

CHAPTER 152: ZONING

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*GENERAL PROVISIONS***' 152.001 TITLE.**

This chapter shall be known, cited, and referred to as the AZoning Code@ of the city.
(Ord. -, passed 5-1-1984; Am. Ord. -, ' 1, passed --1997)

' 152.002 INTENT AND PURPOSE.

This chapter is adopted for the intent and purpose of:

(A) Protecting the public health, safety, comfort, and general welfare of the people of the city;

(B) Promoting orderly development of the residential, commercial, industrial, recreational, and public areas;

(C) Conserving the natural and scenic beauty and attractiveness of the community; and

(D) Providing for the compatibility of different land uses and the most appropriate use of land throughout the community.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 2, passed --1997)

' 152.003 RULES.

For the purpose of this chapter, certain terms or words used herein shall be interpreted as follows.

(A) Words used in the present tense shall include the future; and words used in the singular number shall include the plural number, and the plural the singular.

(B) Whenever a word or term defined hereinafter appears in the text of this chapter, its meaning shall be construed as set forth in that definition.

(C) All measured distances expressed in feet shall be to the nearest 1/10 of a foot.

(D) In the event of conflicting provisions, the more restrictive provisions shall apply.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 3.01, passed --1997)

' 152.004 DEFINITIONS.

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

ACCESSORY USE OR STRUCTURE. A use or structure or portion of a structure secondary to and serving the principal structure on the same lot and customarily incidental thereto.

AGRICULTURAL USE. The use of land for the growing or production of field crops, livestock, and livestock products for the production of income.

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

AMENDMENT. A change to the provisions or text of the chapter, or to zoning district boundaries as shown on the official zoning map. An ***AMENDMENT*** is not a variance.

ATTORNEY. The City Attorney of this city, or his or her authorized representative.

AUTOMOBILE SERVICE STATION. Any building or premises used for the dispensing or sale of automobile fuels (including diesel), lubricating oil or grease, tires, batteries, or minor automobile accessories and offering major automobile repairs.

BASEMENT. The portion of a building located partly underground, but having less than 1/2 of its floor-to-ceiling height below the average grade of the adjoining ground. This portion is not a completed structure and serves as a substructure or foundation for a building.

BED AND BREAKFAST. Any owner or manager occupied dwelling in which a room or rooms, forming a single habitable unit used or intended to be used for living and sleeping, but not cooking or eating purposes, which are rented on a nightly basis for periods of less than a week. Meals may or may not be provided.

BOARDING HOUSE or ***ROOMING OR LODGING HOUSE.*** A building other than a motel or hotel where, for compensation and by pre-arrangement for definite periods, meals and lodgings are provided for 3 or more persons, but not exceeding 20 persons.

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

CELLAR. The portion of a building having more than 1/2 of its floor-to-ceiling height below the average grade of the adjoining ground. This portion is not a completed structure and serves as a substructure or foundation for a building.

CITY CLERK. The City Clerk of this city, or his or her authorized agent.

CONDITIONAL USE. A use which generally may be appropriate or desirable in a specified zone, but which requires special approval because, if not carefully located or designed, it may create special problems. Therefore, this type of use may be permitted only upon meeting prescribed performance standards or requirements.

CONDITIONAL USE PERMIT. A permit issued by the Zoning Administrator or Zoning Clerk when ordered by the City Council. When this permit is issued, it shall have stated thereon any special requirements, related to design, facilities, measures, need, compliance, time limitation, and the like, as shall be imposed as a condition for issuance of that permit. When at any time the special requirements stated on the permit are not complied to, the use would be in violation of this chapter.

DAY CARE FACILITY. Any facility licensed by the Commissioner of Public Welfare, public or private, which for gain or otherwise, regularly provides 1 or more individuals with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours per day, in an individual's home or another location. **DAY CARE FACILITIES** include, but are not limited to, family day care homes (5 children or less), group family day care homes (6 to 10 children), day care centers (11 or more children - instructional), developmental achievement centers or D.A.C. (developmentally disabled children and adults.)

DWELLING. A building used or intended exclusively for occupancy by a family, including single-family, 2-family, and multiple-family dwellings; but not including hotels, motels, or boarding or rooming houses.

DWELLING, MULTIPLE-FAMILY or APARTMENT. A dwelling used or intended exclusively for occupancy by 3 or more families living independently of each other, but sharing hallways, main entrances, or exits.

EARTH-SHELTERED BUILDING. A building constructed so that 50% or more of the completed structure is covered with earth. An **EARTH-SHELTERED BUILDING** is a completed structure that does not serve just as a foundation or substructure for above-ground construction. A partially completed building shall not be considered as an **EARTH-SHELTERED STRUCTURE**.

ESSENTIAL SERVICES. Public utilities such as electricity, sanitary sewer, storm sewer, and water.

FAMILY. Any number of persons living together in a room or rooms comprising a single housekeeping unit and related by blood, marriage, adoption, or any unrelated person who resides therein as though a member of the family, including domestic employees. Any group of persons not so related but inhabiting a dwelling, shall be considered to constitute 1 **FAMILY**.

FEEDLOT. A lot or building or a group of lots or buildings used for the confined feeding, breeding, or holding of animals. This definition includes areas specifically designed for confinement in which manure may accumulate or any area where the concentration of animals is such that a vegetative cover cannot be maintained. Lots used to feed and raise poultry are considered to be **FEEDLOTS**. Pastures are not animal **FEEDLOTS**. A livestock buying station is not a **FEEDLOT**.

HARDSHIP. A situation where the property in question cannot be put to a reasonable use under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to his or her property, not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a **HARDSHIP** if a reasonable use for the property exists under terms of the official controls.

HOME OCCUPATION. Any occupation which is clearly secondary to the main use of the premises as a residence and does not change the character thereof or have any exterior evidence of the secondary use.

JUNKYARD. An enclosed area where used, waste, discarded, or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, parked, disassembled, or handled, including but not limited to scrap iron and other metals, paper rags, rubber products, bottles, and used building materials. Storage of materials in conjunction with construction or a manufacturing process shall not be included. This use shall not include garbage. Three or more abandoned automobiles without current licenses shall constitute a **JUNKYARD**.

LAND USE PLAN. An official document of policy statements, goals, standardizations, and maps for guiding the development of land, both private and public, within the city.

LOT. A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area and to provide yards and other open spaces as are herein required. The term **LOT** includes the words Aplot@ and Aparcel.@

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

LOT WIDTH. The horizontal distance between the side lot lines measured at the street line. In the case of a lot of irregular shape, the average width shall be the **LOT WIDTH**.

MAY. The act referred to is permissive.

MOBILE HOME. Manufactured housing designed or used for human habitation and designed for transportation after fabrication, on streets and highways on its own wheels or on flatbeds or other trailers, and arriving at the site where it is to be occupied as a dwelling, complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities, and the like.

MODULAR HOME. A non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to a foundation. A **MODULAR HOME** shall be congruous to a single-family dwelling.

NON-CONFORMING USE. Use of land, buildings, or structures legally existing at the time of adoption of this chapter which does not comply with all the regulations of this chapter or any amendments to it, governing the zoning district in which the use is located.

PARKING SPACE. A suitably surfaced and maintained area for the storage of 1 standard automobile (9 feet x 20 feet).

PERMITTED USE. A public or private use which of itself conforms with the purposes, objectives, requirements, regulations, and performance standards of a particular district, as distinguished from a conditional use.

PERSON. Includes a firm, association, partnership, trust, company, or corporation as well as an individual.

PLANNED UNIT DEVELOPMENT. Development having 2 or more principal uses or structures on a single lot and developed according to an approved plan. Where appropriate, this development control advocates:

- (1) A mixture of land uses, 1 or more of the non-residential uses being compatible in nature;
- (2) The clustering of residential land uses providing common and public open space, the former to be maintained either by the residents of the development or the local community; and
- (3) Increased administrative discretion to local officials and the setting aside of present land use regulations and rigid plat approval processes.

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

RESIDENTIAL FACILITY. Any facility licensed by the Commissioner of Public Welfare, public or private, which for gain or otherwise, regularly provides 1 or more individuals with a 24 hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the individual=s own home. **RESIDENTIAL FACILITIES** include, but are not limited to: state institutions under Social Services,

maternity shelters, group homes, residential programs, or schools for disabled individuals.

SETBACK. The minimum horizontal distance between a structure and right-of-way or property line. Distance is to be measured at ground level.

SHALL. The act referred to is mandatory.

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

SOLAR COLLECTOR. Any device relying upon direct solar energy that is employed in the collection of solar energy for heating or cooling of a structure, building, or water.

SOLAR ENERGY SYSTEM. Any solar collector or other solar device or any structural design of a building whose primary purpose is to collect, convert, and store solar energy for useful purposes including heating and cooling of buildings, domestic water heating, electric power generation, and other energy using processes.

STREET. A publicly owned right-of-way other than an alley, dedicated, acquired, or intended for vehicular traffic or other means of transportation.

STRUCTURE. Anything constructed or erected, the use of which requires temporary or permanent location on the ground or attached to something having a temporary or permanent location on the ground, including but not limited to walls, fences, signboards, and billboards.

VARIANCE. Any modification or variation of zoning requirements as applied to a specific piece of property, where it is determined that, by reason of exceptional circumstances, the strict enforcement of this chapter would cause unnecessary hardship. **VARIANCES** are limited to area, coverage, width, and yard requirements and height regulations, and shall not be used to change the use of a particular parcel of land.

WIND ENERGY SYSTEM. Any device such as a wind charger, windmill, or wind turbine, which converts wind energy to a form of useable energy.

YARD. A required open space unoccupied by any structure in the graded lot; provided, however, that fences, signs, plantings, lawn lights, or related decor may be permitted in any **YARD** provided that they do not create a traffic safety hazard.

YARD, FRONT. A yard extending across the full width of the lot, measured between the front lot line and building and fronting on a street.

YARD, REAR. A yard extending across the full width of the lot and measured between the rear lot line and the building.

YARD, SIDE. A yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building.

ZONING ADMINISTRATOR or ***ZONING CLERK.*** The Zoning Administrator or Zoning Clerk, as designated by the City Council, or an authorized agent.

ZONING MAP, OFFICIAL. The map or maps designating the zoning districts of the city. (Ord. -, passed 5-1-1984; Am. Ord. -, ' 3.02, passed --1997)

' 152.005 AUTHORITY.

This chapter is enacted pursuant to the Municipal Planning Act, M.S. ' ' 462.357 *et seq.*, as it may be amended from time to time. (Ord. -, passed 5-1-1984; Am. Ord. -, ' 4.02, passed --1997)

' 152.006 APPLICATION; MINIMUM REQUIREMENTS.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, and welfare. (Ord. -, passed 5-1-1984; Am. Ord. -, ' 4.03, passed --1997)

' 152.007 ABROGATION AND GREATER RESTRICTIONS.

Whenever the requirements of this chapter conflict with those of other ordinances, laws, or regulations the most restrictive requirements shall govern. (Ord. -, passed 5-1-1984; Am. Ord. -, ' ' 4.03 and 4.04, passed --1997)

' 152.008 COMPLIANCE REQUIRED.

No structure located within the city limits of the city shall be erected or altered which does not comply with regulations of this chapter for the zoning use district wherein located, nor shall any structure or premises be used for any purpose other than a use permitted by this chapter in the district wherein located. (Ord. -, passed 5-1-1984; Am. Ord. -, ' ' 4.03 and 4.04, passed --1997) Penalty, see ' 10.99

' 152.009 SEPARABILITY.

It is hereby declared to be the intention that the several provisions of this chapter are separable in accordance with the following:

(A) If any court of competent jurisdiction shall adjudge any provisions of this chapter to be invalid, the judgment shall not affect any other provision of this chapter not specifically included in the judgment; and

(B) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this chapter to a particular property, building, or structure, the judgment shall not affect other property, buildings, or structures.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 4.05, passed --1997)

' 152.010 ZONING COORDINATION; ADJACENT COMMUNITIES.

Any zoning district change on land adjacent to or across a public right-of-way from an adjoining community shall be referred to the Planning and Zoning Commission and the adjacent community for review and comment prior to action by the City Council in granting or denying the zoning district classification change. A period of at least 30 days shall be provided for receipt of comments; those comments shall be considered as advisory only.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 4.06, passed --1997)

' 152.011 EXISTING NON-CONFORMING USES.

Any structure or use existing upon the effective date of the adoption of this chapter which does not conform to the provisions of this chapter shall be considered a non-conforming use, and may be continued subject to the following.

(A) No such use shall be expanded or enlarged except in conformity with the provisions of this chapter.

(B) If a non-conforming use is discontinued for 1 year, any future use of the structure or property must be in conformity with the provisions of this chapter.

(C) Any structure which is partially damaged by fire, earthquake, wind, water, explosion, or any other cause, may be restored to its former use; provided however, that no structure which does not conform to the requirements of the use districts in which it is located, and which is damaged or destroyed to the extent of more than 50% of its fair market value as indicated by the records of the County Assessor, may be rebuilt or reconstructed. Any future structure on the site shall conform to this chapter.

(D) Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary repairs and secondary improvements which do not extend or intensify the non-conforming use.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 4.07, passed --1997) Penalty, see ' 10.99

' 152.012 PLATTED AND UNPLATTED PROPERTY; GENERAL REGULATIONS.

(A) Any person desiring to improve property shall submit to the Planning and Zoning Commission a sketch of the premises and information on the location and dimensions of existing and proposed buildings, drainage and control of water runoff, location of easements crossing the property, encroachments, and any other information which may be necessary to ensure conformance to this chapter.

(B) All buildings shall be so placed so that they will not obstruct future streets which may be constructed by the city in conformity with existing streets and according to the system and standards employed by the city.

