD, SIDE. An open unoccupied space between a building and the side line of the lot, and extending from the front lot line to the rear yard.
(1985 Code, § 11.03)

§ 152.004 VIOLATIONS.

Every person violates a section, division, or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, and, upon conviction thereof, shall be punished as for a misdemeanor, except as otherwise stated in specific provisions hereof.
(1985 Code, § 11.99) Penalty, see § 10.99

§ 152.005 OFFICIAL ZONING MAP ADOPTED.

The document entitled "Official Zoning Map of the City of Gilbert," attached to the ordinance codified herein as "Exhibit A," and hereby made a part hereof, is hereby adopted as the Official Zoning Map of the city.
(Ord. 2006-2, passed 7-25-2006)

ZONING DISTRICTS

§ 152.020 GENERALLY.

(A) *Establishment of districts.* For the purpose of this chapter, the city is divided into the following districts:

(1) R-1 Low Density Residence District;

(2) R-2 Medium Density Multiple Dwelling Residence District;

(3) R-3 Mobile Home Park District;

(4) R-4 Ore Be Gone Residential Special Zoning District;

(5) C Commercial District;

(6) M-1 Industrial District;

(7) M-2 Mining and Related Activities District;

(8) P Public Recreation and Forest Reserve District; and

(9) FZ Floating Zone District.

(B) *Official Zoning Map.* The boundaries of the districts established by this chapter are delineated on the Official Zoning Map. The Official Zoning Map and all notations, references, and data shown thereon are hereby adopted and made part of this chapter and will be on permanent file, and for public inspection, in the City Hall. It shall be the responsibility of the Zoning Administrator and staff to maintain the map, and amendments thereto shall be recorded thereon within 30 days after official publication of amendments.

(C) *District boundaries.* The district boundary lines on the map follow either streets, alleys, or lot lines. Where the districts designated on the map are bounded by the street, alley, or lot lines, the center line of the street or alley or the lot lines shall be the boundary of the district, unless the boundary is otherwise indicated on the map. In the case of unsubdivided property, the district boundary lines shall be determined by use of the scale appearing on the zoning district map or by dimensions. Where the boundary of a district follows a railroad line, the boundary shall be deemed to be located midway between the main tracts of the railroad line.
(1985 Code, § 11.04) (Ord. passed 9-17-1985)

§ 152.021 R-1 LOW DENSITY RESIDENCE DISTRICT.

(A) *Purpose.* The R-1 Low Density Residence District is intended to provide suitable areas within the community for resident dwellings which relate to the Comprehensive Land Use Plan and where municipal utilities and services may be maintained at reasonable cost.

(B) *Permitted uses.* Within an R-1 District, unless otherwise provided by this chapter, no uses are permitted, except the following:

(1) One- and two-family detached dwellings, seasonal homes, and modular and prefabricated housing, where properly serviced and of suitable appearance which is in harmony with adjacent residential development. All dwellings must have an outside measurement of not less than 20 feet in width and must be attached to a permanent foundation constructed below the frost line;

(2) Parks and recreational areas owned or operated by governmental agencies;

(3) Public elementary or high schools, or private schools with an equivalent curriculum;

(4) Churches, parish homes, convents, children's nurseries, and schools, provided that no building shall be located within 50 feet of any abutting lot in any residential district;

(5) Plant nurseries, greenhouses, and vegetable gardening, but not involving a sales structure;

(6) Home occupations, as defined in § 152.003, and offices of professional persons when the use does not exceed one-third of the main floor space of a dwelling, is conducted only in the principal dwelling, and does not employ any persons not residing on the premises; and

(7) Public swimming pools, private recreational clubs, and tennis courts, except those operated for commercial purposes.

(C) *Accessory uses.* The following shall be permitted accessory uses within an R-1 District:

(1) Private garage or carport and boathouse, one of each designation;

(2) Private swimming pools, when completely enclosed within a chain link, wood, or similar safety fence five or more feet high;

(3) Boarding or rental of rooms to not more than two people on a premises;

(4) Maintenance of dogs and cats or other household pets, subject to licensing requirements, health regulations, and other applicable code provisions;

(5) Uses customarily incidental to the uses listed in divisions (B) and (D) of this section;

(6) Off-street parking, as regulated by § 152.050;

(7) Parking of one commercial or recreational motor vehicle of not over 26-foot length used by the resident occupant, and parking of passenger cars, but not including the storage of vehicles which are inoperable or for sale or rent. Additional recreational/commercial equipment may be stored on the premises only when kept in an enclosed accessory structure; and

(8) Signs, as regulated in § 152.049.

(D) *Uses by conditional use permit.* Buildings or land may be used for the following if granted a conditional use permit, as provided in §§ 152.105 and 152.106:

(1) Municipal administration buildings, police and fire stations, libraries, museums, post offices, and other municipal service buildings, except those customarily considered industrial in use, provided that no building shall be located within 50 feet of any lot in a residential district;

(2) Water supply buildings, reservoirs, wells, elevated tanks, and similar essential public utility and service structures;

(3) Club house, commercial country club, commercial swimming pool, or private swimming pool serving more than one family, provided that no principal structure shall be located within 50 feet of any lot in a residential district;

(4) Cluster single-family housing, detached, when keyed to topographic considerations or unique design proposals, subject to a minimum tract area of three acres under single or unified ownership. Overall density shall not exceed six dwelling units per acre (based on gross acreage) and

shall be permitted only subject to approval of an overall development plan for the tract by the Planning and Zoning Commission. In no case shall the Planning and Zoning Commission authorize a use prohibited in the district in which the housing project is to be located; and

(5) Hospitals, nursing homes, and elderly housing projects, provided that no principal or accessory structure shall be located within 50 feet of any lot in a residential district.

(E) *Height, yard setbacks, and lot area and coverage requirements.* Height, yard setbacks, and lot area and coverage requirements shall be as stated in Appendix A of this chapter.

(F) *General regulations.* Additional regulations applicable in the R-1 District are set forth in §§ 152.040 through 152.050.
(1985 Code, § 11.05) (Ord. passed 9-17-1985; Ord. 11.05, passed 11-28-2000) Penalty, see § 10.99

§ 152.022 R-2 MEDIUM DENSITY MULTIPLE DWELLING RESIDENCE DISTRICT.

(A) *Purpose.* The R-2 Medium Density Multiple Dwelling Residence District is intended to provide areas suitable for the location of apartment buildings, row housing, commercial recreation lodging structure, and the like, which maintain density and space standards that will ensure a wholesome living environment which effectively relate to the comprehensive plan for community development.

(B) *Permitted uses.* Within an R-2 District, unless elsewhere permitted by this chapter, no uses are permitted, except the following:

(1) Uses permitted in the R-1 District;

(2) Apartment buildings and multiple dwelling structures housing from three to 12 units;

(3) Attached row housing and townhouse developments;

(4) Churches, schools, hospitals, nursing homes, and convalescent homes or housing for the elderly, provided that no building shall be located within 50 feet of an abutting single-family lot boundary within any residence district; and

(5) Boarding houses or rental of rooms for three to 12 persons on a premises.

(C) *Accessory uses.* The following uses are permitted only when auxiliary to a principal use permitted above; they may not exist as principal uses in their own stead:

(1) Storage garages and private recreational facilities for the use and convenience of residents of the principal use;

(2) Shops, restaurants, offices, club or lodge rooms, and nursing care facilities, when attached to the principal use and designed for the use and convenience of the occupants only. Accessory uses of this nature may be permitted in multiple resident structures, provided that no advertising or display relative thereto is visible from the outside of the building. No more than 10% of the gross floor area of the principal use may be devoted to this type of accessory use;

(3) Off-street parking and loading, as regulated by § 152.050;

(4) Home occupations, as defined in § 152.003;

(5) Signs, as regulated by § 152.049; and

(6) Accessory uses customarily incidental to the uses listed in divisions (B) and (D) of this section.

(D) *Uses by conditional use permit.* Buildings or land may be used for the following if granted a conditional use permit, as provided in §§ 152.105 and 152.106:

(1) Multiple dwelling structures containing more than 12 units;

(2) Retail, office, and personal service establishments of an essential or "convenience" nature;

(3) Municipal administration buildings and structures, police and fire stations, public service establishments (nonprofit), and essential public utility and service structures;

(4) Mortuaries or funeral homes;

(5) Offices for administrative, executive, professional, or research organizations having only limited contact with the general public, provided that no merchandise or merchandising services are sold on the premises, except such as are incidental or accessory to the principal use; and

(6) Clubs, lodges, or fraternal organization centers, nonprofit only, provided that no business activity carried on as a service to the public shall be permitted.

(E) *Height, yard setbacks, and lot area and coverage requirements.* The height, yard setbacks, and lot area and coverage requirements shall be as stated in §§ 152.040 through 152.050.

(F) *General regulations.* Additional regulations applicable to the R-2 District are set forth in §§ 152.040 through 152.050.
(1985 Code, § 11.06) Penalty, see § 10.99

§ 152.023 R-3 MOBILE HOME PARK DISTRICT.

(A) *Purpose.* This chapter is to promote the health and safety of the citizens of the city by regulating the establishment and operation of mobile home parks within the city and providing penalty for violation thereof.

(B) *Use.* In view of the above purpose, it is necessary to have reasonable rules and regulations concerning the conduct, use, and operation of mobile home parks existing and operating within the city limits hereinafter set out as follows.

(1) Access to the mobile home parks or subdivision shall be from an arterial highway or secondary thoroughfare; number and location of access drives shall be controlled for traffic, safety, and protection of surrounding properties; no mobile home space shall be designed for direct access to a street outside the boundaries of the mobile home park; and interior access drives shall have at least a 40-foot right-of-way and shall be surfaced with a durable, dustproof surface of concrete or bituminous concrete at least 25 feet in width as approved by the City Engineer.

(2) The minimum width and/or depth of the mobile home park or subdivision shall be 300 feet and minimum total area shall be ten acres. A certificate of occupancy shall not be issued until the first 25 spaces are developed and available for occupancy.

(3) A mobile home park shall contain at least 1,000 square feet per mobile home for community facilities, including play space, utility room, parking, and access roads.

(4) A mobile home park shall be surrounded by a landscaped strip of open space 25 feet along the street frontage with an arterial highway and 25 feet wide along all other lot lines or street frontage. The 25-foot distance shall be measured in addition to the plotted lot.

(5) The minimum lot area for each mobile home site shall be no less than 5,000 square feet; the minimum dimensions shall be 50 feet by 100 feet, with corners of each site or lot visibly marked by a permanent marker.

(6) Side to side spacing between mobile homes shall be at least 28 feet. Back to back spacing shall be at least 15 feet, and no part of a mobile home shall extend closer than five feet to the boundaries of the next individual mobile home site lot line. The distance between any mobile home and any building shall be at least 20 feet.

(7) Off-street parking spaces in mobile home parks for automobiles shall be provided in the ratio of one space per mobile home, in locations convenient to individual mobile homes or groups of mobile homes. Parking spaces provided shall be situated so as to be at least ten feet from the nearest mobile home on the next adjoining lot.

(8) Proper provision shall be made for public water supply, sanitary sewers, fire protection, refuse collection, and snow removal.

(9) No mobile home shall contain more than one dwelling unit and in no case shall a mobile home be rented to two or more families.

(10) Each mobile home within any mobile home park is to be completely skirted around the bottom with a suitable material such as aluminum, plywood properly painted, or Masonite properly painted. The skirting is to be neat in appearance from all exterior points of view.

(11) No mobile home is to be occupied or rented by more than one family.

(12) Refuse and garbage shall be stored in containers specified by the Council.

(13) All domestic animals will be kept in compliance with this code.

(14) The term ***OPERATOR***, as used in this chapter, is construed to include the following: persons, partnerships, firms, companies, corporations, tenants, owners, lessee, licensee, agents, heirs, or assigns.

(15) All lots shall be seeded or sodded in the area not occupied by a mobile home or parking space.

(16) Suitable lighting shall be provided during hours of darkness for walks and drives.

(17) Each site shall be provided with a paved parking area measuring at least 20 feet by 20 feet.

(C) *Special conditions.*

(1) No person shall establish, operate, or maintain a mobile home park in the city until:

(a) A plat showing individual sites;

(b) Proposed setback lines;

(c) Street layout;

(d) Landscaping; and

(e) Utility services, including water, sanitary sewer, storm drains, lighting, and electrical systems.

(2) The operator must comply with all state regulations relating to mobile home parks and he or she shall also comply with this code.

(3) All plumbing systems shall be installed in accordance with the State Board of Health and the State Plumbing Code.

(D) *General regulations.* Additional regulations applicable in the R-3 District are set forth in §§ 152.040 through 152.050.
(1985 Code, § 11.07) (Ord. passed 9-13-2000) Penalty, see § 10.99

§ 152.024 R-4 ORE BE GONE RESIDENTIAL SPECIAL ZONING DISTRICT.

(A) All provisions of this chapter must be complied with in the R-4 Ore Be Gone Residential Special Zoning District.

(B) The R-4 District shall consist of blocks one through four, inclusive, Lake Ore Be Gone.

(C) The following special provisions must be complied with within the R-4 District:

(1) Substantial completion within 12 months from purchase of lot;

(2) Single-family dwellings only with earth tone natural or muted colors;

(3) No manufactured or mobile homes are allowed;

(4) Modular homes are allowed;

(5) Minimum 1,400 square feet of living space (not garage) footprint. Living space is exclusive of garages, decks, and open or non-air conditioned porches. Living space does not include basement;

(6) Up to three-stall garage not to exceed two-thirds of the square footage of footprint of house;

(7) One accessory building is allowed and must be of same style or appearance as the house, no larger than a total of 300 square feet (no more than two structures);

(8) No outside storage of heating fuel;

(9) Parking of one recreational motor vehicle of not over 26 feet in length used by the property owner;

(10) Inoperable vehicles are not allowed;

(11) Fencing shall comply with M.S. § 180.03, as it may be amended from time to time. The fence shall be erected and required along the outside perimeter of the buff line to a minimum of three feet above grade. No chain link fencing or snow fencing allowed. Fencing may be wood, cast iron, and aluminum or composite and well maintained. Fences must be earth tone or muted colors;

(12) No commercial or home businesses;

(13) For driveways, concrete, bituminous, or brick is to be installed no later than 12 months after occupancy;

(14) No double lots;

(15) Setback from the front street is 30 feet;

(16) Setback from the bluff edge is 25 feet;

(17) Setback side yard is 15 feet;

(18) No more than 30% lot coverage; and

(19) Construction must conform to zoning requirements.
(Ord. passed 11-13-2007) Penalty, see § 10.99

§ 152.025 C COMMERCIAL DISTRICT.

(A) *Purpose.* The C Commercial District is designed to provide a compact shopping area for the location of offices and retail stores necessary for servicing the community and surrounding areas; which is closely aligned with the approved City Comprehensive Plan; and which maintains a mutually compatible relationship with the various types of uses.

(B) *Permitted uses.* Within a C District, unless elsewhere provided by this chapter, no uses are permitted, except for the following:

(1) Amusement and recreation establishments such as indoor theaters, swimming pools, skating rinks, billiard halls, bowling alleys, and similar commercial recreation facilities;

(2) Antique shops;

(3) Automobile dealers, new and used car lots, and boat and recreational vehicle display lots and structures;

(4) Appliance stores;

(5) Art studios, art galleries, and sales and supplies;

(6) Bakeries, provided the room or rooms containing the preparation and baking process shall not have a gross floor area in excess of 2,400 square feet;

(7) Bank and savings institutions;

(8) Barber and beauty parlors;

(9) Bookkeeping or auditing establishments;

(10) Book and stationery stores;

(11) Camera and photo stores and photography studios;

(12) Candy and ice cream stores;

(13) Carpet and rug stores;

(14) Clinics, for treatment of animals, excluding training runs, stables, or kennels;

(15) Clothing stores, including pressing and tailoring shops;

(16) Club and lodge halls;

(17) Decorating studios;

(18) Department stores;

(19) Drugstores;

(20) Dry cleaning and laundry receiving and pickup stations, excluding laundering and dry cleaning processing and self-service laundromats;

(21) Dry goods or notions stores;

(22) Electrical appliance sales and service;

(23) Florist shops, nurseries, and garden shops;

(24) Grocery stores and delicatessens;

(25) Furniture stores;

(26) Gift shops;

(27) Hardware stores;

(28) Hobby and toy stores;

(29) Jewelry stores;

(30) Libraries;

(31) Liquor stores;

(32) Loan offices and finance companies;

(33) Locksmith shops;

(34) Medical and dental clinics;

(35) Mortuaries or funeral homes;

(36) Motels and hotels;

(37) Newsstands and tobacco shops;

(38) General business and professional offices;

(39) Optical stores;

(40) Parking and garages other than those accessory to a principal use for the parking and storage of private passenger automobiles only;

(41) Pet shops;

(42) Phonographs, record, and sheet music stores;

(43) Photography studios;

(44) Physical culture and health services and clubs, and reducing salons and masseurs;

(45) Public parks and recreation areas and structures;

(46) Municipal and public buildings;

(47) Radio and television sales and repair stores;

(48) Sewing machine sales and service shops;

(49) Shoe and hat sales and repair shops;

(50) Sporting goods stores;

(51) Souvenir and rock shops;

(52) Stock and brokerage firms;

(53) Taverns and restaurants, excluding drive-in type facilities;

(54) Tourist information center;

(55) Telephone and telegraph offices, and telephone booths;

(56) Theaters, excluding drive-ins;

(57) Travel bureaus and transportation ticket offices; and

(58) Vending machines which are coin- or card-operated, only when incorporated into a structure.

(C) *Accessory uses.* The following uses shall be permitted accessory uses in the C District; they may not exist as principal uses:

(1) Accessory uses customarily incidental to the uses listed in divisions (B) and (D) of this section;

(2) Off-street parking and loading, as regulated by § 152.050; and

(3) Signs, as regulated by § 152.049.

(D) *Uses by conditional use permit.* Buildings and land may be used for the following, if granted a conditional use permit, as provided in §§ 152.105 and 152.106:

(1) Any business activity of the same general character as those listed in division (B) above;

(2) Municipal sanitation, where screening and buffering is provided;

(3) Drive-in restaurant or retail sales facilities, provided sufficient off-street parking is provided; lighting and any resultant glare shall be directed away from residential districts; and the surface of the parking area shall be of a dust-free and well-drained covering;

(4) Drive-in restaurant and drive-in theater, provided that screening and landscape treatment is established when the above use is within 100 feet of an R District;

(5) Dwelling units only where accessory and attached to a principal use as listed in division (B) above; and

(6) Motor fuel and automotive service stations.

(E) *Height, yard setbacks, and lot coverage requirements.* The height, yard setbacks, and lot coverage requirements shall be those stated in Appendix A of this chapter.

(F) *Additional regulations.*

(1) Lighting (glare) shall be directed away from public rights-of-way and residential districts.

(2) An awning, canopy, or marquee suspended from a building may extend over the public right-of-way ten feet, but not to within two feet of the curb line. The structures shall be limited in height to the first story of any building located upon and contiguous to Broadway Avenue. In all other areas of the city, the structures shall be of a height not less than 12 feet from the sidewalk or ground grade line, and the owner of the structures shall be responsible for their structural safety.

(3) All principal and accessory uses, except business signs, which are situated within 50 feet of a residential district, shall be screened from the district by a wall or fence of not less than 90% opacity and not less than five nor more than seven feet in height above the level of the residential district property at the district boundary. Walls or fences or lesser heights or planting screens may be permitted by the Planning and Zoning Commission if there is a lesser degree of screening will as adequately promote and protect the use and enjoyment of the properties within the adjacent residential district, or there is a finding that a screening of the type required by this chapter would interfere with the provisions of adequate amounts of light and air to those properties. Loading docks in the C District shall be screened so as not to be visible from any public street right-of-way within a residential district. All required screening devices shall be designed so that they are architecturally harmonious with the principal structures on the site and they shall be properly maintained so as not to become unsightly, hazardous, or less opaque than when originally constructed.