(C) A lot of record existing upon the effective date of this chapter in a residence district, which does not meet the requirements of this chapter as to area or width, may be utilized as allowed, provided the measurements of its area and width are within 75% of the requirements of this chapter.

(D) Except in the case of planned unit development, as provided for in ' ' 152.145 *et seq.* of this code, not more than 1 principal use or building shall be located in a lot.

(E) On a through lot (a lot fronting on 2 parallel streets), or corner lot, both street lines shall be front lot lines for applying the yard and parking regulations of this chapter. Where there is only 1 other lot along the side street of a corner lot, the side yard setback shall be no less than 1/2 of the required front yard setback. Otherwise, the side yard setback shall be no less than the average of the setback observed by adjoining buildings.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 4.08, passed --1997) Penalty, see ' 10.99

' 152.013 EXISTING NON-CONFORMING LOTS OF RECORD.

A lot or parcel of land in a residential district which was of record as a separate lot or parcel in the office of the County Recorder or Registrar of Titles, on or before the date of adoption of this chapter, may be used for single-family detached dwelling purposes provided the area and width thereof are within 60% of the minimum requirements of this section; provided all setback requirements of this chapter must be maintained; and provided it can be demonstrated that safe and adequate sewage treatment systems can be installed to serve the permanent dwelling.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 4.09, passed --1997) Penalty, see ' 10.99

' 152.014 ESSENTIAL SERVICES.

Essential services are permitted in every district. They are for the provision of the health, safety, and welfare of the residents of the community.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 4.10, passed - -1997)

FLOOD PLAIN ORDINANCE**152.021 FLOOD PLAIN ORDINANCE****Section 1: Permit Requirements**

- A. No person may erect, construct, enlarge, alter, repair, improve, move, or demolish any building or structure without first obtaining a separate permit for each building or structure from the designated responsible person.
- B. No man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, fences, mining, dredging, filling, grading, paving, excavation or drilling operations, may be commenced until a separate permit has been obtained from the designated responsible person for each change.
- C. No manufactured home may be placed on improved or unimproved real estate without first obtaining a separate permit for each manufactured home from the designated responsible person.

Section 2: Permit Application

To obtain a permit, the applicant must first file a permit application on a form furnished for that purpose. The form must be completed and submitted to the designated responsible person before a permit will be issued.

Section 3: Duties of the City Clerk

- A. The City Clerk, hereinafter referred to as the responsible person, is appointed as the “person” responsible for receiving applications and examining the plans and specifications for the proposed construction or development.
- B. After reviewing the application, the responsible person may require any additional measures which are necessary to meet the minimum requirements of this ordinance.
- C. The responsible person must review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

- D. The responsible person must review and maintain all permit applications to ensure that any development activities are consistent with criteria set forth in Section 60.3 of the National Flood Insurance Program Regulations.

Section 4: Review of Permit Application

The responsible person must review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:

- A. Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- B. Constructed with materials and utility equipment resistant to flood damage,
- C. Constructed by methods and practices that minimize flood damage, and
- D. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Section 5: Review of Subdivision Proposals

The responsible person must review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:

- A. All such proposals are consistent with the need to minimize flood damage within the flood prone area,
- B. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
- C. Adequate drainage is provided to reduce exposure of flood hazard.

Section 6: Water Supply System

The responsible person must require within flood prone areas, new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems.

Section 7: Sanitary Sewage and Waste Disposal Systems

The responsible person must require within flood prone areas:

- A. New and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and

- B. On-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

Section 8: Annexations and Extraterritorial Jurisdiction

The City of Lakefield may not approve any development located in a Special Flood Hazard Area (SFHA) outside the corporate limits unless such development or plat is in accordance with the following:

- A. A floodplain ordinance legally adopted by the City of Lakefield that meets the minimum federal (44 CFR 60.3), state (Minnesota Regulation Parts 6120.5000 through 6120.6200), and local requirements for development within a Special Flood Hazard Area.
- B. The SFHA's of those parts of unincorporated Jackson County that are within the extraterritorial jurisdiction of the City of Lakefield or that may be annexed into the City of Lakefield are generally identified as such on Flood Insurance Rate Map (FIRM) panels 2706320075B and 2706320100B, both dated January 2, 1981 and prepared by the Federal Emergency Management Agency (FEMA);

Section 9: Definitions

"Development" Any man-made change to real estate, including but not limited to construction or reconstruction of buildings, installing manufactured homes or travel trailers, installing utilities, construction of roads or bridges, erection of levees, walls, or fences, drilling, mining, filling, dredging, and storage of materials.

"Flood" A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waves, or the unusual and rapid accumulation or runoff of surface waters from any source.

"Floodplain" or "Flood Prone Area" Any land area susceptible to being inundated by water from any source (see Flood).

"Floodproofing" Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Manufactured Home" A structure, transportable in one or more sections, which is built on a permanent chassis and is designated for use with or without a permanent foundation when attached to the required utilities.

"New Construction" means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

“Person” includes any individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies

“Special Flood Hazard Area” is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard.”

"Structure" For floodplain management purposes, a walled and roofed building, including gas or liquid storage tanks, that is principally above ground. The term includes recreational vehicles and travel trailers on site for more than 180 days.

"Substantial Improvement” Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure regardless of the actual work performed. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a historic structure.

Section 10: Penalty

Any person who violates this ordinance shall upon conviction thereof be fined not less than twenty-five dollars (\$25.00) nor more than two-hundred dollars (\$200.00). A separate offense will be deemed committed upon each day during or on which a violation occurs or continues.

Section 11: Abrogation and Greater Restriction

- A. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restriction.
- B. Where this Ordinance and other ordinances, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions will prevail.

Section 12: Warning and Disclaimer of Liability

This ordinance does not imply that land uses permitted within the City will be free from flooding or flood damages. This ordinance does not create liability on the part of the City of Lakefield or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

Section 13: Severability

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.

Section 14: Effective Date

This Ordinance shall be in full force and effect from and after its passage and approval and publication.

ZONING DISTRICTS AND MAP**' 152.025 ESTABLISHMENT.**

(A) Certain districts are hereby created which shall be shown upon the zoning map which is incorporated herein and made a part hereof. The boundaries of the districts are hereby established as shown on that certain map entitled "Zoning Map of the City," which map is properly approved and filed in the office of the Zoning Administrator or Zoning Clerk, and referred to in this chapter as the "Zoning map." The map and all of the notations, references, and other information shown thereon shall have the same force and effect as if fully set down herein and are hereby made a part of this chapter by reference and incorporated herein as fully as if set forth herein at length.

- (B) (1) Agricultural - open space (A-O);
- (2) Low density residential (R-1);
- (3) Medium density residential (R-2);
- (4) Mobile home residential (M-R);
- (5) Central business (B-1);
- (6) Highway business (B-2); and
- (7) Industrial (I-1).

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 5.01, passed --1997)

' 152.026 DISTRICT BOUNDARIES.

(A) Boundaries indicated as approximately following the center lines of streets or highways shall be considered to follow those center lines.

(B) Boundaries indicated as approximately following platted lot lines shall be construed as following those lot lines.

(C) Boundaries indicated as approximately following the township boundary shall be construed as those township boundaries.

(D) Where a district boundary line divides a lot which was in single ownership at the time of passage of this chapter, the extension of the regulations for either portion of the lot may be interpreted by the Board of Zoning Appeals upon request of the owner.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 5.02, passed --1997)

' 152.027 DISTRICT REGULATIONS; MINIMUM REQUIREMENTS; COMPLIANCE.

(A) The regulation of this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

(B) No building, structure, or land shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, constructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

(C) No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 5.03, passed --1997) Penalty, see ' 10.99

' 152.028 FEEDLOTS PROHIBITED.

Feedlots are not permitted within the corporate limits of the city.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 5.03, passed --1997) Penalty, see ' 10.99

' 152.029 LAND ANNEXATION; DISTRICT DESIGNATION.

Any land which may be added to the city in the future shall be placed in the agricultural - open space district until special action of the Council shall assign that land to another use district.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 6.07, passed --1997)

*A-O AGRICULTURAL - OPEN SPACE DISTRICT***' 152.040 PURPOSE.**

The A-O or agricultural - open space district is intended to provide a district which will allow suitable areas of the city to be retained and utilized in open space or agricultural uses, prevent scattered non-farm uses from developing improperly, and secure economy in government expenditures for public utilities and service.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 6.01, passed - -1997)

' 152.041 A-O PERMITTED AND CONDITIONAL USES.*(A) Permitted uses.*

- (1) Agriculture, including farm dwellings and buildings.
- (2) Public parks, recreational areas.
- (3) Nurseries and tree farms.

(B) Permitted accessory uses.

- (1) Operation and storage of vehicles, equipment, and machinery secondary to permitted or conditional uses.
- (2) Boarding or renting of rooms to no more than 2 persons, except for living quarters of persons employed on premises.

(C) Conditional uses.

- (1) Governmental and public utility buildings.
- (2) Commercial outdoor recreational areas, including golf courses, club houses, country clubs, swimming pools, and the like.
- (3) Commercial riding stables, dog kennels.
- (4) Campgrounds.
- (5) Airports and landing strips.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' ' 6.02 - 6.04, passed - -1997)

' 152.042 A-O DISTRICT REQUIREMENTS AND REGULATIONS.

(A) *Lot area, width, and yard requirements.*

- (1) Lot area: 1 acre; none for agricultural uses.
- (2) Lot width: 200 feet; none for agricultural uses.
- (3) Front yard: 50 feet from the public right-of-way.
- (4) Side yard: 30 feet; 10 feet for agricultural uses.
- (5) Rear yard: 50 feet; 20 feet for agricultural uses.
- (6) Accessory buildings and garage setback: as set forth in ' ' 152.160 *et seq.* of this code.

(B) *Building height.*

- (1) Height: 2.5 stories, maximum height, excluding farm structures.
- (2) Accessory building height: as set forth in ' ' 152.160 *et seq.*

(Ord. -, passed 5-1-1984; Am. Ord. -, ' ' 6.05 and 6.06, passed - -1997) Penalty, see ' 10.99

R-1 LOW DENSITY RESIDENTIAL DISTRICT

' 152.055 PURPOSE.

The purpose of the R-1 district is to provide a location for single-family detached and 2-family residences and directly related, complementary uses.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 7.01, passed - -1997)

' 152.056 R-1 PERMITTED AND CONDITIONAL USES.

(A) *Permitted uses.*

- (1) Single-family or 2-family dwellings.
- (2) Public parks.

(B) *Permitted accessory uses.*

- (1) Private garages or utility sheds.
- (2) Private swimming pools or tennis courts, provided that pools are completely enclosed within a chain link or similar fence, at least 5 feet high.
- (3) Non-commercial greenhouse.
- (4) Boarding house or renting of rooms to no more than 1 person.
- (5) Solar energy systems.

(C) *Conditional uses.*

- (1) Recreational buildings which are publicly owned and operated.
 - (2) Churches.
 - (3) Boarding or renting of rooms to more than 1 person.
 - (4) Governmental and public utility building or structures.
 - (5) Home occupations.
 - (6) Wind energy systems.
 - (7) Golf course.
 - (8) Residential communications system other than house antenna.
- (Ord. -, passed 5-1-1984; Am. Ord. -, ' ' 7.02 - 7.04, passed - -1997)

' 152.057 R-1 DISTRICT REQUIREMENTS AND REGULATIONS.

(A) *Lot area, width, and yard requirements.*

- (1) *General.* Accessory buildings and garage setback as set forth in ' 152.161 of this code.
- (2) *Single-family dwellings.*
 - (a) Lot area: 8,000 square feet.

(b) Lot width: 80 feet.

(c) Front yard: 30 feet; except where 25% or more of lots in a block are built upon, then no less than average of adjoining houses or house and required setback.

(d) Side yard: 10% of lot width on each side or 5 feet, whichever is greater, up to a required maximum of 10 feet.

(e) Rear yard: 20% of lot depth.

(3) *Two-family dwellings and other principal uses.*

(a) Lot area: 10,000 square feet for a 2-family dwelling or other principal use.

(b) Lot width: 100 feet.

(c) Front yard: 30 feet; except where 25% or more of lots in a block are built upon, then no less than average of adjoining houses or house and required setback.

(d) Side yard: 10% of the lot width, up to a required maximum of 15 feet for residences.

(e) Rear yard: 20% of lot depth.

(4) *Public park and recreation areas.* No requirements.

(B) *Height regulations.*

(1) Height: 2.5 stories or 30 feet, maximum height; except as provided for in ' 152.176 of this code.

(2) Accessory building height: as set forth in ' ' 152.161 and 152.176.

(C) *Dwelling width and floor area requirements.* All residences in the R-1 district shall have a dwelling width of no less than 24 feet. Dwelling width is hereby defined as the narrowest dimension of a dwelling. All dwellings in the R-1 district shall have no less than 1,200 square feet of floor area.

(D) *Off-street parking requirements.* As established in ' ' 152.160 *et seq.* (Ord. -, passed 5-1-1984; Am. Ord. -, ' ' 7.05 - 7.08, passed --1997) Penalty, see ' 10.99

*R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT***' 152.070 PURPOSE.**

The purpose of the R-2 or medium density residential district is to provide a mix of housing densities and types along with the transition in land use from residential to limited commercial uses. (Ord. -, passed 5-1-1984; Am. Ord. -, ' 8.01, passed - -1997)

' 152.071 R-2 PERMITTED AND CONDITIONAL USES.*(A) Permitted uses.*

- (1) Single-family or 2-family dwellings.
- (2) Public parks.
- (3) Day care or residential facilities serving 6 or fewer individuals.