(4) All exposed ground areas surrounding or within a principal or accessory use including street boulevards, which are not devoted to drives, sidewalks, patios, or any other uses, shall be landscaped with grass, shrubs, trees, or other ornamental landscaped materials. All landscaped areas shall be kept neat, clean, and uncluttered. No landscaped area shall be used for the parking of vehicles or the storage or display of materials, supplies, or merchandise.

(5) All commercial buildings or structures and their accessory uses shall be accessible to and from nearby public streets and sidewalks and walkways surfaced with a hard, all-weather, durable, dust-free material and properly drained. Vehicular traffic generated by a commercial use shall be channeled and controlled in a manner that will avoid congestion on the public streets, traffic hazards, and excessive traffic through residential areas, particularly truck traffic. The adequacy of any proposed traffic circulation system to accomplish these objectives shall be determined by the Planning and Zoning Commission who may require the additional measures for traffic control as it may deem necessary, including, but not limited to, the following: directional signalization, standby turn lanes, illumination, and storage area and distribution facilities within the commercial site to prevent backup of vehicles on

public streets. No area used by motor vehicles other than driveways serving as ingress and egress to the commercial site shall be located within the public street right-of-way. All driveways to or from public streets shall be subject to the following restrictions:

(a) *Driveway widths; measurement between roadway edges.*

Type	*Maximum Feet*	*Minimum Feet*
One-way	18	12
Two-way	23	22

(b) *Minimum driveway angle to street.* Thirty degrees when street is one-way or divided; otherwise 60 degrees;

(c) *Minimum distance between driveways.* Twenty feet between roadway edges measured along street curb line; and

(d) *Minimum distance of driveway from street intersections, measured along street curb line between nearest driveway edge and intersecting street curb line.*

If the driveway enters a street classified as a	*and the intersecting street is classified as a*	*and the driveway enters a lane approaching or leaving the intersection*	
		Approaching	*Leaving**
Minor street	Minor street, collector street, or minor arterial	15 feet	15 feet
	Major Arterial	20 feet	15 feet
Collector street	Minor street	20 feet	15 feet
	Collector, minor arterial	25 feet	15 feet
	Major arterial	35 feet	20 feet
Major arterial	Minor street	20 feet	15 feet
	Collector, minor arterial	25 feet	15 feet
	Major arterial	40 feet	20 feet
NOTES TO TABLE: * - Minimum distance to be the same as that specified for approaching lane if left turns are permitted into or out of driveway.			

(G) *General regulations.* Additional regulations applicable to the C District are set forth in §§ 152.040 through 152.050.
(1985 Code, § 11.08) (Ord. passed 10-26-1993) Penalty, see § 10.99

§ 152.026 M-1 INDUSTRIAL DISTRICT.

(A) *Purpose.* It is the purpose of the M-1 Industrial District to create industrial areas that will be acceptable within the city and will not adversely affect adjacent business or residential neighborhoods. Manufacturing establishments should not create any offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from that type or use, provided that they be minimized or eliminated by operations or site design features. In the interest of general health and welfare, residential and certain institutional uses are not permitted within this District.

(B) *Permitted uses.* Within an M-1 District, unless elsewhere provided by this chapter, no uses are permitted, except for the following:

(1) Clay, stone, and glass products (concrete, pottery, and porcelain products);

(2) Wholesale bakery products, beverages, creamery and dairy operations, canning of fruits and vegetables, and meat and fish products processing and packaging (no slaughtering);

(3) Vehicle metal components (nuts, screws, and nails), foundry products, appliances and associated elements, machinery parts, tools, plumbing supplies, machine shops, and locomotive and rail car building and repair;

(4) Wood and paper products;

(5) Tire retreading and vulcanizing plants;

(6) The storage, handling, assembly, and distribution of goods and materials for wholesale or on-site use; and

(7) Railroad yard and freight station, if located not less than 200 feet from any R District.

(C) *Accessory uses.* The following uses are permitted only when auxiliary to a principal use permitted above; they may not exist as principal uses:

(1) Any accessory use, building, or structure customarily incidental to a principal use permitted above, and located on the same lot therewith;

(2) Specialized freight and yard equipment, private utility structures, secondary processing structures, and similar specialized structures;

(3) Parking and loading facilities, as regulated in § 152.050; and

(4) Signs, as regulated in § 152.049.

(D) *Uses by conditional use permit.* Buildings or land may be used for the following, if granted a conditional use permit, as provided in §§ 152.105 and 152.106:

(1) Manufacturing of building materials (cement, lime, and similar products);

(2) Contractor's shop and storage yard; and

(3) Junk yards, including automobile wrecking and industrial metal and waste salvage, but not including refuse or garbage disposal, if located at least 200 feet from any residence dwelling; provided all operations are conducted within an area enclosed with a solid wall or uniform tight board fence, including gates, at least eight feet in height and the enclosure shall be properly maintained.

(E) *Height, yard setbacks, and lot coverage requirements.* Building height, lot area, bulk, and yard setback requirements shall be those stated in Appendix A of this chapter.

(F) *Special District provisions.*

(1) *Landscaping.* All open areas of any site, lot, tract, or parcel shall be graded to provide proper drainage, and except for areas used for parking, drives, or storage, shall be landscaped with trees, shrubs, or planted ground cover. The landscaping shall conform with the planting plan approved at the time the building permit was issued. It shall be the owner's responsibilities to see that this landscaping is maintained in an attractive and well-kept condition. All adjacent vacant lots, tracts, or parcels under the same ownership shall also be properly maintained.

(2) *Storage.* All raw materials, supplies, finished or semi-finished products, and equipment shall be stored within a completely enclosed building, or within the confines of a 100% opaque wall or fence not less than eight feet high; provided, however, that motor vehicles necessary to the operation of the principal use and of not more than three-quarter-ton capacity may be stored within the permitted parking lot areas.

(3) *Screening.* All principal, accessory, and conditional uses, except business signs, which are situated within 50 feet of a residential district, shall be screened and buffered from the district by a separation of open space which shall have a minimum depth of 30 feet and shall include a required fence or vegetative screening of not less than 90% opacity and not less than eight feet in height above the level of the residential district property at the district boundary. Walls or fences of lesser heights or planting screens may be permitted by the Planning and Zoning Commission if there is a finding that the nature or extent of the use being screened is such that a lesser degree of screening will as adequately promote and protect the use and enjoyment of the properties within the adjacent residential district, or there is a finding that a screening of the type required by this chapter would interfere with the provision of adequate amounts of light and air to those properties. Loading docks in the M-1 District shall be screened so as not to be visible from any public street right-of-way within a residential district. All required screening devices shall be designed so that they are architecturally harmonious with the principal structures on the site and they shall be properly maintained so as not to become unsightly, hazardous, or less opaque than when originally constructed.

(G) *General regulations.* Additional regulations applicable to the M-1 District are set forth in §§ 152.040 through 152.050.
(1985 Code, § 11.09) Penalty, see § 10.99

§ 152.027 M-2 MINING AND RELATED ACTIVITIES DISTRICT.

(A) *Purpose.* It is the purpose of the M-2 Mining and Related Activities District to create industrial areas to accommodate a wide variety of industrial establishments which may operate to their maximum advantage without adversely affecting other nearby similar or dissimilar uses and activities.

(B) *Permitted uses.* Within an M-2 District, unless elsewhere provided by this chapter, no uses are permitted, except for the following:

(1) Any use permitted in the M-1 District;

(2) Mining and related activities; and

(3) Any industrial use which is not specifically prohibited herein, or any industrial use not listed as a conditional use herein below, may be permitted.

(C) *Accessory uses.* The following uses shall be permitted accessory uses within an M-2 District: accessory uses as listed in the M-1 District.

(D) *Uses by conditional use permit.*

(1) Buildings or land may be used for the following if granted a conditional use permit, as provided in §§ 152.105 and 152.106.

(2) The following uses may only be authorized as a conditional use by the Planning and Zoning Commission if located at least 400 feet from any residential district, and if the location of the use has been approved by the Council after receiving reports from the Fire Chief, the Planning and Zoning Commission, and the State Pollution Control Agency:

(a) Acid manufacture;

(b) Cement or lime manufacture;

(c) Distillation of coal or wood;

(d) Explosive manufacture or storage, if located at least 2,000 feet from a residential district;

(e) Fertilizer manufacture;

(f) Garbage, reduction, or dumping;

(g) Smelting of tin, copper, zinc, or iron ores;

(h) Manufacture of paint products and paper pulp; and

(i) Any other use which, in the opinion of the Commission, is of similar character to those hereinbefore described.

(E) *Height, yard setbacks, and lot coverage requirements.* Building height, lot area, bulk, and yard setback requirements shall be those stated in Appendix A of this chapter.

(F) *Special District provisions.*

(1) All future mining operations located within 200 feet of state highways and located within 300 feet of any residential district shall provide a suitable landscape buffer, to be approved by the Planning and Zoning Commission, between these uses. It shall be the mining operations owner's responsibility to see that the buffer areas are maintained in a well-kept condition.

(2) Additional regulations applicable to the M-2 District are set forth in §§ 152.040 through 152.050.
(1985 Code, § 11.10) Penalty, see § 10.99

§ 152.028 P PUBLIC RECREATION AND FOREST RESERVE DISTRICT.

(A) *Purpose.* The P Public Recreation and Forest Reserve District is intended to recognize and protect those areas within the city which are best suited for active and passive recreation and which will effectively contribute to the development and community growth pattern as proposed in the Comprehensive Land Use Plan.

(B) *Principal uses.* Within a P District, unless otherwise provided by this chapter, no uses are permitted, except for the following:

(1) Public parks and playgrounds owned or operated by government agencies;

(2) Undeveloped forest reserves (passive recreation only);

(3) Public swimming pool, public community center, and cultural or historical structures and areas;

(4) Public shoreline frontage and landing docks;

(5) Public trail areas, community campgrounds, and general recreation areas under public ownership; and

(6) Public tennis courts, archery ranges, and similar facilities not operated for commercial purposes.

(C) *Accessory uses.* The following uses shall be permitted accessory uses within a P District:

(1) Uses customarily incidental to the uses listed in divisions (B) and (D) of this section;

(2) Off-street parking, as regulated in § 152.050; and

(3) Signs, as regulated in § 152.049.

(D) *Uses by conditional use permit.* Buildings or land may be used for the following, if granted a conditional use permit, as provided in §§ 152.105 and 152.106:

(1) Public utility and service buildings and structures of an essential nature, except those normally considered industrial in use;

(2) Uses of the same general character as those listed in division (B) above;

(3) Nurseries, tree farms, and agricultural farming and grazing;

(4) Farm drainage systems, flood control and watershed structures, and erosion controls;

(5) Churches, cemeteries, and memorial gardens;

(6) One-family non-farm dwelling, but not including residential subdivision developments; and

(7) Animal care facilities (stables, kennels, training runs, and the like).

(E) *Special district provisions.*

(1) *Location near body of water.* No structure designed for habitation shall be located closer than 100 feet to the normal high-water mark of any stream, river, lake, or body of water.

(2) *Topography.*

(a) The cutting or disturbance in other manner of natural forest ecology shall be restricted within a reasonable area paralleling the shoreline of any recreational trail. A length of this area may be clear cut to allow a view corridor to water. However, any cutting shall leave sufficient cover to screen cars, dwellings, and other structure, except boathouses and docks, from view from the shoreline or trail.

(b) Natural shrubbery shall be preserved as far as practicable. Where removal is necessary for construction of any structure or use except permitted principal uses, shrubbery must be replaced with other vegetation which is equally suitable in retarding surface runoff and soil erosion.

(c) No structure shall be placed in any area which will require grading and/or filling which will result in impairment of public waters by reason of erosion and sedimentation, exceed provisions of statewide standards for management of flood plain areas, or result in impairment of fish and aquatic life.

(F) *Height, yard setback, and lot coverage requirements.* The height, yard setback, and lot coverage requirements for the P District shall be those stated in Appendix A of this chapter.

(G) *General regulations.* Additional regulations applicable in the P District are set forth in §§ 152.040 through 152.050.
(1985 Code, § 11.11)

§ 152.029 FZ FLOATING ZONE DISTRICT.

(A) *Purpose.* Within the FZ Floating Zone District, a prospective developer shall choose a site and present a project development plan for the site to the city indicating that the standards for the proposed district as stated in this chapter have been complied with. The Planning and Zoning Commission and the Council must determine that the development proposed has merit and that the proposed location of the development is appropriate. Upon acceptance of the proposed project, this chapter shall then be amended consistent with the project; the amendment may include all or a portion of the Floating Zone.

(B) *Permitted uses.* Within the FZ District, unless otherwise provided in this chapter, no uses are permitted, except for the following:

(1) Permitted uses within the R-1 District;

(2) Permitted uses within the R-2 District;

(3) Permitted uses within the C Commercial District; and

(4) Permitted uses within the M-1 District.
(1985 Code, § 11.115) (Ord. passed 9-17-1985) Penalty, see § 10.99

GENERAL ZONING REGULATIONS

§ 152.040 SCOPE.

(A) Except as may otherwise be provided in §§ 152.085 through 152.092, no building shall be erected, converted, enlarged, reconstructed, moved, structurally altered, or used, except for a use permitted in the district in which the buildings, uses, or land shall be located.

(B) No application for a building permit or other permit or license, or for a certificate of zoning compliance shall be approved by the Zoning Administrator and no permit or license shall be issued by any other city department which would authorize the use or change in use of any land or building contrary to the provisions of this chapter, or the erection, moving, alteration, enlargement, or occupancy of any building designed or intended to be used for a purpose or in a manner contrary to the provisions of this chapter.

(C) No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed by this chapter, nor shall the density of population be increased in any manner except in conformity with the area regulations as hereinafter provided, nor shall the area of any newly platted lot be reduced below the minimum requirements herein established.
(1985 Code, § 11.13) Penalty, see § 10.99

§ 152.041 ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT.

In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot.
(1985 Code, § 11.13) Penalty, see § 10.99

§ 152.042 ACCESSORY BUILDINGS.

(A) In case an accessory building is attached to the main building, it shall be made structurally a part of the main building and shall comply in all respects with the requirements of this chapter applicable to the main building. An accessory building, unless attached to and made a part of the main building, shall not be closer than five feet to the main building.

(B) A detached accessory building shall not be located in any required front yard, except where the front yard lies between the building line and the shoreline in which case the arrangement may be permitted.

(C) A detached accessory building not exceeding 15 feet in height shall occupy not more than 30% of the area of any side or rear yard, providing further that no detached accessory building shall be closer than 20 feet to any rear lot line, nor closer than five feet to any side property line, nor closer than 60 feet to the front property line, where an alley exists an accessory building may be located no closer than five feet to the outer alley line and access to those structures shall be limited to the alley.
(1985 Code, § 11.13) Penalty, see § 10.99

§ 152.043 HEIGHT REGULATIONS.

(A) Where the average slope of a lot is greater than one foot rise or fall in seven feet of horizontal distance from the established street elevation at the property line, one story in addition to the number permitted in the district in which the lot is situated shall be permitted on the downhill side of any building.

(B) Height limitations set forth elsewhere in this chapter may be increased by 100% when applied to the following: chimneys, cooling towers, elevator bulkheads, fire towers, monuments, water towers, stacks, lookout towers, storage lofts, tanks, ornamental towers and spires, wireless towers, or necessary mechanical appurtenances usually required to be placed above the roof level and not intended for human occupancy.
(1985 Code, § 11.13) Penalty, see § 10.99

§ 152.044 YARD REGULATIONS.

(A) The following requirements qualify or supplement, as the case may be, the district regulations appearing elsewhere in this chapter.

(B) Measurements shall be taken from the nearest point of the wall of a building to the lot line question, subject to the following qualifications.

(1) The ordinary projections of window wells, sills, belt courses, cornices, and ornamental features may extend to a distance not to exceed 18 inches.

(2) Open or lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers projecting into a yard not more than two feet or into a court not more than three and one-half feet shall be permitted, where the same are to be so placed as not to obstruct light and ventilation.

(3) A yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall not again be used as a yard or other open space for another building.

(4) The setback requirements shall be observed on each street side of a corner lot; provided, however, that the buildable width of a lot shall not be reduced to less than 30 feet.

(5) The following shall not be considered to be obstructions when located in the required yards specified:

(a) *In front yards.*

1. A landing, patio, or uncovered porch may extend into the required front yard to a distance net exceeding ten feet, if the landing, patio, or porch has its floor no higher than the entrance floor of the building.

2. The required front yard of a corner lot shall not contain any wall, fence, or other structure, tree, shrub, or other growth which may cause danger to traffic on a street or public road by obscuring the view.

3. On double frontage lots, the required front yard shall be provided on both streets.

4. Filling station pumps and pump islands may be located within required yards; provided they are not less than 15 feet from any street line and not less than 50 feet from any residential boundary.

5. Air conditioning units, excluding window units, shall be located a minimum of 20 feet from all lot lines, but not within the front yard.

(b) *In side yards.* Where dwelling units are erected above commercial establishments, no side yard is required except when required for the commercial building on the side of a lot adjoining a residential district; and

(c) *In rear yards.* Open or lattice-enclosed fire escapes, outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into a rear yard may project for a distance not to exceed five feet when these are so placed as not to obstruct light and ventilation.
(1985 Code, § 11.13) Penalty, see § 10.99

§ 152.045 VISION CLEARANCE.

(A) *Fences and walls in front yard.* In any residence zone on any corner lot, no fence or accessory structure or planting shall rise over two and one-half feet in height above the level of the public sidewalk within 20 feet of any corner, so as to interfere with traffic visibility across the corner. No fence or wall or shrub planting of more than two and one-half feet in height above the level of the public sidewalk shall be erected on any interior lot within ten feet of the front property line where it will interfere with traffic visibility from a driveway.

(B) *Fences in side and rear yards.* No fence or wall, other than a retaining wail, along a side line of a lot in residence zone, shall be higher than six feet unless any part above such a height has at least 50% of the surface uniformly open and unobstructed, unless the adjoining lot is not in a residential zone. (1985 Code, § 11.13) Penalty, see § 10.99

§ 152.046 STREET CLOSURE.

Whenever any street, alley, or other public way is vacated by official action of the city, the zoning district adjoining each side of the street, alley, or public way shall be automatically extended to the center of the vacation, and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.
(1985 Code, § 11.13) Penalty, see § 10.99

§ 152.047 AREAS UNDER WATER.

All areas within the corporate limits of the city which are under water and not shown as included within any zone shall be subject to all of the regulations of the zone which immediately adjoins the water area. If the water area adjoins two or more zones, the boundaries of each zone shall be construed to extend into the water area in a straight line until they meet the other district at a half-way point.
(1985 Code, § 11.13)

§ 152.048 STRUCTURES TO HAVE ACCESS.

No building may be erected without having public street frontage or with access to an approved private street.
(1985 Code, § 11.13) Penalty, see § 10.99

§ 152.049 SIGN REGULATIONS.

All signs hereafter erected or maintained, except official, public traffic, and street signs, shall conform with the provisions of this section and other code provisions or regulations.

(A) *General provisions for all districts.* The following regulations shall apply to all signs hereafter permitted in all districts.

(1) Signs shall not be permitted within the public right-of-way or easements.

(2) Flashing or rotating signs shall not be permitted in any district.

(3) No sign shall be placed that resembles any official marker erected by a governmental agency or displaying the words as "stop" or "danger."

(4) No sign shall be permitted to obstruct any window, door, fire escape, stairway, or opening intended to provide light, air, or access to any building or structure.

(5) Upon notification by the Planning and Zoning Commission or the Zoning Administrator that a sign is rotted, unsafe, or unsightly, the owner of the sign or owner of property thereunder shall remove or repair same.

(6) The owner, lessee, or manager of any ground sign and the owner of the land on which the same is located shall keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the lot on which a sign is located.