(B) Permitted accessory uses.

- (1) Private garages or tool sheds.
- (2) Private swimming pools or tennis courts.
- (3) Non-commercial greenhouse.
- (4) Boarding or renting of rooms to no more than 3 persons.
- (5) Solar energy systems.

(C) Conditional uses.

- (1) Recreational or community buildings publicly owned and operated.
- (2) Churches.
- (3) Hospitals and clinics.
- (4) Funeral home.
- (5) Business and professional offices with no retail sales or storage of goods.

- (6) Nursing home.
- (7) Multiple-family (3+) dwellings.
- (8) Governmental or public utility building.
- (9) Boarding house.
- (10) Residential or day care facility serving more than 6 individuals.
- (11) Home occupations.
- (12) Wind energy systems.
- (13) Repair shops: household or lawn equipment.
- (14) Limited commercial businesses such as barber or beauty shops, floral shops, gift and card shops, and photography studios.
- (15) Golf course and club house.
- (16) Residential communications system other than house antenna.
(Ord. -, passed 5-1-1984; Am. Ord. -, ' ' 8.02 - 8.04, passed - -1997)

' 152.072 R-2 DISTRICT REQUIREMENTS AND REGULATIONS.

(A) *Lot area, width, and yard requirements.*

- (1) *General.* Accessory buildings and garage setbacks as set forth in ' 152.161.
- (2) *Single-family dwelling.*
 - (a) Lot area: 6,500 square feet.
 - (b) Lot width: 65 feet.
 - (c) Front yard: 30 feet; except where 25% or more of lots are built on a block, no less than the average of adjoining houses or house and required setback.
 - (d) Side yard: 10% of lot width or 5 feet, whichever is greater, up to a required maximum of 10 feet.

(e) Rear yard: 20% of lot depth.

(3) *Two-family and multiple-family residences and other principal uses.*

(a) Lot area: 10,000 square feet for a 2-family dwelling or other principal use, plus 1,500 square feet for each additional dwelling unit.

(b) Lot width: 100 feet for 2-family and multiple-family residences.

(c) Front yard: 30 feet; except where 25% or more of lots are built on a block, no less than the average of adjoining houses or house and required setback.

(d) Side yard: 10% of lot width up to a required maximum of 15 feet for residences; 20 feet for other uses.

(e) Rear yard: 20% of lot depth; 30 feet for other than residence.

(4) *Public parks and recreation area.* No requirements.

(B) *Height regulations.* Three stories, maximum height; except as provided for in ' 152.176.

(C) *Dwelling width and floor area requirements.* All residences in the R-2 district shall have a dwelling width of no less than 20 feet. Dwelling width is hereby defined as the narrowest dimension of a dwelling. All dwellings in the R-2 district shall have no less than 1,000 square feet of floor area.

(D) *Off-street parking requirements.* As established in ' ' 152.160 *et seq.* (Ord. -, passed 5-1-1984; Am. Ord. -, ' ' 8.05 - 8.08, passed - -1997) Penalty, see ' 10.99

M-R MOBILE HOME RESIDENTIAL DISTRICT

' 152.085 PURPOSE.

The purpose of the M-R district is to provide for a variety of dwelling types, including mobile homes, in a residential area.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 9.01, passed - -1997)

' 152.086 M-R PERMITTED AND CONDITIONAL USES.

(A) *Permitted uses.*

- (1) Single-family and 2-family dwellings.
- (2) Public parks.
- (3) Residential or day care facility serving 6 or fewer individuals.
- (4) Boarding houses.

(B) *Permitted accessory uses.*

- (1) Private garages or tool sheds.
- (2) Private swimming pool or tennis court.
- (3) Non-commercial greenhouse.
- (4) Boarding or renting of rooms to no more than 3 persons.
- (5) Solar energy systems.

(C) *Conditional uses.*

- (1) Recreational or community buildings, publicly owned and operated.
- (2) Churches, libraries, museums, schools.
- (3) Multiple-family (3+) dwellings.
- (4) Governmental or public utility buildings.
- (5) Residential or day care facility serving more than 6 individuals.
- (6) Home occupations.
- (7) Wind energy systems.
- (8) Residential communications system other than house antenna.

(Ord. 7, passed 5-1-1984; Am. Ord. 7, ' ' 9.02 - 9.04, passed - -1997)

' 152.087 M-R DISTRICT REQUIREMENTS AND REGULATIONS.

- (A) *Lot area, width, and yard requirements.*

(1) *General.* Accessory buildings and garage setbacks as set forth in ' 152.161.

(2) *Single-family dwelling.*

(a) Lot area: 6,500 square feet.

(b) Lot width: 65 feet.

(c) Front yard: 30 feet; except where 25% or more of lots are built on a block no less than the average setback of adjoining houses or house and required setback.

(d) Side yard: 10% of lot width or 5 feet, whichever is greater, up to a required maximum of 10 feet.

(e) Rear yard: 20% of lot depth.

(3) *Two-family and multiple-family residences and other principal uses.*

(a) Lot area: 10,000 square feet for a 2-family dwelling or other principal use, plus 1,500 square feet per additional dwelling unit.

(b) Lot width: 100 feet for 2-family and multiple-family residences.

(c) Front yard: 30 feet; except where 25% or more of lots are built on a block, no less than the average of adjoining houses or house and required setback.

(d) Side yard: 10% of lot width up to a required maximum of 15 feet for residences; 20 feet for other uses.

(e) Rear yard: 20% of lot depth; 30 feet for other than residence.

(B) *Height regulations.*

(1) Two and one-half stories, maximum height; except as provided for in ' 152.176.

(2) Accessory building height as set forth in ' 152.161.

(C) *Dwelling width and floor area requirements.*

(1) Dwelling width: 16 feet.

(2) Floor area: 800 square feet.

(3) Dwelling width is hereby defined as the narrowest dimension of a dwelling.

(D) *Off-street parking requirements.* As established in ' ' 152.160 *et seq.*

(Ord. -, passed 5-1-1984; Am. Ord. -, ' ' 9.05 - 9.08, passed - -1997) Penalty, see ' 10.99

B-1 CENTRAL BUSINESS DISTRICT

' 152.100 PURPOSE.

The purpose of the B-1 or central business district is to preserve and enhance the downtown business district as the primary center for office and government employment and retail activities.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 10.01, passed - -1997)

' 152.101 B-1 PERMITTED AND CONDITIONAL USES.

(A) *Permitted uses.*

(1) Business and professional offices.

(2) Retail merchandising establishments.

(3) Service establishments: business, personal, licensed entertainment, and rental or repair of household type items or lawn equipment.

(4) Government and public utility offices.

(5) Bank, savings and loan, or other financial institutions.

(6) Restaurants, cafes, delicatessens, or on-sale liquor establishments.

(7) Private clubs or lodges.

(8) Employment and non-profit agencies.

(9) Libraries, museums, or community centers.

(10) Printing, newspaper, or publishing shops.

(11) Photography, dance, or music studios.

(12) Radio or television broadcasting studios.

(13) Automobile parking lots; excluding the parking of semi-trailer trucks, buses, equipment, or goods.

(14) Electrical, plumbing, heating, or air conditioning shops.

(15) Hotels and reconstruction of existing dwellings.

(B) *Permitted accessory uses.*

(1) Semi-trailer truck parking.

(2) Repair activities related to permitted retail sales.

(3) Private garages.

(4) Solar energy systems.

(C) *Conditional uses.*

(1) Automobile repair shops.

(2) Automobile service stations, for sale of fuel, oil, and accessories.

(3) Tire and battery shops.

(4) Lumber yards and building supply centers.

(5) Farm, feed, and seed stores.

(6) Lawn and garden supply centers.

(7) Other enclosed retail or service establishments as to be determined by the Planning and Zoning Commission.

(8) Cabinet, carpentry, or other trade shops employing no more than 6 persons.

(9) Open or outdoor storage as an accessory use.

(10) Open or outdoor service, sale, or rental as an accessory use.

(11) Storage bins, tanks, and other enclosed storage structures including elevators.

(12) New multiple-family (3+) dwellings or apartments.

(13) Funeral homes.

(14) Planned unit development, as defined.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' ' 10.02 - 10.04, passed --1997)

' 152.102 B-1 DISTRICT REQUIREMENTS AND REGULATIONS.

(A) *Lot area, width, and yard requirements.*

(1) Lot area: 3,500 square feet for businesses; 10,500 square feet for new 3-family residence plus 1,500 square feet per additional dwelling unit.

(2) Lot width: 25 feet; 75 feet for new multiple-family residence.

(3) Front yard: none; 15 feet for all residences.

(4) Side yard: none; 5 feet for all residences.

(5) Rear yard: none; 20 feet for all residences.

(6) Accessory buildings and garage setbacks as set forth in ' 152.161.

(B) *Height regulations.*

(1) 3 stories, maximum height; except as provided for in ' ' 152.160 *et seq.*

(2) Accessory building height as set forth in ' 152.161.

(C) *Off-street parking requirements.* As required in ' ' 152.160 *et seq.*

(Ord. -, passed 5-1-1984; Am. Ord. -, ' ' 10.05 - 10.07, passed --1997) Penalty, see ' 10.99

B-2 HIGHWAY BUSINESS DISTRICT

' 152.115 PURPOSE.

The purpose of the B-2 or highway business district is to provide an area for uses that are appropriate to thoroughfare locations, are largely dependent upon thoroughfare traffic, and are not

altogether suitable within the central business district.
(Ord. 7, passed 5-1-1984; Am. Ord. 7, ' 11.01, passed - -1997)

' 152.116 B-2 PERMITTED AND CONDITIONAL USES.

(A) *Permitted uses.*

- (1) Motor vehicle, recreation equipment, tractor, and implement sales, service, or repair.
- (2) Marine or boat sales and repair.
- (3) Automobile service stations and truck stops.
- (4) Car wash.
- (5) Auto accessory, tire, and battery shops.
- (6) Motels or motor inns.
- (7) Business and professional offices.
- (8) Restaurants, cafes, or delicatessens.
- (9) Off- or on-sale liquor establishments, nightclubs, or cocktail lounges.
- (10) Commercial recreations such as bowling alleys, miniature golf courses, driving ranges, and the like.
- (11) Private clubs or lodges.
- (12) Laundromats and dry cleaning stores.
- (13) Retail supply stores.
- (14) Furniture stores and other household furnishings.
- (15) Grocery stores and supermarkets.
- (16) Meat shops and cold storage lockers, excluding slaughtering.
- (17) Electrical, plumbing, heating, or air conditioning shops.
- (18) Cabinet, carpentry, and other trade shops.

(19) Rental or repair shops.

(20) Commercial nurseries and greenhouses.

(21) Lawn and garden supply centers.

(22) Lumber yard or building supply center.

(23) Other large-lot or highway oriented commercial uses as determined by the Planning and Zoning Commission.

(24) Reconstruction of existing dwellings.

(25) Funeral homes.

(B) *Permitted accessory uses.*

(1) Semi-trailer truck parking.

(2) Private garages.

(3) Solar energy systems.

(C) *Conditional uses.*

(1) Governmental or other public buildings and structures.

(2) Public utility buildings or structures.

(3) Radio, television, or other communications towers.

(4) Machine, welding, or metal shops.

(5) Warehouses.

(6) Wholesale establishments.

(7) Commercial planned unit development.

(8) Open or outdoor storage as an accessory use.

(9) Open or outdoor service, sale, or rental as a principal or an accessory use.

(10) Storage bins, tanks, or other enclosed storage structures.

(11) Wind energy systems.

(12) New multiple-family residences.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' ' 11.02 - 11.04, passed --1997)

' 152.117 B-2 DISTRICT REQUIREMENTS AND REGULATIONS.

(A) *Lot area, width, and yard requirements.*

(1) Lot area: 7,500 square feet, except for existing lots of record in which 75% of the requirements shall be met.

(2) Lot width: 65 feet, except for existing lots in which 75% of the requirements shall be met.

(3) Front yard: 30 feet.

(4) Side yard: 10 feet; and not less than 30 feet if abutting a residential district.

(5) Rear yard: 10 feet; and not less than 30 feet if abutting a residential district.

(B) *Height regulations.* 3 stories, maximum height; excluding material-handling equipment and those provisions in ' ' 152.160 *et seq.* of this code.

(C) *Off-street parking and unloading requirements.* As required in ' ' 152.145 *et seq.*

(Ord. -, passed 5-1-1984; Am. Ord. -, ' ' 11.05 - 11.07, passed --1997) Penalty, see ' 10.99

I-1 INDUSTRIAL DISTRICT

' 152.130 PURPOSE.

The purpose of the I-1 industrial district is to provide a location for warehousing, bulk storage, wholesaling, processing, light and heavy manufacturing, and related industrial development.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 12.01, passed --1997)

' 152.131 I-1 PERMITTED AND CONDITIONAL USES.

(A) *Permitted uses.*

- (1) Creameries and milk distributing stations.
- (2) Bottling plants.
- (3) Warehouses.
- (4) Hauling and express offices or stations.
- (5) Ice plants.
- (6) Coal, lumber, and building material sales and storage yards.
- (7) Machine, welding, or metal shop.
- (8) Grain elevators and storage warehouses.
- (9) Masonry and stone cutting establishments.
- (10) Canning factories.
- (11) Contractors= plants, offices, and accessory storage yards.
- (12) Trade or vocational school.
- (13) Radio, television, and other communications towers.
- (14) Research laboratories.
- (15) Government or public utility buildings and structures.
- (16) Wholesale establishments.
- (17) Other industrial related plants, offices, shops, and yards as determined by the Planning and Zoning Commission.

(B) *Permitted accessory uses.*

- (1) Semi-trailer truck parking.

(2) Solar energy systems.

(C) *Conditional uses.*

(1) Feed and flour mills.

(2) Grain elevators and storage warehouses.

(3) Gasoline and oil bulk stations and distributing plants.

(4) Livestock sales barn or auction center.

(5) Livestock packing or processing plants.

(6) Storage, manufacturing, processing, or testing of chemicals.

(7) Refineries or distilleries.

(8) Open or outdoor storage as an accessory use.

(9) Open or outdoor service, sale, or rental as an accessory use.

(10) Commercial or industrial planned unit development as defined.

(11) Wind energy systems.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' ' 12.02 - 12.04, passed --1997)

' **152.132 I-1 DISTRICT REQUIREMENTS AND REGULATIONS.**

(A) *Lot area, width, and yard requirements.*

(1) Lot coverage: no more than 75% of the total lot shall be covered by buildings.

(2) Lot width: 125 feet; except for existing lots of record, in which 75% of requirements shall be met.

(3) Front yard: 40 feet.

(4) Side yard: 25 feet; except that no building shall be located within 30 feet of a residential district.

(5) Rear yard: 40 feet; except that no building shall be located within 75 feet of an abutting residential district.

(B) *Height regulations.* No building other than grain elevators or silos shall be erected or structurally altered to exceed 4 stories in height, excluding material-handling equipment and its containing structure and those provisions in ' 152.176 of this code.

(C) *Off-street parking and loading requirements.* Off-street parking, loading, and unloading requirements are as established in ' ' 152.160 *et seq.*

(Ord. -, passed 5-1-1984; Am. Ord. -, ' ' 12.05 - 12.07, passed -1997) Penalty, see ' 10.99

PLANNED UNIT DEVELOPMENT

' 152.145 PURPOSE AND INTENT.

The purpose of this subchapter is to provide for the grouping of land parcels for development as an integrated, coordinated unit as opposed to traditional parcel-by-parcel, piecemeal, sporadic, and unplanned approach to development. This subchapter is intended to introduce flexibility of site design and architecture for the conservation of land and open space through clustering of buildings and activities. It is further intended that planned unit development (PUD) is to be characterized by central management, integrated planning and architecture, joint or common use of parking, maintenance of open space and other similar facilities, and a harmonious selection and efficient distribution of uses.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 13.01, passed -1997)

' 152.146 GENERAL REQUIREMENTS AND STANDARDS.

(A) *Ownership.* An application for PUD approval must be filed by the landowner or jointly by all landowners of the property included in a project. The application and all submissions must be directed to the development of the property as a unified whole. In the case of multiple ownership, the approved final plan shall be binding on all owners.

(B) *Operating and maintenance requirements for common open space or facilities.* Whenever common open space or service facilities are provided within the PUD, the PUD plan shall contain provisions to ensure the continued operation and maintenance of the open space and service facilities to a predetermined reasonable standard. Common open space and service facilities within a PUD may be placed under the ownership of 1 or more persons, as approved by the City Council:

- (1) Landlord control, where only use by tenants is anticipated; or

(2) Property owners association.

(C) *Utilities.* In any PUD, all utilities, including telephone, electricity, gas, and cable television shall be installed underground.

(D) *Utility connections.*

(1) *Water connections.* Where more than 1 property is served from the same service line, a shutoff valve must be located in a way so that each unit's service may be shut off by the city, in addition to the normally supplied shutoff at the street.

(2) *Sewer connections.* Where more than 1 unit is served by a sanitary sewer lateral which exceeds 300 feet in length, provision must be made for a manhole to allow adequate cleaning and maintenance of the lateral. All maintenance and cleaning shall be the responsibility of the property owners association or owner.

(E) *Landscaping.* In any PUD, landscaping shall be provided according to a plan approved by the Planning and Zoning Commission, which shall include a detailed planting list with sizes and species indicated as part of the final plan. In assessing the landscaping plan, the Planning and Zoning Commission shall consider the natural features of the particular site, the architectural characteristics of the proposed structures, and the overall scheme of the PUD plan.

(F) *Public services.* The proposed project shall be served by the city water and sewer system, and fire hydrants shall be installed at those locations as necessary to provide fire protection.

(G) *Building height.* Height limitations shall be the same as imposed in the respective districts.

(H) *Site improvement agreement.* Prior to the issuance of a building permit as part of planned unit development, the applicant, builder, or developer shall execute and deliver to the Planning and Zoning Commission a site improvement agreement providing for the installation within 1 year of the improvements as approved by the Planning and Zoning Commission, secured by a case escrow or surety bond in an amount and with surety and conditions satisfactory to the city, to assure the city that the improvements will be actually constructed and installed according to specifications and plans approved by the city as expressed in the agreement. The amount of the bond shall be 1.5 times the estimated cost of the improvements as determined by the City Council.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 13.02, passed -1997) Penalty, see ' 10.99

' 152.147 DISTRICT REQUIREMENTS AND STANDARDS.

(A) *Residential planned unit development.*

(1) *Purpose.* It is the intent of this division (A) to establish special requirements for the granting of a conditional use permit for residential PUD projects which are in compliance with the permitted and conditional uses allowed in a specific district including dwellings, offices, and institutional uses of 1 or more buildings in relation to an overall design, and integrated physical plan and in accordance with the provisions and procedures as prescribed in this chapter.

(2) *Required frontage.* The tract of land for which a project is proposed and permit requested shall not have less than 200 feet of frontage on the public right-of-way.

(3) *Yards.*

(a) The front and side yard restrictions at the periphery of the planned unit development site at a minimum shall be the same as imposed in the respective districts.

(b) No building shall be nearer than its building height to the rear or side property line when that line abuts an R-1 or R-2 use district.

(c) No building shall be located less than 15 feet from the back of the curb line along those roadways which are part of the internal street pattern.

(d) No building within the project shall be nearer to another building than $1/5$ the sum of the building heights of the 2 buildings.

(4) *Landscaping, screening, and surfacing.*

(a) The entire site other than that taken up by structures or landscaping shall be surfaced with a material to control dust and drainage.

(b) A drainage system subject to the approval of the City Council shall be installed.

(c) Developments landscaped in compliance with this chapter.

(5) *Density bonus.* As a consequence of a planned unit development=s planned and integrated character, the number of dwelling units allowed within the respective zoning district may be increased by 20%. The building, parking, and similar requirements for these extra units shall be observed in compliance with this chapter.

(6) *Minimum project size.* The tract of land for which a residential PUD is proposed shall not be less than 1 acre.

(B) *Commercial or industrial planned unit development.*

(1) *Purpose.* The intent of this division (B) is to establish special requirements for the granting of a conditional use permit to allow commercial or industrial PUD projects which are in compliance with the permitted and conditional uses allowed in a specific district in 1 or more buildings in relation to an overall design, an integrated physical plan and in accordance with the provisions and procedures as prescribed in this chapter.

(2) *Frontage.* The tract of land for which a project is proposed and a permit requested shall not have less than 200 feet of frontage on a public right-of-way.

(3) *Yard.* No building shall be nearer than 50 feet to the side or rear property line when that line abuts an R-1, R-2, M-R, or A-O district.

(4) *Landscaping, screening, and surfacing.*

(a) The entire site other than that taken up by structures or landscaping shall be surfaced with a material to control dust and drainage.

(b) A drainage system subject to the approval of the City Council shall be installed.

(c) Developments abutting an R-1, R-2, or M-R district shall be screened and landscaped in compliance with this chapter.

(5) *Minimum project size.* The tract of land for which a commercial or industrial PUD is proposed shall not be less than 2 acres.

(C) *Mixed use planned unit development.*

(1) *Purpose.* The intent of this division (C) is to establish special requirements for the granting of a zoning district amendment (rezoning) to allow mixed use PUD projects, in accordance with the provisions and procedures as prescribed herein.

(2) *Minimum project size.* The tract of land for which a mixed use PUD is proposed shall not contain less than 2 acres.

(3) *Frontage.* The tract of land for which the project is proposed shall not have less than 200 feet of frontage on a public right-of-way.

(4) *Yards.* Setbacks shall be consistent with those required in this chapter.

(5) *Landscaping, screening, and surfacing.*

(a) The entire site other than that taken up by structures or landscaping shall be surfaced with a material to control dust and drainage.

(b) A drainage system subject to the approval of the City Council shall be installed.

(c) Developments shall be screened and landscaped in compliance with this chapter. (Ord. -, passed 5-1-1984; Am. Ord. -, ' 13.03, passed --1997) Penalty, see ' 10.99

' 152.148 APPLICATION PROCEDURES.

(A) *General concept plan.*

(1) *Purpose; significant elements.* The general concept plan provides an opportunity for the applicant to submit a plan to the city showing the basic intent and the general nature of the entire development without incurring substantial cost. The concept plan serves as the basis for the public hearing so that the proposal may be publicly considered at an early stage. The following elements of the proposed general concept plan represent the immediately significant elements which the city shall review and for which a decision shall be rendered:

(a) Overall maximum PUD density range;

(b) General location of major streets and pedestrian ways;

(c) General location and extent of public and common open space;

(d) General location of residential and non-residential land uses with approximate types and intensities of development;

(e) Staging and time schedule of development; and

(f) Other special criteria for development.

(2) *Process.*

(a) The developer files application for a conditional use permit or rezoning concurrently with the submission of the general concept plan with the City Clerk.

(b) The Planning and Zoning Commission formally acknowledges submission of the application for conditional use permit, sets a public hearing, and refers the application back to the appropriate city staff for their official review.

(c) The Planning and Zoning Commission holds a public hearing.

(d) The Planning and Zoning Commission makes a recommendation to the City Council on the permit application.

(e) The City Council reviews all recommendations and approves or denies the application.

(3) *Limitation on general concept plan approval.* Unless a development stage plan has been filed within 9 months from the date the Council grants general concept plan approval, the approval may be revoked by Council action. The Council at its discretion may extend the filing deadline for a development stage plan, when, for good cause shown, extension is necessary.

(B) *Development stage plan.*

(1) *Purpose.* The purpose of the development stage plan is to provide a specific and particular plan upon which the Planning and Zoning Commission will base its recommendation to the Council and with which substantial compliance is necessary for the preparation of the final plan.

(2) *Submission of development stage.* Upon approval of the general concept plan, and within the 9-month time period, the applicant shall submit to the city a development stage plan consisting of the information and submissions required by ' 152.149 of this code for the PUD. The development stage plan shall refine, implement, and be in substantial conformity with the approved general concept plan.

(3) *Referral.* Immediately upon receipt of a completed development stage plan, the City Clerk shall refer the plan to the appropriate city staff and the Planning and Zoning Commission.

(4) *Process.*

(a) The Planning and Zoning Commission formally acknowledges submission and receipt of the development plan and sets a public hearing.

(b) The Planning and Zoning Commission holds a public hearing.

(c) Within 60 days of the public hearing, or a further time as may be agreed to by the applicant, the Planning and Zoning Commission shall review the reports and plans and submit its written report and recommendations to the Council and the applicant. This report shall contain the findings of the Planning and Zoning Commission with respect to the conformity of the development stage plan to the approved general concept plan, with respect to the merit or lack of merit of any departure of the development stage plan from substantial conformity with the concept plan and with respect to the compliance of the development stage plan with the provisions of this chapter and all other applicable federal, state, and local codes and ordinances. If the Planning and Zoning Commission shall find substantial conformity between the plans, or that any lack of substantial conformity merits approval, and shall further find the development stage plan to be in all other respects complete and in compliance with this chapter and other applicable federal, state, and local codes and ordinances, it may recommend approval of the plan.

(d) Within 30 days of receipt of the report and recommendation of the Planning and Zoning Commission, the Council may grant approval, resubmit the plan to the Planning and Zoning Commission for further consideration of specified items, or deny approval of the plan.

(e) The City Attorney shall draw up an agreement which stipulates the specific terms and conditions established and approved by the City Council and accepted by the applicant. This agreement shall be signed by the Mayor of the city and the applicant within 30 days of Council approval of the development stage plan. Where the development stage plan is to be resubmitted or denied approval, Council action shall be in the form of a written report setting forth the reasons for its action. In all cases, a certified copy of the document evidencing Council action shall be promptly delivered to the applicant.

(5) *Limitation on detailed plan approval.* Unless a final plan has been filed within 6 months from the date Council grants development stage plan approval, the approval shall expire. The Council may, at its discretion, extend for not more than 6 months the filing deadline for any final plan when, for good cause shown, an extension is necessary. In any case where development plan approval expires, the Council shall forthwith adopt a resolution repealing the general concept plan and development stage plan approval and re-establishing the zoning and other ordinance provisions that would otherwise be applicable.

(6) *Review and evaluation criteria.* The evaluation of the proposed development stage plan shall include but not be limited to the following criteria:

(a) Adequate property control is provided to protect the individual owners' rights and property values and the public responsibility for maintenance and upkeep;

(b) The interior circulation plan plus access from and onto public rights-of-way does not create congestion or dangers and is adequate for the safety of the project residents and the general public;

(c) A sufficient amount of useable open space is provided;

(d) The arrangement of buildings, structures, and accessory uses does not unreasonably disturb the privacy or property values of the surrounding residential uses;

(e) The architectural design of the project is compatible with the surrounding area;

(f) The drainage and utility system plans are submitted to appropriate city department heads, and the final drainage and utility plans shall be subject to city approval;

(g) The development schedule ensures a logical development of the site which will protect the public interest and conserve land;

(h) The development is in compliance with the requirements of Ch. 151 of this code, the subdivision regulations;

(i) Dwelling unit and accessory use requirements are in compliance with the district provisions in which the development is planned; and

(j) The provisions of ' 152.194(B) of this code are considered and satisfactorily met.