(7) Political signs may be permitted for a period of not more than 30 days before and ten days after an election.

(B) *Signs in R-1 and R-2 Districts.*

(1) A name plate sign identifying the owner or occupant of a building or dwelling unit, provided the sign does not exceed two square feet in surface area, except that signs with maximum surface area of four square feet may be allowed for a home occupation or business. The signs shall not be illuminated;

(2) A sign pertaining to the lease or sale of the building or property, provided the sign does not exceed four square feet in surface area. The signs shall not be illuminated;

(3) A temporary sign identifying an engineer, architect, contractor, or product engaged in or used in the construction of a building, provided the sign does not exceed 24 square feet in surface area and is removed prior to the occupancy of the building. The sign shall not be illuminated;

(4) One identification sign not to exceed 24 square feet in surface area displaying directional information for churches, schools, hospitals, nursing homes, clubs, libraries, or similar use. The signs may be illuminated;

(5) Directional, unilluminated signs not exceeding two square feet in surface area displaying directional information for churches, schools, hospitals, nursing homes, clubs, libraries, or similar uses excluding office or commercial establishments, provided that each use shall be limited to one such per thorough fare approach; and

(6) Public street identification signs, traffic signs, and directional signs in any parking area where the signs are necessary for the orderly movement of traffic.

(C) *Signs in C, M-1, and M-2 Districts.* Signs may be erected in commercial and industrial districts, subject to the following provisions.

(1) The total surface area of all business signs on a lot shall not exceed two square feet per lineal foot of lot frontage or 10% of the building frontage area, or 75 square feet in area, whichever is greater. Signs may be illuminated.

(2) Advertising sign structures shall be limited to one for a lot of 100-foot frontage or less and to only one for each additional 100 feet of additional lot frontage. The signs shall be permitted only in the M-2 District.

(3) The advertising structure may not contain more than two signs per facing, not exceeding 55 feet in total length.

(4) No advertising sign may be erected within 50 feet of an adjoining residential district.

(5) For corner lots, the frontage used to determine allowable sign area shall be the least dimension along a street, but an equivalent sign area shall be allowed facing the intersecting street.

(6) No sign shall project higher than ten feet above the height of the building, or 32 feet above the average grade of the building line, whichever is greater.

(7) Signs painted on a building shall be governed by the square footage limitations specified above. The signs shall be maintained in good condition and shall be repainted, removed, or painted out when, in the opinion of the Planning and Zoning Commission and/or Zoning Administrator, they are not so maintained.

(8) Where a sign is illuminated, the source of light shall not be visible from any public right-of-way, and the light shall be directed away from any residential district. The sign may not project more than five feet from the building line nor closer than 12 feet to ground level.

(D) *Signs in the P Public Recreation and Forest Reserve District.* Signs may be erected in P Districts only in such manner as described below.

(1) One identification sign not to exceed 24 square feet in surface area displaying directional or identifying information for public noncommercial recreational facilities such as parks, trails, pools, community centers, and the like. The signs shall not be illuminated;

(2) Directional unilluminated signs, not exceeding two square feet in surface area displaying directional information for public facilities, provided that each use shall be limited to one sign per thoroughfare approach; and

(3) Public street identification signs, traffic signs, and directional signs in any parking area where the signs are necessary for the orderly movement of traffic.
(1985 Code, § 11.13) Penalty, see § 10.99

§ 152.050 OFF-STREET PARKING AND LOADING; UNLOADING SPACE REQUIREMENTS.

(A) *Parking space requirements.* The required parking and loading spaces shall be provided on the premises of each use. Each parking space shall contain a minimum area of not less than 300 square feet, including access drives, and a width of not less than nine feet, and a depth of not less than 20 feet. The minimum number of required off-street parking spaces for various uses shall be as follows:

(1) Dwelling units three stories or less: one parking space for each unit;

(2) Multiple dwelling over three stories: two parking spaces for each dwelling unit;

(3) Mobile home park: refer to § 152.023;

(4) Motel or motor hotel: one and one-half parking spaces for each rental room or suite;

(5) Churches: one parking space for each eight seats, based on the design capacity of the main seating area;

(6) Elementary school or junior high school: two parking spaces for each classroom;

(7) Senior high school: three parking spaces for each classroom;

(8) Public administration buildings, community center, public library, museum, art galleries, post office, and other public service buildings: ten parking spaces plus one additional space for each 500 square feet of floor area in the principal structure;

(9) Assembly or exhibition hall, armory, auditorium, theater, or sports arena: one parking space for each four seats, based upon design capacity;

(10) Golf course, golf clubhouse, country club, swimming club, tennis club, and public swimming pool: 36 spaces, plus one space for each 500 square feet of floor area in the principal structure;

(11) Hospitals: one parking space for each three beds; convalescent or nursing home, one parking space for each four beds;

(12) Automobile service station: four parking spaces plus two parking spaces for each service stall. The parking spaces shall be in addition to gas pump service area;

(13) Drive-in restaurant: twenty parking spaces or one space for each 20 square feet of floor area, whichever is greater;

(14) Restaurant, café, night club, tavern, or bar: one parking space for each 100 square feet of floor area;

(15) Bowling alley: five parking spaces for each bowling lane;

(16) Office building: three parking spaces for each 500 square feet of floor area;

(17) Retail stores and service establishments: one parking space for each 100 square feet of floor area;

(18) Auto sales, trailer sales, marine and boat sales, implement sales, garden supply store, building materials sales, and auto repair: one parking space for each 500 square feet of floor area;

(19) Shopping center: where several business uses are grouped together according to a general development plan, on-site automobile parking shall be provided in a ratio of not less than three square feet of gross parking area for each one square foot of gross floor area; separate on-site space shall be provided for loading and unloading;

(20) Storage, wholesale, or warehouse establishments: one parking space for each two employees on the major shift or one space for each 2,000 square feet of floor area, whichever is greater, plus one space for each company motor vehicle when customarily kept on the premises; and

(21) Manufacturing or industrial plant, research or testing laboratory, warehouse, or similar establishment: one parking space for each two employees on the major shift, but no less than one space for every 1,000 square feet of gross floor area.

(B) *Off-street loading design and maintenance.*

(1) *Location.* All required loading and unloading into or out of trucks in excess of three-fourths-ton capacity, or railroad cars, shall be conducted at facilities specifically designed or designated for that purpose. These facilities shall be located upon the zoning lot of the principal use requiring them. All berths beyond one shall be separate from areas used for off-street parking.

(2) *Access.* Each required off-street loading berth shall be so designed as to avoid undue interference with other vehicular or rail access or use of public streets, alleys, or other transport system.

(3) *Surfacing.* All off-street loading facilities, including loading berths and maneuvering areas, shall be surfaced with a hard, all-weather, dust-free durable surfacing material and shall be well drained and landscaped and shall be maintained in a sightly and well-kept condition.

(4) *Landscaping and screening.* All berths shall be screened from view from the property street frontage and/or from the zoning district boundary when the adjacent property or property across the street frontage or side street frontage is zoned or used for residential purposes. The screening shall be accomplished by a solid wall not less than eight feet in height and shall be so designed as to be architecturally harmonious with the principal structure. Screen planting may be substituted for the prescribed wall, however, the plantings must not be less than two and one-half inches in diameter and of the type as to permit a minimum of 90% opacity during all months of the year.

(5) *Design.* Fifty percent of the required number of truck berths shall be 50 feet in length, 12 feet in width, and 15 feet in height. All loading areas shall consist of a maneuvering area in addition to the berth and shall not use any of that portion of the site containing parking stalls. Maneuvering areas shall be of the size as to permit the backing of truck tractors and coupled trailers into a berth, without blocking the use of other berths or drive or maneuvering areas.

(6) *Required loading areas.*

(a) Space for loading and unloading of goods, supplies, and services shall be provided in addition to required off-street parking spaces and shall be sufficient to meet the requirements of each use.

(b) The following uses shall observe required loading and unloading spaces as indicated:

1. Motels, hotels, lodging and rooming houses, private clubs and lodges: one for each structure over 20,000 square feet of gross floor area;

2. Light and heavy commercial uses except where otherwise specified: one space for the first 10,000 square feet of gross floor area and one space for each additional 50,000 square feet of gross floor area;

3. Auditorium, stadium, gymnasium, community centers, and religious institutions and schools (private and public): one for each structure over 100,000 square feet of gross floor area;

4. Office building and professional offices (other than doctor and dentist) banks: one space for buildings between 30,000 and 100,000 square feet of gross floor area and one space for each additional 100,000 square feet of gross floor area;

5. Restaurants and other food-dispensing establishments, except drive-in restaurants: one for each structure with over 10,000 square feet of gross floor area;

6. Furniture, automobile, and boat sales and appliance sales: one space plus one additional space for each 25,000 square feet of gross floor area;

7. Hospitals, rest homes, nursing homes, and the like: one space plus one additional space for each 25,000 square feet of gross floor area;

8. Bowling alleys: one space for each structure over 20,000 square feet of gross floor area; and

9. Manufacturing and resea experimental or testing stations: one space for each 50,000 square feet of gross floor area.
(1985 Code, § 11.13) Penalty, see § 10.99

PLANNED UNIT DEVELOPMENTS

§ 152.065 PURPOSE AND INTENT.

This subchapter is adopted for the purposes of:

(A) Recognizing the economic and cultural advantages that will accrue to the residents of a planned community;

(B) Providing an optional procedure for an area where designation of a single use zoning district and/or application of standard zoning requirements may be too rigid for practical application; and

(C) Encouraging the use of contemporary land planning principles and coordinated community design.
(Ord. passed 4-24-2001)

§ 152.066 DEFINITIONS.

(A) *Generally.* The language set forth in the text of this subchapter shall be interpreted in accordance with the following.

(B) *Specifically.*

(1) This subchapter shall have no effect upon other developments or district requirements as set forth in this chapter.

(2) The minimum area required for a planned unit development (PUD) shall be one acre.

(3) Planned unit developments shall be excluded from requirements of this chapter and specifically approved as a PUD. The exclusions shall only be granted for the purpose of creating better overall design and an improved living environment and not solely for the economic advantage of the developer.