(C) *Final plan.*

(1) *Purpose.* The final plan is to serve as a complete, thorough, and permanent public record of the PUD and the manner in which it is to be developed. It shall incorporate all prior approved plans and all approved modifications thereof resulting from the PUD process. It shall serve in conjunction with other city ordinances as the land use regulation applicable to the PUD.

(2) *Submission.* Upon approval of the development stage plan and within the 6-month or extended time period, the applicant shall submit to the city a final plan consisting of the information and submissions required by ' 152.149 for the PUD. The final plan is intended only to add detail to, and to put in final form, the information contained in the general concept plan and the development stage plan, and shall conform to the development stage plan in all respects.

(3) *Recording.* Within 10 days of its approval by the City Council, the applicant shall cause the final plan, or those portions thereof as are appropriate, to be recorded with the County Recorder.

(4) *Building and other permits.* Except as otherwise expressly provided herein, upon receiving notice that the approved final plan has been recorded pursuant to the applicable ordinances of the city, all appropriate officials of the city may issue building and other permits to the applicant for development, construction, and other work; provided, however, that no permit of this type shall be issued unless the appropriate official is first satisfied that the requirements of all codes and ordinances which are applicable to the permit sought, have been satisfied.

(5) *Limitation on final plan approval.* Within 1 year after the approval of a final plan for the PUD, or a shorter time as may be established by the approved development schedule, construction shall commence in accordance with the approved plan. Failure to commence construction within that period shall, unless an extension shall have been granted as hereinafter provided, automatically render void the PUD permit and all approvals of the PUD plan, and the area encompassed within the PUD shall thereafter be subject to those provisions of this chapter and other regulations applicable in the original district in which it is located. In that case, the Council shall forthwith adopt a resolution re-establishing the zoning and other ordinance provisions that would otherwise be applicable.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 13.04, passed --1997) Penalty, see ' 10.99

' 152.149 SUBMISSION REQUIREMENTS.

(A) *Submission required.* Ten copies of the following exhibits, analyses, and plans shall be submitted to the Planning and Zoning Commission and Council during the PUD process, at the times specified in ' 152.148.

(B) *General concept stage.*

(1) *General information.*

(a) The landowner=s name and address and his or her interest in the subject property;

(b) The applicant=s name and address if different from the landowner;

(c) The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, land planner, engineer, and surveyor; and

(d) Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy, and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or registered property report, and other evidence as the City Attorney may require to show the status of title or control of the subject property.

(2) *Present status.*

(a) The address and legal description of the subject property;

(b) The existing zoning classification and present use of the subject property and all lands within 500 feet of the subject property; and

(c) A map depicting the existing development of the subject property and all land within 500 feet thereof and showing the precise location of existing streets, property lines, easements, water mains, and storm and sanitary sewers, with elevations on and within 100 feet of the subject property.

(3) *Description of the PUD.* A written statement generally describing the proposed PUD and its purpose, and how the proposed PUD is to be designed, arranged, and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the city.

(4) *Site conditions.* Where deemed necessary by the city, graphic reproductions of the existing site conditions at a scale of 100 feet shall be submitted and shall contain the following. All of the graphics should be the same scale as the final plan to allow easy cross-reference. The use of overlays is recommended for clear reference.

(a) Contours: minimum 2-foot intervals;

(b) Location, type, and extent of tree cover;

(c) Slope analysis;

(d) Location and extent of water bodies, wetlands, and streams and flood plains within 300 feet of the subject property;

(e) Significant rock outcroppings;

(f) Existing drainage patterns;

(g) Vistas and significant views; and

(h) Soil conditions as they affect development.

(5) *Schematic drawing.* Schematic drawing of the proposed development concept including but not limited to the general location of major circulation elements, public and common open space, residential and other land use.

(6) *Land use allocation.* A statement of the estimated total number of dwelling units proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percentage of the total project area, which shall include at least the following:

(a) Area devoted to residential uses;

(b) Area devoted to residential use by building type;

(c) Area devoted to common open space;

(d) Area devoted to public open space;

(e) Approximate area devoted to streets;

(f) Approximate area, and potential floor area, devoted to commercial uses; and

(g) Approximate area, and potential floor area, devoted to industrial or office uses.

(7) *Public space or facilities.* When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of the open space or service facilities shall be included. If it is proposed that the open space be owned or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and bylaws of that entity shall be required during the development stage.

(8) *Covenants.* General intents of any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.

(9) *Impact study.* Where deemed necessary, a market feasibility study including an analysis of

the proposal's economic impact on the city.

(C) *Development stage.* Development stage submissions should depict and outline the proposed implementation of the general concept stage for the PUD. Information from the general concept stage may be included for background and to provide a basis for the submitted plan. The development stage submissions may include but not be limited to:

(1) Zoning classification required for development stage submission and any other public decisions necessary for implementation of the proposed plan;

(2) Ten sets of preliminary plans, drawn to a scale of not less than 1 inch equals 100 feet (or scale requested by the city), containing at least the following information:

(a) Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat theretofore recorded in the county);

(b) Property boundary lines and dimensions of the property and any significant topographical or physical features of the property;

(c) The location, size, use, and arrangement, including height in stories and feet and total square feet of ground area coverage and floor area, of proposed buildings, and existing building which will remain, if any;

(d) Location, dimensions, and number of all driveways, entrances, curb cuts, parking stalls, loading spaces, and access aisles, and all other circulation elements including bike and pedestrian; and the total site coverage of all circulation elements;

(e) Location, designation, and total area of all common open space;

(f) Location, designation, and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites, and recreational facilities;

(g) Proposed lots and blocks, if any, and numbering system;

(h) The location, use, and size of structures and other land uses on adjacent properties;

(i) Preliminary sketches of proposed landscaping;

(j) General grading and drainage plans for the developed PUD; and

(k) Any other information that may have been required by the Planning and Zoning Commission or Council in conjunction with the approval of the general concept plan.

(3) An accurate legal description of the entire area within the PUD for which final

development plan approval is sought;

(4) A tabulation indicating the approximate gross square footage, if any, of commercial and industrial floor space by type of activity (e.g., drug store, dry cleaning, supermarket);

(5) Preliminary architectural plans indicating use, floor plan, elevations, and exterior wall finishes of proposed buildings, including mobile homes;

(6) A detailed site plan, suitable for recording, showing the physical layout, design, and purpose of all streets, easements, rights-of-way, utility lines and facilities, lots, blocks, public and common open space, general landscaping plan, structures, including mobile homes, and uses;

(7) Preliminary grading and site alteration plan illustrating changes to existing topography and natural site vegetation. The plan should clearly reflect the site treatment and its conformance with the approved concept plan;

(8) A preliminary and final plat prepared by a land surveyor, duly registered in this state, in accordance with state statutes, which shall contain a notarized certification by the surveyor that the plat represents a survey made by him or her and that the monuments shown therein exist as located and that all dimensions are correct, as required by Minnesota Statutes, and a notarized certification by owner or owners of the adoption of the plat and the dedication of streets and other public areas as required by Minnesota Statutes;

(9) A soil erosion control plan acceptable to watershed districts, Department of Natural Resources, or any other agency with review authority clearly illustrating erosion control measures to be used during construction and as permanent measures;

(10) A statement summarizing all changes which have been made in any document, plan, data, or information previously submitted, together with revised copies of any such document, plan, or data; and

(11) Further information as the Planning and Zoning Commission, city department heads or Council shall find necessary to a full consideration of the entire proposed PUD. The Planning and Zoning Commission may excuse any applicant from submitting any specific item of information or required document which it finds to be unnecessary to the consideration of the specific proposal for PUD approval.

(D) *Final plan stage.* After approval of a general concept and development stage plan for the proposed PUD, the applicant will submit the following material for review by city officials prior to issuance of a use permit:

(1) A detailed landscaping plan;

(2) Proof of recording any easements and restrictive covenants prior to the sale of any land or dwelling unit with the PUD and of the establishment and activation of any entity that is to be responsible for the management and maintenance of any public or common open space or service facility;

(3) All certificates, seals, and signatures required for the dedication of land and recordation of documents;

(4) Final architectural working drawings of all structures;

(5) Final engineering plans and specifications for streets, utilities, and other public improvements, together with a community/developer agreement for the installation of the improvements and financial guarantees for the completion of the improvements; and

(6) Any other plans, agreements, or specifications necessary for the city to review the proposed construction.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 13.05, passed --1997) Penalty, see ' 10.99

PERFORMANCE STANDARDS

' 152.160 PURPOSE.

The performance standards established in this subchapter are designed to encourage high quality development by providing assurances that neighboring land uses will be compatible. All future development in the city shall be required to meet these standards. The standards shall also apply to existing development where applicable.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 14.01, passed --1997) Penalty, see ' 10.99

' 152.161 ACCESSORY BUILDINGS, USES, AND EQUIPMENT.

(A) An accessory building shall be considered an extension or portion of the principal building if it is connected to the principal building by a covered passageway.

(B) No accessory buildings shall be erected or located within any required yard other than the rear yard, with the exception of the following:

(1) Chimneys, flues, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like, provided they do not project more than 2 feet into a yard;

(2) Terraces, steps, uncovered porches, stoops, or similar features, provided they do not extend above the height of the ground floor level of the principal structure or to a distance less than 2 feet from any lot line;

(3) In rear yards: recreational and laundry drying equipment, arbors and trellises, balconies, breezeways, open porches, patios, garages, and air conditioning or heating equipment; and

(4) In side yards: air conditioning or heating equipment.

(C) No accessory buildings shall be erected or located within a utility easement.

(D) Accessory buildings and garages shall not exceed 15 feet in height in residential districts, and for residential uses permitted in non-residential districts.

(E) Accessory buildings and garages in residential districts shall not be less than 5 feet from all lot lines of adjoining lots. An accessory building in a residential district may be set back no less than 3 feet from the side lot lines, if it is located 70 feet or more from the front property line and if the yard is not fronting on a side street or public right-of-way.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 14.02, passed --1997) Penalty, see ' 10.99

' 152.162 SIGNS.

(A) In residential districts, no signs shall be erected except as follows:

(1) Signs of a public, non-commercial nature, to include: safety, danger, trespassing, or traffic signs, signs indicating scenic or historic points of interest, institutions, memorial plaques, and signs erected by or on order of a public officer or employee in the performance of official duties;

(2) Signs identifying the resident=s name and business conducted on the premises upon which displayed or the owner or lessee thereof, not to exceed 1 per premises and not to exceed 4 square feet in area;

(3) Signs not exceeding 4 square feet in areas pertaining to the sale, rental, or lease of the premises upon which displayed;

(4) Signs giving information or directions to employees, visitors, or delivery vehicles, including property entrance signs; these signs not to exceed 8 square feet; or

(B) The following signs are specifically prohibited in all zoning districts:

(1) Signs which obstruct or obscure the vision of drivers or pedestrians, or detract from the visibility of any official traffic-control device;

(2) Signs which contain or imitate an official traffic sign or signal, except for on-premises directional signs;

(3) Signs which are attached in any manner to trees, fences, utility poles, or other permanent supports of that type;

(4) Roof signs, with the exception of airport identification signs; and

(5) Political signs on public property, such as parks, boulevards, rights-of-way, and the like. (Ord. -, passed 5-1-1984; Am. Ord. -, ' 14.03, passed - -1997) Penalty, see ' 10.99

' 152.163 OFF-STREET PARKING REQUIREMENTS.

(A) *Purpose.* The regulation of off-street parking spaces in these zoning regulations is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public, by establishing minimum requirements for off-street parking of motor vehicles in accordance with the utilization of various parcels of land or structures.

(B) *Application of off-street parking regulations.* The regulations and requirements set forth herein shall apply to all required off-street parking facilities in the zoning districts of the city. The parking area shall be provided with vehicular access to a street, alley, or roadway and shall be required with the use and shall not be reduced or encroached upon in any manner.

(C) *Site plan drawing necessary.* All applications for a use or an occupancy permit in all zoning districts shall be accompanied by a site plan drawn to scale and dimensioned indicating the location of off-street parking and loading spaces in compliance with the requirements set forth in this chapter.

(D) *General provisions for off-street parking.*

(1) *Reduction of existing off-street parking space or lot area.* Parking spaces existing upon the effective date of this chapter shall not be reduced in number or size unless that number or size exceeds the requirements set forth herein for a similar new use.

(2) *Non-conforming structures.* Should a non-conforming structure or use be damaged or destroyed by fire, it may be re-established if elsewhere permitted in this chapter, except that in doing so, any off-street parking or loading space which existed before shall be retained.

(3) *Change of use or occupancy of land.* No change of use or occupancy of land already dedicated to a parking area, parking spaces, or loading spaces shall be made, nor shall any sale of land, or division or subdivision of land be made which reduces area necessary for parking, parking stalls, or parking requirements below the minimum prescribed by this chapter.

(4) *Change of use or occupancy of buildings.* Any change of use or occupancy of any buildings including additions thereto requiring more parking areas shall not be permitted until there are furnished those additional parking spaces as required by this chapter.

(5) *Trucks and recreational vehicles.* Off-street parking facilities accessory to residential use shall be utilized solely for the parking of licensed and operable passenger automobiles or no more than 1 truck not to exceed gross capacity of 12,000 pounds; or recreational vehicles and equipment.

(E) *Stall, aisle, and driveway design.*

(1) *Parking space size.* Each parking space shall not be less than 9 feet wide and 20 feet in length exclusive of access aisles, and each space shall be served adequately by access aisles.

(2) *Within structures.* The off-street parking requirements may be furnished by providing a space so designed within the principal building or 1 structure attached thereto; however, unless provisions are made, no use permit shall be issued to convert the parking structure into a dwelling unit or other activity until other adequate provisions are made to comply with the required off-street parking provisions of this chapter.

(3) *Circulation.* Except in the case of single-family, 2-family, and townhouse dwellings, parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street or alley. Except in the case of single-family, 2-family, and townhouse dwellings, parking area design which requires backing into the public street is prohibited.

(4) *Lot width under 80 feet.* In the case of lots less than 80 feet in width, the required parking spaces serving single-family and 2-family dwellings may be designed for parking not more than 2 vehicles in a tandem arrangement for each dwelling unit in order to comply with the requirements of this chapter.

(5) *Curb cut access.* No curb cut access shall be located less than 25 feet from the intersection of 2 or more street rights-of-way. This distance shall be measured from the intersection of curb lines.

(6) *Curb cut and side yard line.* Curb cut openings shall be at minimum 3 feet from the side yard property line.

(7) *Access drive spacing.* Driveway access curb openings on a public street, except for single-family, 2-family, and townhouse dwellings, shall not be located less than 40 feet from one another.

(8) *Grade elevation.* The grade elevation of any parking area shall not exceed 5%.

(9) *Surfacing.* All areas intended to be utilized for parking space and driveways shall be surfaced with suitable materials as determined by the Planning and Zoning Commission. Plans for surfacing and drainage and stalls for 5 or more vehicles shall be submitted to the Planning and Zoning Commission for review, and the final drainage plan shall be subject to City Council approval. These requirements shall also apply to open sales lots for cars, trucks, and other vehicles. This requirement shall not apply to single-family and 2-family dwellings.

(10) *Striping.* Except for single-family and 2-family dwellings and townhouses, all parking stalls may be required to be marked with white painted lines.

(11) *Lighting.* Any lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from adjoining property, abutting residential uses, and public rights-of-way and be in compliance with ' ' 152.167 - 152.175 of this code.

(12) *Curbing and landscaping.* Except for single-family and 2-family dwellings and townhouses, all open off-street parking may be required to have a perimeter curb barrier around the entire parking lot; and this curb barrier shall not be closer than 5 feet to any lot line, or if abutting residentially zoned property, not less than 10 feet from a lot line. Grass, plantings, or surfacing material shall be provided in all areas bordering the parking area.

(13) *Required screening.* All open, non-residential off-street parking areas of 5 or more spaces may be required to be screened and landscaped from abutting residential uses or surrounding residential districts in compliance with ' ' 152.167 - 152.175.

(F) *Maintenance.* It shall be the joint and several responsibility of the lessee and owner of the principal use, uses, or building to maintain in a neat and adequate manner, the parking space, accessways, striping, landscaping, and required fences.

(G) *Location.* All accessory off-street parking facilities required by this chapter shall be located and restricted as follows:

(1) Required off-street parking shall be on the same ownership as the principal use being served, except under the provisions of division (L) of this section;

(2) Except for single-family, 2-family, and townhouse dwellings, head-in parking, directly off of and adjacent to a public street, with each stall having its own direct access to the public street, shall be prohibited;

(3) There shall be no off-street parking within 15 feet of any street surface;

(4) No portion of the street right-of-way shall be used for off-street parking;

(5) Required off-street parking shall not be provided in front yards or in side yards abutting streets in the case of a corner lot, in R-1 and M-R districts; and

(6) In the case of single-family, 2-family, and townhouse dwellings, parking shall be prohibited in any portion of the front yard except designated driveways.

(H) *Use of required area.* Required off-street parking spaces in any district shall not be utilized for open storage, storage of inoperable vehicles as regulated by this chapter, or storage of snow;

(I) *Number of spaces required.* The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement, or lease for and during the duration of the respective uses hereinafter set forth in Appendix A of this chapter.

(J) *Other uses.* Other uses not specifically mentioned herein shall be determined on an individual basis by the Planning and Zoning Commission. Factors to be considered in the determination shall include (without limitation) size of buildings, type of use, number of employees, expected volume and turnover of customer traffic, and expected frequency and number of delivery or service vehicles.

(K) *Joint facilities.*

(1) The City Council may, after receiving a report and recommendation from the Planning and Zoning Commission, approve a conditional use permit for 1 or more businesses to provide the required off-street parking facilities by joint use of 1 or more sites where the total number of spaces provided are less than the sum of the total required for each business should they provide them separately.

(2) Conditions required for joint use:

(a) The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within 300 feet of those parking facilities; and

(b) The applicant shall show that there is no substantial conflict in the principal operating hours of the 2 buildings or uses for which joint use of off-street parking facilities is proposed.

(L) *Off-site parking.* Any off-site parking which is used to meet the requirements of this chapter shall be a conditional use as regulated by ' 152.195 of this code and shall be subject to the conditions listed below.

(1) Off-site parking shall be developed and maintained in compliance with all requirements and standards of this chapter.

(2) Reasonable access from off-street parking facilities to the use being serviced shall be provided.

(3) The site used for meeting the off-site parking requirements of this chapter shall be under public ownership or shall be secured by a long-term lease agreement between the parties, subject to the review and approval of the City Attorney, filed with the City Clerk and recorded with the County Recorder.

(4) Off-site parking for multiple-family dwellings shall not be located more than 100 feet from any normally used entrance of the principal use serviced.

(5) Off-site parking for non-residential uses shall not be located more than 300 feet from the main entrance of the principal use being served. No more than 1 main entrance shall be recognized for each principal building.

(6) Any use which depends upon off-site parking to meet the requirements of this section shall maintain ownership and parking utilization of the off-site location until that time when on-site parking is provided or a site in closer proximity to the principal use is acquired and developed for parking. (Ord. -, passed 5-1-1984; Am. Ord. -, ' 14.04, passed - -1997) Penalty, see ' 10.99

' 152.164 OFF-STREET LOADING AND UNLOADING REQUIREMENTS.

(A) *Purpose.* The regulation of loading spaces is to alleviate or prevent congestion of the public right-of-way so as to promote the safety and general welfare of the public, by establishing minimum requirements for off-street loading and unloading from motor vehicles in accordance with the utilization of various parcels of land or structures.

(B) *Location.*

(1) All required loading berths shall be off-street and located on the same lot as the building or use to be served.

(2) All loading berth curb cuts shall be located at minimum 50 feet from the intersection of 2 or more street rights-of-way. This distance shall be measured from the property line.

(3) No loading berth shall be located closer than 100 feet from a residential district unless within a structure.

(4) Loading berths shall not occupy the front yard setbacks.

(5) A conditional use permit shall be required for new loading berths added to an existing structure, where the loading berth is located at the side of a building on a corner lot.

(a) Loading berths shall not conflict with pedestrian movement.

(b) Loading berths shall not obstruct the view of the public right-of-way from off-street parking access.

(c) Loading berths shall comply with all other requirements of this section.

(6) Each loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will cause the least interference with traffic.

(C) *Surfacing.* All loading berths and accessways shall be improved with surfacing according to a plan submitted to and subject to the approval of the Planning and Zoning Commission.

(D) *Accessory use, parking, and storage.* Any space allocated as a required loading berth or access drive so as to comply with the terms of these zoning regulations shall not be used for the storage of goods, inoperable vehicles, or snow and shall not be included as part of the space requirements to meet the off-street parking requirements.

(E) *Screening.* Except in the case of multiple-dwellings, all loading areas shall be screened and landscaped from abutting and surrounding residential uses in compliance with this subchapter.

(F) *Size.* Unless otherwise specified in this chapter, the first loading berth shall be not less than 50 feet in length, 15 feet in width, and 14 feet in height, exclusive of aisle and maneuvering space.

(G) *Number of loading berths required.* The number of required off-street loading berths shall be as follows, for commercial or industrial uses: 1 loading berth for each 5,000 square feet of floor area. (Ord. -, passed 5-1-1984; Am. Ord. -, ' 14.05, passed --1997) Penalty, see ' 10.99

' 152.165 LAND RECLAMATION; PERMIT REQUIRED.

Under this chapter land reclamation is the reclaiming of land by depositing of materials, excluding new construction. Land reclamation shall be permitted only by conditional use permit in all districts. Any lot or parcel upon which 400 cubic yards or more of fill is to be deposited shall come under the controls of land reclamation. The permit shall include as a condition thereof a finished grade plan which will not adversely affect the adjacent land, and as conditions thereof shall regulate the type of fill permitted, program for rodent control, plan for fire control and general maintenance of the site, control of vehicular ingress and egress, and for control of material disbursed from wind or hauling of material to or from the site.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 14.06, passed --1997) Penalty, see ' 10.99

' 152.166 MINING; PERMIT REQUIRED.

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

MINING. The extraction of sand, gravel, or other material from the land in the amount of 400 cubic yards or more and removal thereof from the site without processing.

(B) The conduct of mining shall be permitted only upon issuance of a conditional use permit. This permit shall include, as a condition thereof, a plan for a finished grade which will not adversely affect the surrounding land or the development of the site on which the mining is being conducted, and the route of trucks moving to and from the site.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 14.07, passed --1997) Penalty, see ' 10.99

' 152.167 FENCING, SCREENING, AND LANDSCAPING.

(A) *Fencing.*

(1) No fence shall exceed 8 feet in height in any residential district.

(2) To avoid future conflicts, property line boundaries, such as hedges or fences, shall be kept a minimum of 2 feet from the property line for purposes of maintenance and upkeep.

(3) Fences placed upon utility easements are subject to removal if required for the maintenance or improvement of the utility.

(B) *Screening.* Where any new business or industrial use (principal or accessory) abuts a residential use or district, that business or industry may be required to provide screening along the boundary of the residential property, as determined by the Planning and Zoning Commission. This screening shall consist of either evergreen ground cover or a fence to be constructed of masonry, brick, wood, or steel. The design and materials used in constructing the screen shall be subject to the approval of the Planning and Zoning Commission. Screening may also be required where a business or industry is across the street from a residential district, except for that side of a business or industry considered as the front.

(C) *Landscaping.*

(1) Trees placed upon utility easements are subject to removal if required for the maintenance or improvement of the utility.

(2) Trees on utility easements containing overhead wires shall not exceed 10 feet in height.

(3) To ensure visibility at street intersections in the residential, industrial, and highway business districts, no person shall erect or maintain any structure or maintain any vegetation nearer than 25 feet from the intersection of the property lines of the 2 streets. The 25 feet referred to above shall be in the form of a triangle, with 2 sides formed by the property lines and the third side formed by a straight line connecting the 2 points on both sides of the corner. This provision shall not apply to trees trimmed to a height of 8 feet or more.

(4) In all zoning districts the lot area remaining after providing for off-street parking, off-street loading, sidewalks, driveways, building site, and other requirements shall be planted and maintained in grass, sodding, shrubs, or other acceptable vegetation or treatment generally used in landscaping.

(5) No landscaping shall be allowed on the boulevard.
(Ord. -, passed 5-1-1984; Am. Ord. -, ' 14.08, passed --1997) Penalty, see ' 10.99

' 152.168 LIGHTING; GLARE.

Any lighting used to illuminate an off-street parking area, sign, or other structure, shall be arranged so as to deflect light away from any adjoining residential use or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 14.09, passed --1997) Penalty, see ' 10.99

' 152.169 SMOKE, DUST, FUMES, ODORS, OR GASES.

The emission of smoke, dust, fumes, odors or gases shall meet the minimum requirements of the State Pollution Control Agency.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 14.10, passed --1997) Penalty, see ' 10.99

' 152.170 NOISE.

No undue noise shall result from the operation of a use, excluding traffic, loading, parking, construction, farming, or maintenance operations.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 14.11, passed --1997) Penalty, see ' 10.99

' 152.171 VIBRATION.

Periodic, earth-shaking vibrations created by or resulting from any use shall be substantially controlled, so as not to be perceptible beyond the property boundaries upon which the use is located, excluding vibrations created during the process of construction.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 14.12, passed --1997) Penalty, see ' 10.99

' **152.172 TOXIC OR NOXIOUS MATTER.**

No use shall discharge into the air, water, or soil, any toxic or noxious matter. All sewage and industrial wastes shall be treated and disposed of in a manner so as to comply with state pollution control standards and requirements.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 14.13, passed --1997) Penalty, see ' 10.99

' **152.173 HAZARDOUS MATERIALS.**

Any use established, enlarged, or remodeled after the effective date of this chapter, requiring the storage, utilization, or manufacturing of hazardous materials as determined by this state, shall be located no less than 500 feet from any residence or public meeting place.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 14.14, passed --1997) Penalty, see ' 10.99

' **152.174 EXTERIOR STORAGE.**

(A) *Screening; exceptions.* All materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties except for the following:

- (1) Clothesline pole and wires;
- (2) Recreational or play equipment;
- (3) Construction and landscaping materials currently being used on the premises;
- (4) Wood piles, provided they are kept sanitary and vermin-free;
- (5) Motor vehicle sales lots; and

(6) Off-street parking of passenger vehicles and trucks. Motor vehicles which are incapable of movement under their own power, parked or stored outside, shall for the purposes of this provision be considered as junk.

(B) *Compliance.* No area where waste, discarded, or salvaged materials, refuse, or junk are located or stored, may be allowed after the effective date of this chapter, unless it is completely enclosed within a building, fence, screen planting, or similar device of a height so as to screen completely the entire area. Plans of a building or screening device shall be approved of by the Planning and Zoning Commission.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 14.15, passed --1997) Penalty, see ' 10.99

' 152.175 DRAINAGE.

(A) In the case of all proposed building sites a drainage plan shall be approved by the Planning and Zoning Commission.