(4) The granting of a PUD permit does not alter in any manner the existing zoning district classification, except that building permits shall not be issued which are not in conformity with the approved PUD permit unless it is amended, cancelled, or modified by other provisions of this subchapter.

(5) Wherever a question arises concerning the interpretation of any provision of this subchapter, it shall be the duty of the Planning and Zoning Commission and the City Attorney to ascertain all facts and forward a recommendation to the Council for a determination.
(Ord. passed 4-24-2001)

§ 152.067 PROCEDURE.

(A) *Generally.* The procedures for obtaining approval of the preliminary development plan of a PUD shall be as follows.

(B) *Specifically.*

(1) *Preliminary discussion.* Prior to filing a petition, any person may request a meeting with the Planning and Zoning Commission or City Engineer to discuss the feasibility of a PUD.

(2) *Petition.* The petition for a PUD shall be on a form provided by the city and shall include all of the following information:

(a) Signature(s) of owner(s) and developer(s);

(b) All data normally required by the city for rezoning application; and

(c) All information and plans comprising a preliminary development plan, as described herein.

(3) *Processing of petition.* The petition for a preliminary development plan of a PUD shall be processed by the city in the same manner in which rezoning petitions are processed as described in this chapter.

(4) *Fees.* The fee for a PUD shall be the same as the fee charged for a rezoning.
(Ord. passed 4-24-2001)

§ 152.068 PRELIMINARY DEVELOPMENT PLAN.

(A) *Generally.* The preliminary development plan of a PUD shall include the following information.

(B) *Specifically.*

(1) An overall plan indicating the proposed use of all areas of the site, including the density, type, and number of stories of all dwelling units, size and use of proposed commercial areas, recreation areas, walkway locations, public streets, and similar features;

(2) A staging plan indicating the proposed sequence and timing of development of all areas of the site. This shall include number of dwelling units, commercial structures, public streets, utilities, and recreation areas; and

(3) A detailed plan of first phase development including buildings, parking areas, driveways, and similar detail, on a site plan and including architectural elevation drawings of all buildings.
(Ord. passed 4-24-2001)

§ 152.069 FINAL DEVELOPMENT PLAN.

(A) The final development plan may be approved in phases along with the progression of development. The final development plan shall be reviewed by the Planning and Zoning Commission with final determination by the Council. A public hearing shall not be required provided the final development plan is in substantial conformance with the preliminary plan. Any major change as determined by the Council shall require a public hearing.

(B) The final development plan for a phase of development shall include the following:

(1) A final plat, if required, adopted in accordance with this chapter;

(2) A final site plan showing all structures, parking areas, driveways, recreational improvements, walkways, and similar detail on a scaled and dimensioned drawing;

(3) A landscape plan showing the location, species, and size of all plant materials. Landscape information shall be located on a grading plan;

(4) A utility plan showing the location and size of all utilities and easements. The utility plan shall include sanitary sewer, water, storm sewer and drainage, electricity, and gas (these may be omitted if plan is required for PUD);

(5) Building plans shall be submitted in detail and in accordance with the State Building Code; and

(6) Covenants, agreements, or contracts governing the use of maintenance of the development shall be filed with the city. Where the information is lacking, the city may require a bond or similar guarantee to ensure that areas held common by persons residing in the development will be developed and maintained.
(Ord. passed 4-24-2001)

§ 152.070 GENERAL PROVISIONS.

(A) Residential unit densities shall be determined as a part of the approval of the PUD.

(1) Final determination on density shall be made when the final development plan for each phase is approved.

(2) In determining densities, the city shall be guided by the City Comprehensive Plan, this chapter, the proposed PUD, the zoning of the property and adjoining area, and similar planning information.

(B) Uses approved and permitted under a PUD shall only include uses permitted in residential districts in the city and those commercial uses specifically approved as a part of the approval of a PUD.

(C) Upon approval of a preliminary development plan, a PUD may not be altered, revised, or withdrawn without the approval of the Council. The approval shall have the same effect as the zoning of the property.

(D) All approved preliminary development plans shall be so designated on the Official Zoning Map as it is revised from time to time.

(1) The map shall be related by number of other means to an approved preliminary or final development plan of a PUD on file with the city.

(2) The plans shall be available for the general public to review.

(E) Enforcement of the provisions of this subchapter shall be the same as for other provisions in this chapter.
(Ord. passed 4-24-2001)

NONCONFORMING USES

§ 152.085 NONCONFORMING SIGNS.

(A) Signs existing on the effective date of this chapter which do not conform to the regulations set forth in this chapter shall become a nonconforming use and shall be discontinued within a reasonable period of amortization of the sign; uses of signs which become nonconforming by reason of a subsequent change in this chapter shall also be discontinued within a reasonable period of amortization of the sign. The period of amortization for signs shall not be more than:

(1) Advertising signs: three years from the effective date of this chapter; and

(2) Business signs: five years from the effective date of this chapter.

(B) Business signs on the premises of a nonconforming building or use may be continued, but the signs shall not be increased in number, area, height, or illumination. New signs not to exceed 35 square feet in aggregate sign area may be erected only upon the complete removal of all other signs existing at the time of the adoption of this chapter. The signs may be illuminated, but no flashing, rotating, or moving signs shall be permitted.

(C) No sign erected before the passage of this chapter shall be rebuilt, altered substantially, or moved to a new location without being brought into compliance with the requirements of this chapter. Advertising messages, identification, or information content on sign facings are excluded from this provision.
(1985 Code, § 11.14) Penalty, see § 10.99

§ 152.086 NONCONFORMING JUNK YARDS.

No junk yard may continue as a nonconforming use for more than two years after the effective date of this chapter, except that a junk yard may continue as a nonconforming use in a commercial or industrial district if, within that period, it is completely enclosed within a building, fence, screen planting, or other device of the height and density as to screen completely the operations of the junk yard. Plans of such a building or device shall be approved by the Planning and Zoning Commission and the Council before it is erected or put into place.
(1985 Code, § 11.14) Penalty, see § 10.99

§ 152.087 DISCONTINUANCE.

(A) In the event that a nonconforming use of any building or premises is discontinued or its normal operation stopped for a period of one year, the use of the same shall thereafter conform to the regulations of the district in which it is located.

(B) In the event that the use of a nonconforming advertising sign structure is discontinued or its normal operation stopped for a period of six months, the structure shall be removed by the owner or lessor at the request of the Council.
(1985 Code, § 11.14) Penalty, see § 10.99

§ 152.088 ALTERATIONS.

The lawful use of a building existing at the time of the adoption of this chapter may be continued, although the use does not conform with the provisions hereof. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification. The foregoing provisions shall also apply to nonconforming uses in districts hereafter changed. Whenever a nonconforming use of a building has been changed to a more restricted use or to a conforming use, the use shall not thereafter be changed to a less restricted or less conforming use.
(1985 Code, § 11.14) Penalty, see § 10.99

§ 152.089 RESIDENTIAL ALTERATIONS.

Alterations may be made to a residential building containing nonconforming residential units when they will improve the livability of the units; provided, however, that they do not increase the number of dwelling units in the building.
(1985 Code, § 11.14) Penalty, see § 10.99

§ 152.090 RESTORATION.

No building which has been damaged to the extent of more than 50% of its reproduction value shall be restored, except in the conformity with the regulations of this chapter. This limitation on restoration shall not apply to the restoration of residential homes in a commercial zone and the city shall allow the reconstruction of existing nonconforming residential structures in a commercial zone.
(1985 Code, § 11.14) (Ord. 2005-1, passed 4-26-2005) Penalty, see § 10.99

§ 152.091 NORMAL MAINTENANCE.

Maintenance of a building or other structure containing or used by a nonconforming use will be permitted when it includes necessary, nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming building or use. Nothing in this chapter shall prevent the placing of a structure in safe condition when the structure is declared unsafe by the Zoning Administrator.
(1985 Code, § 11.14) Penalty, see § 10.99

§ 152.092 NONCONFORMING LOTS OF RECORD.

(A) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any undeveloped single lot of record at the effective date of adoption or amendment of this chapter. The lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though the lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of lot shall conform to the regulations for the district in which the lot is located. Variance of lot coverage and/or yard requirements shall be obtained only through action of the Planning and Zoning Commission.

(B) If two or more lots or combinations of lots and portions of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of the parcel shall be used or sold which does not meet lot and width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot with width or area less than the requirements stated in this chapter.
(1985 Code, § 11.14) Penalty, see § 10.99

CONDITIONAL USE PERMITS

§ 152.105 APPLICATION.

Application for the issuance of a conditional use permit shall be made to the Planning and Zoning Commission. Any proceedings to classify certain uses as conforming uses as provided in this section may be initiated either by application or by the Planning and Zoning Commission. The Planning and Zoning Commission may hold any hearings on the proposal to issue a conditional use permit as it may consider necessary; but at least one public hearing shall be held on any application for a use permit. Notice shall be given not more than 30 days nor less than ten days in advance of the hearings, by publishing pertinent data regarding the amendment at least once in the official newspaper, and by notifying by mail at least ten days prior to the meeting the property owners of and within 300 feet of the subject property. The Planning and Zoning Commission shall make a report to the Council upon any application for conditional permit and shall recommend to the Council whatever action it deems advisable; but it shall not recommend the granting of a permit unless special circumstances or conditions applying to the building or land in question are peculiar to the property. Also, the granting of the permit will not impair the health, safety, morals, comfort, convenience, or welfare of the persons residing or

working in the neighborhood of the use, or the public welfare or injurious to property or improvements in the neighborhood. It may designate conditions and require guarantees in the granting of use permits in the manner provided in § 152.122, for the granting of adjustments. Upon receipt of the report of the Planning and Zoning Commission, the Council may hold whatever public hearing it deems advisable and shall make a decision upon the proposal to grant a use permit.
(1985 Code, § 11.15)

§ 152.106 CONFORMANCE.

Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity to the terms of the permit and of any conditions designated in connection therewith.
(1985 Code, § 11.15)

ADMINISTRATION AND ENFORCEMENT

§ 152.120 ZONING ADMINISTRATOR.

(A) The Mayor and Council are hereby authorized and directed to enforce all the provisions of this chapter. They may delegate the enforcement of this chapter to any administrative official of the city, and supporting staff if deemed necessary, who shall be directly under the control of the Mayor and Council, and shall be known as the Zoning Administrator. At its first regular meeting in January each year, the City Council shall appoint the Zoning Administrator for the calendar year. The Zoning Administrator may be removed at any time by an affirmative vote of the majority of the City Council. He or she shall submit his or her resignation in writing to the City Council.

(B) The Zoning Administrator shall perform the following duties:

(1) Examine all applications pertaining to use of land, buildings, or structures, and approve same when the application conforms with the provisions of this chapter;

(2) Periodically inspect buildings, structures, and uses of land to determine compliance with the terms of this chapter. In regard to performance standards, the Zoning Administrator may require the services of a testing laboratory to determine compliance. The cost of employing the laboratory shall be paid for by the owner if a violation of this chapter is established, otherwise by the city;

(3) Notify, in writing, any person responsible for violating a provision of this chapter, indicating the nature of the violation and ordering the action necessary to correct it;

(4) Order discontinuance of illegal use of land, buildings, or structures; order removal of illegal buildings, structures, additions, or alterations; order discontinuance of illegal work being done; or take any action authorized by this chapter to ensure compliance with or to prevent violation of its provisions;

(5) Maintain permanent and current records of this chapter, including all maps, amendments, and variances;

(6) Maintain a current file of all permits, all certificates, and all copies of notices of violation, use, discontinuance, or nonconforming uses for the time as necessary to ensure a continuous compliance with the provisions of this chapter and, on request, provide information to any person having a proprietary or tenancy interest in any specific property; and

(7) Provide technical assistance to the Council and Planning and Zoning Commission meetings as an ex officio member.
(1985 Code, § 11.16) (Ord. passed 11-18-2003)

§ 152.121 BUILDING AND USE PERMITS.

(A) *Generally.* Except as hereinafter provided, no person shall construct, erect, alter, wreck, or move any building or structure or parts thereof within the corporate limits without first securing a building permit from the city. It shall not be necessary to secure a building permit in order to alter, repair, or otherwise change the interior of any residential building provided the proposed alteration, repair, or change will not affect the exterior dimensions of the building or change the existing use and occupancy thereof.

(B) *Application.* Application for a building permit shall be made to the Zoning Administrator on blank forms to be furnished by the City Clerk-Treasurer. Each application for a permit to construct or alter a building shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the building and accessory buildings to be erected. Applications shall contain any other information as may be deemed necessary for the proper enforcement of this chapter or any code provision.

(C) *Fees.* The fee for a building permit shall be determined by the Council, and may be revised from time to time.

(D) *Issuance.* The Zoning Administrator shall issue the building permit only after determining that the building plans, together with the application, comply with the terms of this chapter.

(E) *Certificate of zoning compliance.*

(1) A certificate of zoning compliance shall be obtained before any building hereafter erected or structurally altered is occupied or the use of any such building is altered.

(2) Application for a certificate of zoning compliance for a new building or for an existing building which has been altered shall be made to the Zoning Administrator as part of the application for a building permit as required by division (B) above.

(3) Every certificate of zoning compliance shall state that the building or proposed use of a building or land complies with all provisions of law and this chapter. A record of all certificates of zoning compliance shall be kept on file in the office of the City Clerk-Treasurer, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land affected.
(1985 Code, § 11.17) Penalty, see § 10.99

§ 152.122 VARIANCES AND APPEALS.

(A) *Purpose.* The Planning and Zoning Commission, in each case hereinafter provided, shall have the power to grant adjustments in and exceptions to any of the provisions of this chapter to the extent of the following and no further:

(1) 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 this chapter;

(2) To vary or modify the strict application of any of the regulations or provisions contained in this chapter in cases in which there are practical difficulties or unnecessary hardships in the way of the strict application; and

(3) To permit the extension of a district where the boundary line thereof divides a lot in one ownership at the time of passage of this chapter.

(B) *Application.* Application for any variance permissible under the provisions of this section shall be made to the Zoning Administrator in the form of a written application for a permit to use the property or premises as set forth in the application. An application for an adjustment shall be accompanied by payment of a fee in the amount as may be set by motion or resolution of the Planning and Zoning Commission from time to time in addition to the regular building fee. Upon receipt of any application, the officer shall schedule a hearing at the regular meeting date for a public hearing before the Planning and Zoning Commission on the application. At least ten days before the date of the hearing, a notice of the hearing shall be published once in the official newspaper.

(C) *Review and decision.* The Commission shall thereupon make its decision upon the application and report its recommendation to the Council within ten days after the hearing. In recommending granting any adjustment or variance under the provision of this section, the Planning and Zoning

Commission shall designate any conditions in connection therewith as will, in its opinion, secure substantially the objectives of the regulation involved; and in recommending denial the Commission shall specify the reasons why the variance cannot be adjusted to meet the purposes of this chapter as to light, air, public health, safety, comfort, convenience, or general welfare.

(D) *Issuance.* No permit shall be issued under the provisions of this section unless and until it is ordered by the Council. The Planning and Zoning Commission shall report its finding with respect thereto and all facts in connection therewith and shall specifically and fully set forth the conditions upon which variance it recommended. Upon receipt of the report, the Council shall by resolution either accept or reject the same and shall either grant or deny the application for permit according to its own determination of the question involved. In all cases in which adjustments or variances are granted under the provision of this section, the Council shall require the evidence and guarantees as it deems necessary to ensure compliance with the conditions designated in connection therewith.

(E) *Conditions for issuance.*

(1) The Planning and Zoning Commission shall not recommend the granting of any application, and the Council shall not grant any application unless they find the following facts: that there are special circumstances or unique conditions affecting the land, building, or use referred to in the application; that the granting of the application is necessary for the preservation and enjoyment of substantial property rights; and, that the granting of the application will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

(2) At the hearing, the applicant shall present a statement and evidence in the form as the Planning and Zoning Commission may require, to show these facts.

(F) *Form of action taken and record thereof.* The Planning and Zoning Commission and Council shall provide for a record of their proceedings, which shall include the minutes of their meetings, their findings, and the action taken on each matter heard by them, including final recommendation, decision, and order.

(G) *Appeals from the decision of the Council.* Any person or persons, or any board, taxpayer, department, or bureau of the city aggrieved by any decision of the Council, may seek review by a court of record of the decision, in the manner provided by the laws of the state and particularly by M.S. Ch. 462.361, as it may be amended from time to time.
(1985 Code, § 11.18)

§ 152.123 AMENDMENTS TO THIS CHAPTER.

(A) *Purpose.* The Council may on its own motion, or on request of the Planning and Zoning Commission, or on petition or appeal of the affected property owners:

(1) Transfer land, or a portion thereof, from the district in which it is situated into another district, by amendment to this chapter; and/or

(2) Change any of the regulations of this chapter as to the use or platting of land in any district, or as to the restrictions upon buildings or structures and their placement herein, by amendment to this chapter. Any action of amending this chapter by the Council shall first be reviewed by the Planning and Zoning Commission.

(B) *Procedure.*

(1) An application for amendment shall be filed with the City Clerk-Treasurer in duplicate, accompanied by a fee as determined by the Planning and Zoning Commission. The Clerk-Treasurer shall forward one copy to the Planning and Zoning Commission.

(2) The Planning and Zoning Commission shall schedule and give notice of the time and place of a public hearing on the proposed amendment. Notice shall be given not more than 30 days nor less than ten days in advance of the hearings, by publishing pertinent data regarding the amendment at least once in the official newspaper, and by notifying by mail at least ten days prior to the meeting the property owners of and within 300 feet of the subject property. The current City Assessor's tax records shall be deemed sufficient for the location or certification of ownership of the properties. Following the hearing, the Planning and Zoning Commission shall transmit its recommendations on the application to the Council within 30 days. The recommendation shall be in writing.

(3) The Council, upon receiving reports of the Planning and Zoning Commission, and without further public hearing, may vote upon the adoption of the proposed amendment, or it may refer it back to the Planning and Zoning Commission for further consideration. In considering any amendment, due allowance shall be made for existing conditions, for the conservation of property values, for the direction of building development to the best advantage of the entire city, and for the uses to which the property affected is being devoted at the time; no change shall be effective only if four-fifths of all members of the Council concur in its passage.

(C) *Petition.*

(1) Give the name or names of petitioner or petitioners, and the petition shall be signed by each of them. The address of each petitioner shall be given;

(2) Specifically describe the property to be rezoned, and give the names and addresses of all owners of property owned by each;

(3) State the present zone classification of the area and the proposed zone classification;

(4) State the present use of each separately owned tract within the area, and the intended use of any tract of land therein, if the petitioners, or any of them, have particular use presently in mind;

(5) Show how the rezoning will fit in with the general zoning pattern of the neighborhood, and the zoning plan of the entire city;

(6) Be accompanied by three copies of a map showing the property to be rezoned, and the present zoning of the surrounding area for at least a distance of 500 feet, including the street pattern of the area. The map scale shall be 100 feet to the inch when possible; otherwise at a scale to show with reasonable clarity the subject and adjacent land tracts; and

(7) In the case of petition to amend the zoning text, both the existing language of this chapter, and the proposed rewording, shall be submitted with reference to the section and division. Reasons for requesting the change shall be clearly stated on the application which accompanies the petition at the time of filing.
(1985 Code, § 11.19)

§ 152.124 ENFORCEMENT AND FEES.

(A) *Enforcement.*

(1) In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this chapter, the Zoning Administrator, in addition to other remedies, may institute any proper action or proceedings in the name of the city.

(2) He or she shall hereby have the powers of a police officer to prevent any unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate the violations, to prevent the occupancy of the building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about the premises.