(B) In addition, the following criteria shall be followed where appropriate:

(1) Proper drainage and control of water runoff both on the property of the proposed building and on adjoining property shall be provided;

(2) Proper measures to control erosion during and after construction shall be provided. Erosion control measures may include, but are not limited to, landscaping and seeding of topsoil;

(3) The stability of slopes on and adjacent to construction sites shall be evaluated. Construction will be allowed if evaluation indicates that slope stability is not a problem or that problems can be controlled by proper design and construction; and

(4) Soil type and condition on and adjacent to construction sites shall be evaluated. Construction will be allowed if soil type and condition is suitable for the proposed development. (Ord. -, passed 5-1-1984; Am. Ord. -, ' 14.16, passed - -1997) Penalty, see ' 10.99

' 152.176 HEIGHT LIMITS; EXCEPTIONS.

(A) *Building height limits.* Height limits are identified in each district. Appendix B of this chapter provides an overview of the maximum heights allowed.

(B) *Height exceptions.* The building height limits established for districts shall not apply to the following:

- (1) Belfries;
- (2) Chimneys or flues;
- (3) Church spires;
- (4) Cooling towers;
- (5) Cupolas and domes which do not contain usable space;
- (6) Flag poles;

- (7) Parapet walls extending not more than 3 feet above the limiting height of the building;
- (8) Monuments;
- (9) Water towers;
- (10) Poles, towers, and other structures for essential services;
- (11) Necessary mechanical and electrical appurtenances;
- (12) Television and radio antennas and solar energy systems not exceeding 20 feet above roof;
- (13) Farm structures; and
- (14) Wind machines.

(C) *Application.* No other roof equipment or structural element extending beyond the limited height of a building may occupy more than 25% percent of the area of the roof or exceed 10 feet unless otherwise noted.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 14.17, passed - -1997) Penalty, see ' 10.99

' 152.177 PRIVATE SWIMMING POOLS.

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

PRIVATE SWIMMING POOL. As regulated in this section, any pool, pond, lake or open tank, not located within a completely enclosed building, and containing or normally capable of containing water to a depth at any point greater than 1-1/2 feet. No such swimming pool shall be allowed in any residential district, except as an accessory use and unless it complies with the conditions and requirements set out in this section.

(B) *Exclusive private use.* Private swimming pools are intended and are to be used solely for the enjoyment of the occupants of the principal use of the property on which it is located and their guests.

(C) *Distance requirements.* Private swimming pools may not be located closer than 10 feet to any property line of the property on which it is located; provided that, pump and filter installations shall be located not closer than 20 feet to any property line.

(D) *Fencing.* A private swimming pool or the entire property on which it is located shall be so walled or fenced as to prevent uncontrolled access by children from the street or from adjacent properties.

(E) *Maintenance.* Any private swimming pool shall be maintained in appearance, no stagnant water and equipment shall be maintained in working conditions.

ADMINISTRATION AND ENFORCEMENT

' 152.190 ENFORCING OFFICER.

The City Council or its designated agent shall administer and enforce the provisions of this chapter. (Ord. -, passed 5-1-1984; Am. Ord. -, ' 15.01, passed --1997)

' 152.191 PLANNING AND ZONING COMMISSION.

(A) *Establishment.* A Planning and Zoning Commission for the city is hereby established.

(B) *Composition and appointment.*

(1) *Composition.* The Planning and Zoning Commission shall consist of 5 members, all residents of the city.

(2) *Appointment.* Appointment to the Commission shall be made by the affirmative vote of a majority of the City Council. At its first regular meeting in January of each year, the Council shall appoint 1 person for a term of 3 years to succeed the member whose term expires in that year.

(3) *Appointment terms.* Terms of appointment shall expire at 1-year intervals over the next 3 years. All Commission members shall hold office until their respective successors shall have been appointed and have qualified. Membership on the Planning and Zoning Commission at any 1 period shall be limited to 3 successive 3-year appointments, and an appointee who shall have served 3 successive terms shall not be eligible for another appointment for a period of 1 year.

(4) *Vacancies.* Vacancies on the Commission will be filled by affirmative vote of a majority of the Council without undue delay, but only for the unexpired terms of vacating members.

(C) *Organization.* The officers of the Planning and Zoning Commission shall be elected from among its members at the first regular Commission meeting of each year. The officers shall consist of a chair, vice chair, and other offices as the Commission may create.

(1) *Chair responsibilities.* The chair shall preside at all meetings and hearings of the Planning and Zoning Commission and shall have the duties normally offered by parliamentary usage on this type of officers, as well as any other duties specified within this section.

(2) *Vice chair responsibilities.* The vice chair shall act for the chair in his or her absence. Members of the Planning and Zoning Commission in attendance may choose a chair for the meeting or hearing if the chair and vice chair are both absent.

(3) *City Clerk.* The City Clerk shall serve as the secretary of the Commission.

(4) *Election of officers; vacancies.* The City Clerk shall preside for the election. Nominations for officers shall be made from the floor. Each nominee for office who receives a majority of votes cast shall be declared elected and shall serve until the following January election or until his or her successor shall take office. Vacancies in offices of the Planning and Zoning Commission shall be filled immediately by the same procedure.

(D) *Meetings and procedures.*

(1) *Regular meetings; location.* The Planning and Zoning Commission shall schedule not less than 1 regular meeting in each calendar month on a regular basis. Meetings shall be held as deemed necessary by the chair of the Planning and Zoning Commission or the City Clerk. All meetings of the Planning and Zoning Commission shall be held in the City Hall, and shall be open to the public.

(2) *Special meetings.* Special meetings may be held as provided for. The Planning and Zoning Commission shall set the meeting times for all regular meetings.

(3) *Quorums and absences.* A quorum for any meeting or hearing of the Planning and Zoning Commission shall be a majority of the appointed members of the Commission. Unexcused absence from 3 consecutive regular meetings of the Planning and Zoning Commission shall constitute grounds for dismissal of that member by order of the chair of the Planning and Zoning Commission.

(4) *Rules of order.* The Planning and Zoning Commission may set rules and procedures as are necessary for the orderly conduct of its business and shall keep a record of its transactions and findings, which shall be a public record. Rules and procedures not otherwise adopted or not covered by applicable law shall be governed by Robert's Rules of Order, Revised, as may be necessary for the proper conduct of the business of the Planning and Zoning Commission.

(E) *Compensation; expenses.* The members of the Planning and Zoning Commission may receive compensation for per diem and expenses as may be allowed by the City Council.

(F) *Powers and duties.* The Planning and Zoning Commission shall be the planning agency and shall have the powers and duties as allowed by M.S. ' ' 462.351 and 462.364, as they may be amended from time to time, and as allowed by this city code including the specific duties as stated in this chapter.

(G) *Recording secretary.* All testimony at any hearing held by the Planning and Zoning Commission shall be recorded or transcribed by the secretary.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 15.02, passed --1997)

' 152.192 BOARD OF ZONING APPEALS.

(A) *Establishment.* There shall be a Board of Zoning Appeals for the city which shall consider all requests for a variance or appeal. The Planning and Zoning Commission shall act as the Board. Its members may be removed by a 4/5 vote of the Council.

(B) *Organization.* The officers of the Planning and Zoning Commission shall also serve as the officers of the Board of Zoning Appeals; and the City Clerk shall serve as the secretary of the Board.

(C) *Meetings and procedure.*

(1) *Meetings; location.* The Board of Zoning Appeals shall schedule not less than 1 regular meeting in each calendar month on a regular basis. Meetings shall be held as deemed necessary; special meetings may be held as provided for. All meetings of the Board shall be held in the City Hall, and shall be open to the public.

(2) *Quorum.* A quorum for any meeting or hearing of the Board shall be a majority of its appointed members.

(3) *Rules of order.* The Board may set rules and procedures as are necessary for the orderly conduct of its business and shall keep a record of its transactions and findings, which shall be a public record. Rules and procedures not otherwise adopted or not covered by applicable law shall be governed by Robert=s Rules of Order, Revised, as may be necessary for the proper conduct of the business of the Board.

(D) *Recording secretary.* All testimony at any hearing held by the Board of Zoning Appeals shall be recorded or transcribed by the secretary.

(E) *Duties and powers.* The Board of Zoning Appeals shall hear and decide appeals from carrying out regulations or requirements of this chapter. The Board shall not have authority to make any change or amendment to this chapter. Variances or appeals from this chapter are the 2 areas in which the Board has authority. The Board has no role in conditional use permits or amendments to this chapter.

(1) In general, the Board shall hear and make recommendations of the following matters:

(a) *Setback variations.* Permit for a reasonable variation of setback requirements when the strict enforcement thereof will work unnecessary hardship;

(b) *Chapter interpretation.* Interpretation of the provisions of this chapter in a way so that when there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of

this chapter a reasonable modification or variation in the application of the regulations established by this chapter may be provided so that the spirit of the chapter shall be observed, public safety and welfare secured, and substantial justice done; and

(c) *Variance authorization.* The Board may authorize a variance where the exceptional narrowness, shallowness, or unusual shape of a specific piece of property on the effective date of this chapter or by reason of exceptional topographic conditions, or other extraordinary situation or condition of the piece of property, or if the use or development of property immediately adjoining the piece of property in question, or the literal enforcement of the requirements of this chapter would involve unnecessary hardship and not mere inconvenience.

(2) No variance from the terms of this chapter shall be authorized unless all of the following facts and conditions are considered:

(a) *Exceptional circumstances.* There are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of property, that do not apply generally to other properties or classes of uses in the same zoning district;

(b) *Natural causes.* The alleged difficulty or hardship has not resulted from the action of the applicant;

(c) *Preservation of property rights.* The variance is necessary for the preservation and enjoyment by the owner of the property in question of similar and substantial property rights possessed by the owners of other properties in the same zoning district and in the same vicinity;

(d) *Absence of detriment.* The authorization of the variance will not be of substantial detriment to adjacent property, and will be in keeping with the spirit and intent of this chapter and the public interest; and

(e) *General nature.* The condition, situation, or intended use of the subject property is not so general or recurrent in nature as to make it reasonable to formulate a general regulation to cover cases of that type.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 15.03, passed - -1997)

' 152.193 VARIANCES AND APPEALS; BOARD OF ZONING APPEALS.

(A) *Filing.* Requests for a variance or appeal shall be filed with the City Clerk, who shall thereupon notify the chair of the Board of Zoning Appeals. This application shall be accompanied by a non-refundable fee as set by Council ordinance or resolution, with any additional costs to be borne by applicant. The application shall also be accompanied by 5 copies of graphic materials necessary for the explanation of the request.

(B) *Investigation.* The request may be referred to appropriate city department heads for

investigation, and a recommendation is to be entered in and made part of the permanent written record of the Board meeting.

(C) *Board consideration.* The Board shall consider the variance or appeal at its next regular meeting.

(D) *Public hearing.* The Board shall hold a public hearing following the meeting at which the request was first considered. A notice of the public hearing shall be published no less than 10 days prior to the hearing and copies of the notice shall be mailed not less than 10 days before the hearing, to all owners of property within 200 feet of the property to which the application relates. Failure of a property owner to receive the notice shall not invalidate any such proceedings as set forth within this chapter. The Board shall hear those persons as wish to be heard, either in person or by agent or by attorney.

(E) *Veto power of Board.* A majority vote of the Board of Zoning Appeals shall be necessary to revise any determination made under this chapter. The City Clerk shall notify the originator of the appeal or variance request of the Board's decision in writing.

(F) *Lapse of variance or appeal.* Whenever within 1 year after granting a variance or appeal, the work as permitted by the variance or appeal shall not have been completed, then the variance or appeal shall become null and void unless a petition for extension of time in which to complete the work has been granted by the Board. The extension shall be in writing and filed with the City Clerk at least 10 days before the expiration of the original variance or appeal. There shall be no charge for the filing of this type of petition. The request for extension shall state facts showing a good faith attempt to complete the work as permitted in the variance or appeal. The petition shall be presented to the Board for a decision at the first regular meeting following the expiration date.

(G) *Basis of action.*

(1) The Board of Zoning Appeals shall always act with due consideration to:

(a) Promoting the public health, safety, convenience, and welfare, to ensure that the proposal is consistent with the intent and purpose of this chapter for the zoning district the premises lie within;

(b) Will not impede the normal and orderly development and improvement of surrounding property for uses predominant in the area; and

(c) That the location and character of the proposed development is consistent with the desirable pattern of development for the locality in general and the Zoning District in particular.

(2) For the purpose of this chapter, in determination of appeals and adjustment, the following definition shall apply unless the context clearly indicates or requires a different meaning.

UNDUE HARDSHIP. As used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to his or her property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an **UNDUE HARDSHIP** if reasonable use for the property exists under the terms of the chapter. **UNDUE HARDSHIP** also includes, but is not limited to inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth-sheltered construction as defined when in harmony with the chapter.

(3) The Board may not permit as a variance any use that is not permitted under the chapter for property in the district where the affected person=s land is located. The Board may permit as a variance the temporary (not to exceed 6 months, except with granting of extension) use of a single-family dwelling as a 2-family dwelling. The Board may impose conditions in the granting of variances to ensure compliance and to protect adjacent properties.

(H) *Appeals.*

(1) The decision of the Board of Zoning Appeals shall not be final. Any person having an interest affected by this chapter or any decision made relating to it shall have the right to appeal to the City Council within 30 days of when the decision of the Board is filed with the City Clerk.

(2) The decision of the City Council shall not be final. Any person having an interest affected by this chapter or any decision relating to it shall have the right of appeal to the District Court on questions of law and fact within 30 days of the date of the Council action.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 15.03, passed - -1997) Penalty, see ' 10.99

' 152.194 AMENDMENTS TO CHAPTER.

(A) *Amendment by Council.* This chapter may be amended, changed, or altered only by a majority vote of the Council and only after a public hearing which has been duly advertised. This action may initiate with the Council, or may be commenced by a petition of the property owner(s) affected by the proposed change or alteration.

(B) *Procedures.*

(1) *Filing.* Request for an amendment or rezoning shall be filed with the City Clerk on an official application form to be accompanied by a fee as set by Council ordinance or resolution and 6 copies of detailed written and graphic materials fully explaining the proposal for an amendment to the chapter or rezoning, providing information as is necessary to show compliance with this chapter, including but not limited to:

- (a) A description of the site (legal description);

- (b) The site plan drawn at scale showing parcel and building dimensions;
- (c) The location of all buildings and their square footage;
- (d) Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks;
- (e) Landscaping and screening plans;
- (f) Drainage plans; and
- (g) The sanitary sewer and water plan with estimated use per day.

(2) *Commission consideration.* The City Clerk shall refer the application, along with all related information, to the Planning and Zoning Commission for consideration.

(a) The Planning and Zoning Commission shall consider the request at its next regular meeting.

(b) The amendment or rezoning application may be referred to the city staff for a recommendation to be presented to the Planning and Zoning Commission. The city staff's recommendations shall be given to the Planning and Zoning Commission at the meeting at which the application is to be considered. The recommendations of the city staff are to be entered in and made part of the permanent written record of the Planning and Zoning Commission meeting.

(c) The applicant or a representative thereof shall appear before the Planning and Zoning Commission in order to answer questions concerning the proposed amendment or rezoning.

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

1. Relationship to adopted municipal plans;
2. The geographical area involved;
3. Whether the use will tend to or actually depreciate the area in which it is proposed;
4. The character of the surrounding area; and
5. The demonstrated need for the use.

(e) The Planning and Zoning Commission and city staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, this information to be declared necessary to establish performance conditions in relation to all pertinent sections of this chapter.

(f) The Planning and Zoning Commission shall set a date for a public hearing. Notice of the hearing shall be published in conformance with the state law and individual notices shall be mailed not less than 10 days nor more than 30 days prior to the hearing to all owners of property, according to the county assessment records, within 350 feet of the parcel included in the request.

(g) Failure of a property owner to receive this notice shall not invalidate any proceedings as set forth within this chapter.

(h) The Planning and Zoning Commission shall make a finding of fact and recommend to the City Council those actions or conditions relating to the request as it deems necessary to carry out the intent and purpose of the chapter. This recommendation shall be in writing and accompanied by the recommendation of the city staff. No amendment or rezoning shall be granted by the Council unless the Planning and Zoning Commission shall find:

1. The amendment or rezoning will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted;
2. The establishment of the use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area;
3. There is a demonstrated need for the amendment or rezoning; and
4. The proposed amendment or rezoning is in compliance with the city land use plan.

(i) The City Council shall not approve an amendment or rezoning request until it has received a recommendation from the Planning and Zoning Commission or until 60 days after the completion of the public hearing for the request.

(j) Upon receiving the recommendation of the Planning and Zoning Commission, the City Council shall have the option to schedule and hold a public hearing if deemed necessary and shall make a recorded finding of fact and shall impose any condition it considers necessary to protect the public health, safety, and welfare.

(k) Approval of an amendment or rezoning request shall be by a 4/5 vote of the full City Council.

(l) The City Clerk shall notify the applicant of the Council's decision and any additional

provisions in writing.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 15.04, passed --1997) Penalty, see ' 10.99

' 152.195 CONDITIONAL USE PERMIT.

(A) Application procedure.

(1) Requests for a conditional use permit shall be filed with the City Clerk. The application shall be accompanied by a non-refundable fee as set by Council ordinance or resolution, including cost of publication. Any costs above and beyond this fee shall be borne by the applicant. The application shall also be accompanied by 6 copies of graphic materials necessary for the explanation of the request. The materials shall provide information as is necessary to show compliance with this chapter, including but not limited to:

- (a) A description of the site (legal description);
- (b) The site plan drawn at scale showing parcel and building dimensions;
- (c) The location of all buildings and their square footage;
- (d) Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks;
- (e) Landscaping and screening plans;
- (f) The drainage plan; and
- (g) The sanitary sewer and water plan with estimated use per day.

(2) The Planning and Zoning Commission shall hear the request at its next regular meeting, at which time the applicant or a representative thereof shall appear before the Planning and Zoning Commission in order to answer questions concerning the proposed conditional use. The request may be referred to city staff for investigation and a recommendation to be presented to the Planning and Zoning Commission for consideration. The recommendation of city staff is to be entered in and made part of the permanent written record of the Planning and Zoning Commission meet at which it is presented.

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

- (a) Relationship to adopted municipal plans;
- (b) The geographical area involved;

- (c) Whether the use will tend to or actually depreciate the area in which it is proposed;
- (d) The character of the surrounding area; and
- (e) The demonstrated need for the use.

(B) *Public hearing and notice.* The Planning and Zoning Commission shall set a date for a public hearing. Notice of the hearing shall be published no less than 10 days prior to the hearing and copies of the notice shall be mailed not less than 10 days before the hearing, to all owners of property within 350 feet of the property to which the application relates. Failure of a property owner to receive this notice shall not invalidate any proceedings as set forth within this chapter. The Planning and Zoning Commission shall hear those persons as wish to be heard, either in person or by representative or attorney.

(C) *Findings of fact.* Following the hearing, the Planning and Zoning Commission shall make finding of fact and make recommendations concerning actions or conditions relating to the request as it deems necessary to carry out the intent and purpose of this chapter. The recommendation shall be accompanied by any report or recommendation of city staff. No conditional use permit shall be recommended by the Planning and Zoning Commission, unless the Commission shall find that:

- (1) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted;
- (2) The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area;
- (3) Adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided;
- (4) Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use;
- (5) Adequate measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in a manner so that no disturbance to neighboring properties will result;
- (6) Proper facilities are provided which would eliminate any traffic congestion or traffic hazard which may result from the proposed use;
- (7) There is demonstrated need for the proposed use; and
- (8) The proposed use is in compliance with the city land use plan.

(D) *Decision by Council.* The City Council shall not grant a conditional use permit until it has

received a recommendation from the Planning and Zoning Commission or until 60 days after the completion of the public hearing for the request.

(1) Upon receiving the recommendation of the Planning and Zoning Commission, the City Council shall have the option to schedule and hold a public hearing if deemed necessary and shall make a recorded finding of fact and shall impose any condition it considers necessary to protect the health, safety, and welfare.

(2) Approval of a conditional use permit shall be by a 4/5 vote of the full City Council.

(3) The City Clerk shall notify the applicant of the Council's decision and any additional conditions in writing.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 15.05, passed - -1997) Penalty, see ' 10.99

' 152.196 USE PERMITS.

(A) *Permit required.* No person shall erect, construct, enlarge, alter, move, remove, convert, demolish, equip, or use any building or structure in the city without first obtaining a use permit from the Planning and Zoning Commission; except that a patio or deck built less than 8 inches off the ground, siding, shingling, windows, and driveways not breaking the curb, shall not require a use permit.

(B) *Filing.* A use permit request shall be filed on an official application for use permit form available from the City Clerk's Office.

(C) *Procedure.* An applicant for a use permit shall request the official form from the City Clerk's Office, pay the filing fee, fill it out completely and return it for filing with the City Clerk. It shall be the responsibility of the applicant to accurately show the location of property lines on the official form.

(1) The application shall then be referred to the Planning and Zoning Commission for review at the next regularly scheduled Commission meeting, if possible.

(a) At the meeting, the applicant or a representative thereof shall appear before the Planning and Zoning Commission in order to answer questions concerning the permit request.

(b) If the request covers construction of a single-family dwelling, accessory building, structure, or improvement or addition thereof, the Planning and Zoning Commission shall issue a use permit upon examination of the application and satisfactory proof of compliance with the provisions and requirements of this chapter, and provided further that the permit fee has been paid.

(c) In all other cases, these applications may be referred to the City Council prior to issuance of the use permit. The City Council may also require a public hearing if deemed necessary, notice of which shall be published at least 10 days in advance of the hearing and copies sent individually to the developer, surrounding property owners within 350 feet of the proposed development, and members of the Planning and Zoning Commission. The permit may be subject to conditions prior to issuance. The Planning and Zoning Commission shall have the final authority for approval of all building permits.

(2) A use permit shall be issued for a period of no longer than 9 months from the date of issuance; unless a petition for extension of time in which to commence the work and a renewal fee of \$5 has been filed with the City Clerk prior to expiration of the original permit.

(D) *Fee schedule.* The fee for a use permit shall be determined on an annual basis by the City Council.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 15.06, passed - -1997) Penalty, see ' 10.99

' 152.197 FEES.

(A) Fees are determined by the City Council on an annual basis. Fees are charged to defray administrative costs of processing of requests for conditional uses, amendments, variances, or appeals.

(B) In order to defray the additional cost of processing applications (amendment, conditional use, variance, appeal) for developments, all applicants shall pay the total cost of staff and consulting time spent exclusively in producing materials for the applicant=s request, and all materials for that request.

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

MATERIALS. Include but are not limited to maps, graphs, charts, drawings, and the like, and all printing or reproduction of same.

STAFF AND CONSULTING TIME. Includes any time spent in either researching for or actual production of materials.

(2) The hourly rate for staff and consulting time shall be established and made available to the applicant by the City Clerk prior to production of any materials, and the applicant shall be given a reasonable estimate of project time and materials costs.

(C) Fees shall be payable at the time applications are filed with the City Clerk and are not refundable unless application is withdrawn prior to referral to the Planning and Zoning Commission. A deposit to cover staff or consulting time and special materials will be established and required by the City Clerk at the time the base fee is paid.

(Ord. -, passed 5-1-1984; Am. Ord. -, ' 15.07, passed - -1997) Penalty, see ' 10.99

' 152.198 VIOLATIONS.

(A) Any violation of this chapter is a misdemeanor. Any person, firm, or corporation who continues to violate any of the provisions of this chapter with the exception of ' 152.196 after 10 days following notification, shall be guilty of a misdemeanor.

(B) Any person, firm, or corporation who shall make any false statement in any document required to be submitted under the provisions of this chapter shall be guilty of a misdemeanor.
(Ord. -, passed 5-1-1984; Am. Ord. -, ' 15.08, passed --1997) Penalty, see ' 10.99

APPENDIX A: TABLE OF OFF-STREET PARKING REQUIREMENTS

<i>Category</i>	<i>Use</i>	<i>Parking Spaces</i>
Commercial	Bar, tavern, nightclub, restaurant, café, or private club serving food or drinks	1 per 80 square feet of dining and bar area and 1 per employee
Commercial	Bowling alley	5 per alley
Commercial	Business and professional offices	3 plus 1 per employee
Commercial	Car wash	2 per stall
Commercial	Clinics	1 per 200 square feet
Commercial	Drive-in restaurant	1 per 50 square feet, with minimum of 10
Commercial	Funeral home	10 plus 1 per funeral vehicle maintained on premises
Commercial	Furniture and appliance stores; all other commercial uses	1 per 600 square feet
Commercial	Golf driving range, miniature golf, archery range	10 plus 1 per full-time employee
Commercial	Motel	3 spaces plus 1 per unit
Commercial	Motor vehicle, boat, and marine or recreation equipment sales and repair, bottling plant, trade shop, garden supply store, building material sales center	5 plus 1 per 1,000 square feet or 2 per employee, whichever is greatest
Commercial	Retail or service establishment	3 plus 1 per 500 square feet of floor area
Commercial	Service station	4 plus 2 per service stall
Commercial	Skating rink, dance hall, or public auction house	20 plus 1 per 2,000 square feet
Commercial	Theater	1 per 4 seats
Industrial	Manufacturing, fabricating, or processing plants	1 per 500 square feet of floor area plus 1 per company vehicle kept outside on the premises or 1 per employee on maximum shift, whichever is greatest

<i>Category</i>	<i>Use</i>	<i>Parking Spaces</i>
Industrial	Warehousing, storage, or handling of bulk goods	3 plus 1 per 200 square feet for all office space; and 1 per 1,000 square feet of floor area plus 1 per employee on maximum shift plus 1 per company vehicle kept on the premises
Public/Semi-Public	Church	1 per 4 seats, based on design capacity of main seating area
Public/Semi-Public	Community center, library, museum, or similar use	10 plus 1 per 2,000 square feet
Public/Semi-Public	Hospital	1 per bed
Public/Semi-Public	Public parks and recreation areas	2 spaces plus 3 per acre
Public/Semi-Public	School	1 per classroom
Residential	Boarding house	1 per 3 boarders
Residential	Convalescent or nursing home	4 spaces plus 1 per 4 beds
Residential	Home occupation, day care, or residential facility	1 per employed person
Residential	Multiple-family dwelling (apartment)	1 per dwelling unit for dwellings designed for and occupied exclusively by elderly persons; 1.5 per dwelling unit for non-elderly dwellings
Residential	Single-family dwelling, 2-family dwelling (duplex)	2 per dwelling unit

(Ord. -, passed 5-1-1984; Am. Ord. -, Table 1, passed - -1997)

APPENDIX B: HEIGHT LIMITS IN DISTRICTS

<i>District</i>	<i>Principal Use Height</i>	<i>Accessory Structure or Garage Height</i>
A-O	2.5 stories	
R-1	2.5 stories or 30 feet	15 feet
R-2	3 stories	15 feet
M-R	2.5 stories	15 feet
B-1	3 stories	15 feet for residential uses
B-2	3 stories	15 feet for residential uses
I-1	4 stories	
PUD	Same as allowed for residential districts	Same as allowed for residential districts

(Ord. -, passed 5-1-1984; Am. Ord. -, Table 2, passed --1997)