(B) *Schedule of fees, charges, and expenses.* The Council hereby establishes a schedule of fees and a collection procedure for zoning permits, certificates of zoning compliances, and conditional use permits as required by this chapter. The schedule of fees listed below shall be posted in the office of the City Clerk-Treasurer, and may be altered or amended only by the Council. Permits are not required for remodeling unless the exterior dimensions of a structure are to be altered. No zoning compliance or

conditional use permit shall be issued unless or until the application fees, listed below, shall have been paid in full to the City Clerk-Treasurer, nor shall any action be taken on proceedings before the Planning and Zoning Commission unless or until the following application fees have been paid in full:

Type	*Fee*
Building permit fees	$20: Misc. project, decks, fences, sheds etc.
	$100: Garages
	$250: Homes
	$500: Commercial projects
Variance fee	$100
Conditional use permit	$100
Amendment of ordinance or zoning map fee*	$250
*This involves more time for the City Engineer and Attorney	

(1985 Code, § 11.20) (Ord. passed 12-8-2009)

SHORELANDS MANAGEMENT

§ 152.135 SCOPE.

This subchapter is intended to reduce the effects of overcrowding, prevent pollution of waters in the state, provide ample space for sanitary systems and water supplies, minimize flooding problems, maintain property values, and maintain natural characteristics of shorelands, and provide for the sensible utilization of water and land resources in the city.. Shorelands management regulations are adopted pursuant to the authority contained in the Laws of Minnesota 1973, Chapter 379, as it may be amended from time to time, and in furtherance of the policies declared in M.S. Ch. 103A, 103B, 103C, 103D, 103E, 103F, 103G, 115, 116, and 462, as they may be amended from time to time.
(1985 Code, § 11.21)

§ 152.136 DEFINITIONS.

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

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

CROWDING POTENTIAL. The ratio of total acreage of a water body to shore miles.

NORMAL HIGH WATER MARK. A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ***NORMAL HIGH WATER MARK*** is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

PLANNED UNIT DEVELOPMENTS. A tract of land which may be developed as an integral unit, to incorporate a variety of permitted land use, planned and developed as a unit. The ***PLANNED UNIT DEVELOPMENT*** differs from the traditional subdivision development in that zoning standards such as density, setbacks, height limitations, and lot sizes may be altered between the developer and the Planning and Zoning Commission by agreement for recommendation to the Council. No official action by the Planning and Zoning Commission or Council may be taken until official approval of the development is provided by the State Department of Natural Resources.

SETBACK. The minimum horizontal distance between a structure or sanitary facility and the normal high water mark or between a structure or sanitary facility and a road, highway, or property line.

SHORELAND. Land located within the following distances from water resources: 1,000 feet from the normal high water mark of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on such a river or stream, whichever is greater. The practical limits of shorelands may be less than the statutory limits whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner of Natural Resources.

WATER RESOURCES. Any waters in the state which serve or could provide beneficial public purpose. No lake, pond, or flowage of less than ten acres in size and no river or stream having a total drainage area less than two square miles shall be considered as ***WATER RESOURCES***. The official size of lakes, ponds, and flowages shall be the areas listed in the *Division of Waters, Soils, and Minerals, Bulletin 25, An Inventory of Minnesota Lakes*, or in the event that lakes, ponds, or flowages are not listed herein, official determination of size and physical limits shall be made by the Commissioner of Natural Resources in cooperation with municipalities.
(1985 Code, § 11.21)

§ 152.137 GENERAL REGULATIONS.

(A) Land use development of shorelands shall be controlled by means of zoning district classifications and regulations which are to be compatible with the classifications of water resource areas. Zoning regulations shall remain in effect for the management of land, except that shorelands regulations shall control all development within 1,000 feet of the normal high water mark of all lakes, ponds, and flowages and within 300 feet of all rivers and streams.

(B) Water resources shall be classified by the Commissioner of Natural Resources and established into three categories: natural environment, recreational development, and general development. Classification of water resources in the city shall be in accordance with the provisions of Minnesota Regulations Cons. 1971, as it may be amended from time to time, which identifies: general development as those waters whose shores are presently characterized by industrial, commercial, or high density residential development; recreational development as those waters whose shores are presently characterized by medium density residential development with or without limited service oriented commercial development; and natural environment as those waters whose shores are presently characterized by low density, single-family residential development and those waters whose shores are not yet densely developed shall be classified as either natural environment or recreational development. Any municipality may at any time submit a resolution and supporting data requesting a change in any shoreland management classification of waters within its jurisdiction to the Commissioner for consideration. Official classification of water resources in the city are identified, and shall be referred to in the Official Zoning Map.

(C) No structure shall be erected in the floodway of a river or stream as defined in M.S. § 103F.111, as it may be amended from time to time. In addition to the setback requirements, shoreland standards shall control placement of structures in relation to high water elevation. When fill is required to meet this elevation, the fill shall be allowed to stabilize to accepted engineering standards before construction is begun. The elevation to which the lowest floor, including basement, shall be determined as follows: for lakes, ponds, flowages, and rivers and streams by an evaluation of available flood information and consistent with *Statewide Standards and Criteria for Management of Flood Plain Areas of Minnesota*, or placing the lowest floor at a level at least three feet above the highest known water level, or where data is insufficient on high water levels, normal high water mark shall be used.
(1985 Code, § 11.21) Penalty, see § 10.99

§ 152.138 CONDITIONAL USE PERMIT.

(A) *Generally.* In addition to those uses requiring a conditional use permit under the zoning district classification, §§ 152.021 through 152.029, 152.105, and 152.106, the following items shall also require a conditional use permit as they pertain to this section.

(B) *Specifically.*

(1) Boathouses may be located a minimum of 25 feet landward of the normal high water mark as a conditional use, provided they are not utilized for habitation and that they contain no sanitary facilities.

(2) Placement of piers and dock structures shall be controlled by state and city regulations and require a conditional use permit.

(3) Natural vegetation in shoreland areas shall be preserved insofar as practical and reasonable in order to retard surface runoff and soil erosion. The removal of vegetation shall be controlled by the city, in cooperation with the Department of Natural Resources in accordance with the following criteria:

(a) Clearcutting shall be prohibited, except as necessary for placing public roads, utilities, structures, and parking areas; and

(b) Vegetation shall be restored insofar as feasible after any construction project.

(4) Grading and filling in shorelands areas or any other substantial alteration of the natural topography shall be controlled by this section.

(5) Any work which will change or diminish the course, current, or cross-section of any water resource shall be approved by the Commissioner of Natural Resources before the work is begun. This includes construction of channels and ditches, lagooning, dredging, of lakes or stream bottom for removal of muck, silt, or weeds, and filling in the lake or stream bed. Approval shall be construed to mean the issuance by the Commissioner of a permit under the procedures of M.S. Ch. 103A through 103G or other applicable statutes, as they may be amended from time to time.

(6) Excavations on shorelands where the intended purpose is connection to any water resources, such as boat slips, canals, lagoons, and harbors, shall be controlled by the shoreland standards. Permission for the excavations may be given only after the Commissioner of Natural Resources has approved the proposed connection to the water source. Approval shall be construed to mean the issuance by the Commissioner of a permit under the procedures of M.S. § 105.42, as it may be amended from time to time, and other related statutes.
(1985 Code, § 11.21) Penalty, see § 10.99

§ 152.139 PLANNED UNIT DEVELOPMENT.

Zoning standards may be altered, as an exception to this section, to allow for planned unit development, provided:

(A) Preliminary plans shall be approved by the Commissioner of Natural Resources prior to any approval by the city;

(B) Central sewage facilities shall be installed which at least meet the applicable standards, criteria, rules, or regulations of the County Health Department, State Department of Health, and the State Pollution Control Agency, or the planned unit development is connected to a city sanitary sewer;

(C) Open space is preserved. This may be accomplished through the use of restrictive deed covenants, public dedications, or other methods;

(D) The following factors are carefully evaluated to ensure that the increased density of development is consistent with the resource limitations of the public water:

(1) Suitability of the site for the proposed use;

(2) Physical and aesthetic impact of increased density;

(3) Level of current development;

(4) Amount and ownership of undeveloped shoreland;

(5) Levels and types of water surface use and public access; and

(6) Possible effects on overall public use.

(E) Any commercial, recreational, community, or religious facility allowed as part of the planned unit development shall conform to all applicable federal and state regulations, including, but not limited to, the following:

(1) Licensing provisions or procedures;

(2) Waste disposal regulations;

(3) Water supply regulations;

(4) Building codes;

(5) Safety regulations;

(6) Regulations concerning the appropriation and use of public waters, as defined in M.S. Ch. 103A, 103B, 103C, 103D, 103E, 103F, 103G, as they may be amended from time to time; and

(7) Applicable regulations of the State Environmental Quality Council.

(F) The final plan for a planned unit development shall not be modified, amended, repealed, or otherwise altered unless approved in writing by the developer, the city, and the Commissioner of Natural Resources; and

(G) There are centralized shoreline recreation facilities such as beaches, docks, and boat launching facilities.
(1985 Code, § 11.21) Penalty, see § 10.99

§ 152.140 SANITARY PROVISIONS.

(A) Any public or private supply of water for domestic purposes shall comply with State Pollution Control Agency and County Health Department regulations.

(B) Where applicable, all public and private sanitary waste disposal systems shall comply to standards and regulations of the State Pollution Control Agency, the State Department of Health, and the County Health Department in terms of size, construction, use, and maintenance.
(1985 Code, § 11.21) Penalty, see § 10.99

§ 152.141 ADMINISTRATION.

(A) The city shall provide for the administration and enforcement of this subchapter pursuant to M.S. § 462.362, as it may be amended from time to time. Preparation of this subchapter has been aided by Minnesota Reg. No. 82, 1976, Department of Natural Resources. All building permits, variances and appeals, conditional use permits, and amendments shall follow the regulations set forth in §§ 152.105, 152.106, 152.121, 152.122, and 152.123.

(B) Subdivision regulations shall also be in effect for all shoreland management areas.

(C) Shoreland management areas are identified on the Official Zoning Map, which is a part of this subchapter.

(D) Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under this subchapter shall be received by the Commissioner of Natural Resources at least ten days prior to the hearings.

(E) A copy of amendments and final decisions granting variances or conditional uses under this subchapter shall be received by the Commissioner of Natural Resources within ten days of final action or amendment.
(1985 Code, § 11.21)